

# **Airbnb Position on Gatekeeper Platforms**

**September 2020**

## **1. Introduction and summary**

- 1.1. Airbnb Ireland UC (“Airbnb” or “we”) welcomes the opportunity to provide its views on proposals for ex-ante rules for gatekeeper platforms, as part of the Digital Services Act consultation and questionnaire. Airbnb provides an online global marketplace to users located outside the U.S. and China, where registered users (“hosts”) can offer accommodation and experiences to registered users (“guests”) that are seeking to book such services (“Airbnb platform”). Hosts and guests communicate and transact directly with one another through the Airbnb platform. The Airbnb platform is made available to users free of charge, but Airbnb charges fees to guests and/or hosts when a booking is made. The Airbnb platform includes consumer reviews and payments processing services, but Airbnb does not operate a search engine, an operating system for smart devices, or provide digital identity services, physical logistics, or online advertising (as we understand those terms to be defined in the questionnaire). Nor does Airbnb sell personal data as a core aspect of its business model or sell advertising on the Airbnb platform.
- 1.2. This paper provides additional context about Airbnb’s business that is relevant to the scope and application of the proposed new rules.
- 1.3. Platforms operate in a wide range of sectors, each with distinct competitive dynamics. Many platforms also operate in highly competitive sectors, competing with non-platform entities that operate both online and offline. Although Airbnb recognises that there are certain sectors where regulation may be required to protect competition *for* the market and to control the behaviour of dominant operators, it is important that any new rules recognise the significant differences between the very small number of large digital players that create competitive concerns<sup>1</sup> and the vast majority of other platform businesses. These concerns are well-documented in activities such as online search, but they do not apply to all platforms or all areas of the economy, many of which are characterised by robust competition. Given those differences, any new rules should be carefully targeted to prevent identified competitive harms, without unintentionally distorting the competitive playing field – by capturing businesses that do not pose the same competitive concerns, and/or by putting platforms that compete with non-platform entities (online or offline) at a competitive disadvantage. This approach will ensure that any new rules are both targeted and harm-based.
- 1.4. For those reasons, we submit in our response to question 3 (Section III, “ Main features of gatekeeper online platform companies and main relevant criteria for assessing their economic power”) in the questionnaire that: (i) the concept of “gatekeeper platform” should be sufficiently narrow and targeted to ensure that

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<sup>1</sup> As identified in the Commission’s Report on “Competition Policy for the Digital Era” by Professors Crémer, de Montjoye and Schweitzer.

any new rules only capture the platforms that create genuine competitive harms; (ii) “gatekeeper” status should be determined on a case by case basis, by assessing true entrenched market power, and not by applying a general, fixed set of criteria, or relying on quantitative data; (iii) the indicators of market power that amounts to “gatekeeper” status are: limited direct competition; access to assets or attributes that are unique and likely to be impossible to replicate; lack of any realistic alternative choices for consumers; consumer or customer lock-in; ability to leverage a strong market position and access to unique data assets to enter, and quickly dominate, new areas of activity.

## **2. Competitive landscape**

- 2.1. Airbnb operates in the highly competitive accommodation sector and experiences sector, competing both with online and offline accommodation providers and distributors – including several other platforms, hotel websites, travel aggregators / meta search engines, and offline travel agencies – and online and offline experiences providers and distributors. There is strong competition *between* platforms in these sectors as well as competition between platforms and entities that are not platforms (e.g., travel agencies and websites operated by hotel and travel groups, many of which have strong consumer brands). Concerns about a lack of (or limited) direct competition for certain platform businesses, where the market has “tipped” towards a dominant entity and there is a limited prospect of new entry, do not therefore arise in these sectors.
- 2.2. This strong competition has also brought about significant benefits to European consumers in terms of choice, access, and lower prices. The ongoing evolution of the accommodation ecosystem, with the arrival of new entrants and innovation of new services to support existing businesses, continues to provide those benefits to consumers. To preserve those benefits, it is important that any future regulation does not inadvertently distort or reduce competition by imposing additional obligations only on one set of competitors, purely as a result of them being a “platform”, while leaving other competitors, such as large hotel groups and travel companies, unregulated. This would place platforms, such as Airbnb, at a competitive disadvantage compared to their major non-platform competitors without addressing any genuine competitive risk or harm. It would also potentially entrench the position of non-platform hotel and travel groups, which would face less intensive competition in Europe and, over time, less competitive pressure to provide attractive offerings to European consumers.

