



Antitrust: Commission fines hotel group Meliá €6.7 million for discriminating between customers

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The European Commission has fined Spanish hotel group Meliá €6 678 000 for including restrictive clauses in its agreements with tour operators. These clauses discriminate consumers within the European Economic Area (EEA) based on their place of residence, in breach of EU antitrust rules. At the same time, the Commission closed proceedings opened in 2017 against four tour operators.

Executive Vice-President Margrethe **Vestager**, in charge of competition policy, said: *"This time of the year, many people are booking their summer vacation and are looking for the best deals on offer. Meliá prevented tour operators from freely offering hotel accommodation everywhere in Europe. As a result, consumers had access to different offers and different prices based on their nationality. This is illegal under antitrust rules. Consumers should be able to make full use of the Single Market and to shop around for the best deal."*

In [February 2017](#), the Commission opened an antitrust investigation into hotel accommodation agreements concluded by Meliá and tour operators, to assess whether they contained clauses that illegally discriminated between customers, based on their nationality or country of residence.

The Commission investigation showed that Meliá entered into contracts with tour operators that restricted active and passive sales for hotel accommodation.

More specifically, Meliá's standard terms and conditions for contracts with tour operators contained a clause according to which those contracts were valid only for reservations of consumers who were resident in specified countries. These agreements may have partitioned the European Single Market by restricting the ability of the tour operators to sell freely the hotel accommodation in all EEA countries and to respond to direct requests from consumers who were residents outside the defined countries. As a result, consumers were not able to see the full hotel availability or book hotel rooms at the best prices with tour operators in other Member States.

The Commission has concluded that Meliá's illegal practices deprived European consumers of one of the core benefits of the Single Market, namely the possibility to have more choice and get a better deal when shopping.

Meliá's cooperation

Meliá cooperated with the Commission beyond its legal obligation to do so. It expressly acknowledged the facts and the infringement of EU competition rules and cooperated on the provision of evidence.

Therefore, the Commission granted Meliá a 30% fine reduction in return for this cooperation. Further information on this type of cooperation can be found on the [Competition](#) website.

Fines

The fine was set on the basis of the [Commission's 2006 Guidelines on fines](#) (see [press release](#) and [MEMO](#)). Regarding the level of the fine, the Commission took into account, in particular, the value of sales relating to the infringement, the gravity of the infringement and its duration, as well as the fact that Meliá cooperated with the Commission during the investigation.

The fine imposed by the Commission on Meliá amounts to €6 678 000. The infringement that was investigated had a duration of two years, covering the years 2014 and 2015.

Fines imposed on companies found in breach of EU antitrust rules are paid into the general EU budget. This money is not earmarked for particular expenses, but Member States' contributions to the EU budget for the following year are reduced accordingly. The fines therefore help to finance the EU and reduce the burden for taxpayers.

Background to the investigation

In [February 2017](#), following complaints from consumers, the Commission opened antitrust investigations into agreements regarding hotel accommodation concluded by Meliá. The investigation also covered such agreements concluded by the four largest European tour operators (Kuoni, REWE, Thomas Cook, TUI). The investigations aimed to assess whether these agreements contained clauses

that discriminated between consumers on the basis of their nationality or country of residence.

Today's decision finds that Meliá concluded a large number of agreements that prevented consumers from booking hotel accommodation at better conditions offered by tour operators in other Member States. Moreover, these restrictive agreements were all based on Meliá's standard terms and conditions.

The Commission welcomes hotels developing and introducing innovative pricing mechanisms to maximise room usage. However, discriminating customers on the basis of their place of residence or nationality could infringe [Article 101](#) of the Treaty on the Functioning of the European Union (TFEU), which prohibits agreements between companies that prevent, restrict or distort competition within the EU's Single Market.

As regards the antitrust investigation opened against the four tour operators (see [AT.40524](#), [AT.40525](#), [AT.40526](#), [AT.40527](#)), the Commission, following a careful assessment of all the evidence and the circumstances of the case, has decided not to further pursue the cases.

More information on the investigation will be available on the Commission's competition website, in the public case register under the case number [AT.40528](#).

Action for damages

Any person or company affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision constitutes binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without being reduced on account of the Commission fine.

The [Antitrust Damages Directive](#), which Member States had to transpose into their legal systems by 27 December 2016, makes it [easier for victims of anti-competitive practices to obtain damages](#). More information on antitrust damages actions, including a practical guide on how to quantify antitrust harm, is available [here](#).

Whistleblower tool

The Commission has set up a tool to make it easier for individuals to alert it about anti-competitive behaviour while maintaining their anonymity. The tool protects whistleblowers' anonymity through a specifically-designed encrypted messaging system that allows two way communications. The tool is accessible via this [link](#).

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Press contacts:

[Arianna PODESTA](#) (+32 2 298 70 24)

[Maria TSONI](#) (+32 2 299 05 26)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)