

Duff on Hospitality Law

## **Legal and Strategic Moves in Travel: Vegas Hotels' Court Victory, Airbnb's Subscription Consideration, and Airline Loyalty Program Scrutiny**

on 5.13.24

Our weekly Online Travel Update for the week is below. And for those mothers out there, we hope you had a great Mother's Day! This week's highlights:

- **Las Vegas Hotels Earn Dismissal of Algorithmic Price-Fixing Case.** One of the first of now several algorithmic pricing-fixing class action suits brought against members of the lodging industry was dismissed last week by a Nevada federal district court. Defendants in the case included Cendyn (relating to the co-defendants' use of Cendyn's revenue management tools GuestRev and GroupRev), Blackstone, Treasure Island, Caesars and Wynn. In dismissing the case, the federal court judge held that the claimants "have not plausibly alleged a tacit agreement between Defendants or a restraint on trade in part because Hotel Defendants are not required to and often do not accept the pricing recommendations generated by Cendyn's products." Click [here](#) for a complete copy of the court's order dismissing the case.
- **Is Airbnb Considering a Subscription Model?** In a recent Skift interview, Airbnb CEO, Brian Chesky, noted that he favored (and had been considering) a paid membership or subscription program versus traditional points-based loyalty programs. Loyalty and the possibility of an Airbnb loyalty program have been talked about for years – dating back to comments by Chesky in 2016. The key question for many is whether Airbnb and its still unique product offering would even benefit from offering such a program, which can be an expensive endeavor.
- **Federal Investigation of Airlines' Loyalty Programs and Co-Branded Credit Cards Continues.** A few weeks ago, we featured a story detailing an ongoing investigation by the US Department of Transportation and Consumer Financial Protection Bureau into

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airline loyalty programs and relatedly, their co-branded credit cards. A hearing on the issue was held this past Thursday and notably, none of the major airlines (nor their trade association) participated (though their loyalty programs were the subject of much of the discussion). Discounts carriers Sprint, Allegiant and Breeze participated in the hearing. Topics covered during Thursday's hearing included the role airline loyalty programs may play in preventing competition in the market and the effect of airlines' practice of devaluing miles.

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### **Las Vegas hotels, Cendyn win dismissal of 'relatively novel' algorithmic price-fixing case**

*May 9, 2024 via foster.com*

MGM Resorts, Caesars Entertainment, other Las Vegas hotels and Cendyn Group were granted dismissal with prejudice of price-fixing claims brought by a putative class of hotel patron in a Nevada federal court. "This case remains a relatively novel antitrust theory premised on algorithmic pricing going in search of factual allegations that could support it," US District Judge Miranda Du said in an order dismissing the plaintiffs' first amended complaint.

### **Airline Credit Cards and Frequent Flyer Programs Come Under Federal Scrutiny**

*May 9, 2024 via Skift Travel News*

Federal agencies are currently investigating whether airlines have devalued frequent flyer miles to make it more difficult for consumers to redeem award tickets. Have the loyalty programs of the biggest U.S. airlines grown so huge that smaller airlines can't compete?

### **Tripadvisor is not for sale - at least for now**

*May 8, 2024 via Phocus Wire*

Tripadvisor announces it is not selling amid first quarter earnings results that included revenue of \$395 million, reflecting year-over-year growth of 6%.

### **Google Search Claims Another Victim: Tripadvisor Lowers Outlook**

*May 8, 2024 via Skift Travel News*

Google has made frequent changes to its search results pages over the years, and Tripadvisor has often suffered as Google has its own competing businesses. Recent changes appear to have hit Tripadvisor particularly hard. Tripadvisor offered a muted outlook across its major businesses, and attributed ...

### **Expedia Backtracks on Outage Cause: 'Software Issue' Took Down Global Operations**

*May 6, 2024 via Skift Travel News*

The mission for media companies — including Skift — is to hold companies to account. That's what we did here. What caused the widespread outages at many of Expedia Group properties this weekend? The company initially attributed them to "maintenance" but provided a different explanation ...

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**Airbnb Considering an Amazon Prime-Like Membership as a Loyalty Program**

*May 1, 2024 via Skift Travel News*

Don't hold your breath for a points program, but there could still be some benefits for ultra-loyal customers.