## **3. Data access**

- 3.1. Airbnb’s core business is not selling personal data or advertising, and the data that Airbnb collects – and how it uses that data – also differs significantly from the “big data” companies. These distinctions are critical when developing future regulation. Airbnb recognises that there are valid concerns about platforms that process data that is unique or impossible for competitors to replicate, and that gives those platforms unassailable data positions that pose risks to competition. It is however important that any new rules are targeted to address those issues

and do not over regulate platforms that collect and use data in the ordinary course of business. We explain these distinctions below.

- 3.2. Airbnb does not sell personal data or sell advertising on the Airbnb platform (hosts list their accommodation and experiences for free). Like all website operators engaged in electronic commerce, Airbnb receives personal data from its European users to enable them to access and use the product, and to optimise their experience on the Airbnb platform – by displaying more relevant travel content, improving existing products, creating innovative new products, and serving more relevant advertising. The data provided by users also connects European hosts to the guests who are most likely to be interested in booking their properties and experiences on Airbnb. Unlike advertising platforms, Airbnb has no incentive to gather ever-increasing amounts of unrelated data on consumer behaviour online beyond that which is directly relevant to Airbnb’s core business of operating an accommodation and experiences marketplace. Indeed, user trust is essential to Airbnb’s reputation and commercial success and it therefore has a strong existing incentive to ensure the way it processes European user data maintains trust and confidence of European consumers and accommodation and experiences providers. Whilst business models that rely on “big data” monetisation may need to be more closely regulated, any regulation that inhibits the data activities of other platforms will restrict their ability to optimise their product and create innovative new products for European consumers, without addressing any countervailing competitive harm.
- 3.3. Airbnb does not have access to data of a type or scale that is unique and cannot be easily replicated by competitors. As outlined above, Airbnb only receives the data that is directly relevant to its accommodation and experiences marketplace business; the same data is also routinely provided by users to Airbnb’s platform and non-platform competitors when users use their services. Airbnb users also have data portability rights under the GDPR, meaning that they can easily port the data that they have provided to Airbnb to another travel distribution channel or provider. This data is therefore not especially “diverse” compared to the data types that other travel channels or providers collect from their users, and does not give Airbnb a particular advantage over those channels or providers. We do not therefore believe that data access is a significant barrier to entry in the accommodation or experiences sectors – the prevalence of accommodation websites of all shapes and sizes illustrates that all that is needed is a website and a suitable property to market in order to have a viable business. Indeed, Airbnb was able to establish and grow its own business purely through the strength of its competitive offering and attractiveness to hosts and guests and now competes with very established players in the accommodation sector. More recently, the rapid growth of the online property management industry in Europe (including the emergence of companies such as Houst and Altido) has shown that data access is not a prerequisite to rapid growth.
- 3.4. Airbnb already shares non-personal data publicly, with regulators, and with other authorities, to support public policy objectives in the EU. For example, in early 2020 Airbnb – together with Booking.com, Expedia, and TripAdvisor – concluded a landmark agreement [with the statistical office of the European Commission, Eurostat](#) to share specific, non-personalised data at local, regional, and national

levels, contributing to more complete and reliable statistics on tourist accommodation around Europe. This data-sharing agreement represents a serious effort by some players in the accommodation sector to work with regulators in providing aggregate-level data that supports public policy objectives, allowing public authorities to better understand the development of the collaborative economy and support informed, evidence-based policy-making.

#### **4. Consumer choice**

- 4.1. Strong competition in the sectors has led to a wide range of options for consumers looking to list and book accommodation and experiences. Consumers use a variety of channels to search for and book accommodation and many accommodation providers list their inventory on multiple channels, giving consumers access to a wide range of inventory across multiple channels at competitive prices. The vast majority of guests globally use more than one channel to search for and book accommodation, and many hosts on Airbnb choose one or several additional channels to distribute their accommodation inventory, primarily to get more bookings and increase their revenues, but also to benefit from the different policies and customer service available on different platforms.
- 4.2. Concerns about “single-homing”, lack of alternative options, and consumer “lock-in” – which are features of gatekeeper platforms – do not therefore arise in the accommodation sector. Indeed, Airbnb has facilitated this multi-channel ecosystem through partnerships with several travel meta search engines (where inventory from the Airbnb platform is displayed in search results alongside inventory from competitor websites) and by offering an API connection that allows approved accommodation providers and software providers to list and manage their inventory on Airbnb (which in turn enables those providers to more easily list and manage their inventory across multiple distribution channels). This diverse ecosystem means that accommodation providers can choose from a broad range of channels to increase the chance of their inventory being booked, and consumers can choose from a broad range of channels through which to book their accommodation (and in turn access the different consumer benefits that each channel offers). There is no need for any further regulation to achieve this outcome.

#### **5. Benefits of two-sided marketplaces in certain market conditions**

- 5.1. In developing any future regulation, the concept of a “network” (and as an extension, “network effects”) should not become a shorthand for distinguishing businesses which should be subject to additional regulation from those which should not. Although the availability of accommodation on Airbnb impacts the number of potential guests on Airbnb (and vice versa) this is not an indication by itself of any “lack of competition”. Indeed, since guests use multiple channels to book accommodation, hosts list accommodation on different channels, and there is robust competition from a range of platform and non-platform businesses, the existence of healthy two-sided marketplaces actually leads to pro-competitive effects – a wider range of accommodation options, at

competitive prices for guests, and more bookings and revenue for accommodation providers. We believe that it is only in combination with single-homing and a lack of competition that “network effects” potentially lead to “tipping”; this concern does not arise in the accommodation sector, which is competitive and characterised by multi-homing. However we appreciate that in other sectors, where different conditions apply (for example if the market has already “tipped” to certain platforms), network effects may entrench existing dominant positions. Any future regulation should therefore focus on those sectors where genuine tipping concerns may arise rather than risk inhibiting competition in sectors where such risks are not present.

## **6. Competitive threats**

- 6.1. Airbnb recognises the concern that “gatekeeper platforms” have the ability to leverage strong market positions and access to unique data assets to enter, and quickly dominate, new areas of activity. Although this may be a genuine concern in relation to other activities and platforms, in light of the competitive landscape and features of the accommodation sector described above, there can be no realistic suggestion that these characteristics apply to Airbnb. In addition, Airbnb does not offer accommodation or experiences on the Airbnb platform and has very limited vertical integration – aside from its core platform business, Airbnb provides property management services under the “Luckey” brand (currently limited to France, Spain and Canada) and luxury property marketing services under the “Luxe” brand (which have recently been scaled back). These areas make up a very small fraction of Airbnb’s overall business, and in both areas Airbnb is subject to strong competition.
- 6.2. There are however significant competitive threats posed to the online accommodation sector and experiences sector by the continued entry of platforms with access to large data sets and/or control of online search. Online search and app distribution are two critical routes to accessing consumers and there are examples of genuine gatekeeper control in those sectors. As a customer of those platforms, Airbnb is in no better position than any other distributor or other customer. The position of search operators, and their control over access to consumers, is an issue that is already under active consideration for further regulation. In that regard we note that where search operators themselves set up their own travel and accommodation services, or otherwise alter their ranking display or ranking algorithms, the scope for such search operators to raise barriers to entry and/or otherwise “self-prefer” their own business is a real area for regulatory concern. Further, we note that the Commission is actively investigating Apple’s app distribution platform, specifically the mandatory use of Apple’s own proprietary in-app purchase system (“IAP”) for the distribution of paid digital content and the 30% commission on all subscription fees through IAP. As an app distributor, Airbnb is also at risk of being harmed by gatekeepers that create the rules of the road for app distribution.

- 6.3. Control of online search and app distribution are examples of genuine potential barriers to entry that confer “gatekeeper status” and it is those activities that should be the subject of any future regulation. Any new regulation should take into account that other platform businesses are also customers of those gatekeepers and are themselves vulnerable to harm from those that occupy the gatekeeper role.

## **7. Conclusion**

- 7.1. Airbnb recognises the real concerns created by genuine “gatekeeper” status (as indicated by factors listed at point 1.4(iii) above) in certain sectors. Undoubtedly there are sectors where new rules may be required to protect competition for the market and to control the behaviour of dominant operators. However, any new regulation should be very carefully targeted to ensure that it addresses real competitive concerns and does not create risks to competition in other areas. In targeting future regulation, we recommend that the Commission takes into account that:
- 7.1.1. Platforms operate in different sectors, each of which is subject to different competitive dynamics, and many platforms operate in highly competitive sectors, competing with non-platform entities.
  - 7.1.2. Some platforms do not sell data or advertising as a core part of their business model and only capture the data that they need to provide and run their businesses. That data may be very similar to the data captured by their platform and non-platform competitors, and could likewise be available to new entrants without difficulty.
  - 7.1.3. In sectors where there is strong competition and a lack of “single homing”, healthy two-sided marketplaces provide benefits to consumers (and do not lead to “tipping”); those benefits could be lost or reduced by insufficiently targeted regulation.
  - 7.1.4. Consumers and providers in the accommodation sector use multiple booking and distribution channels; some participants in the sector actually facilitate the ecosystem through partnership deals and product features such as API connections.
  - 7.1.5. Airbnb is also a customer of several large platforms that have genuine “gatekeeper” control and as such is vulnerable to harm from the same gatekeeper behaviours as any other customer.