



C/2024/4360

4.7.2024

**Summary of Commission Decision**

**of 13 May 2024**

**relating to a decision pursuant to Article 3 of Regulation (EU) 2022/1925**

**(Case DMA.100019 – BOOKING - ONLINE INTERMEDIATION SERVICES – VERTICALS)**

*(notified under document number C(2024) 3176 final)*

*(C/2024/4360)*

**(Only the English text is authentic)**

*On 13 May 2024, the Commission adopted a decision pursuant to Article 3 of Regulation (EU) No 2022/1925 <sup>(1)</sup>. In accordance with the provisions of Article 44 of Regulation (EU) No 2022/1925, the Commission herewith publishes the names of the parties and the main content of the decision, having regard to the legitimate interest of undertakings in the protection of their business secrets.*

## 1. INTRODUCTION

- (1) The Designation Decision ('the Decision') designates Booking Holdings Inc. (herewith 'Booking Holdings') as a gatekeeper pursuant to Article 3(4) DMA in relation to the following core platform service ('CPS') that is provided by Booking Holdings: Booking Holdings' online intermediation service (OIS) Booking.com. Based on the information in the notification by Booking Holdings <sup>(2)</sup> and Commission's analysis, Booking.com individually constitutes an important gateway for business users to reach end users as referred to in Article 3(1)(b) DMA.

## 2. PROCEDURE

- (2) On 1 March 2024, Booking Holdings notified <sup>(3)</sup> the Commission, pursuant to Article 3(3), first subparagraph DMA, that it meets the thresholds laid down in Article 3(2) DMA in relation to the following CPS: its OIS Booking.com.
- (3) On 25 March 2024, to provide Booking Holdings with the right to be heard, the Commission sent Booking Holdings a letter outlining its preliminary views on Booking Holdings' notification.
- (4) Booking Holdings replied to the Commission's letter on 4 April 2024.

## 3. LEGAL FRAMEWORK

- (5) The DMA establishes a set of narrowly defined objective criteria for qualifying a large online platform as a gatekeeper. Designation is to be made in relation to one or more CPSs provided by the undertaking that are an important gateway for business users to reach end users within the meaning of Article 3(1), point (b) DMA. In order to determine whether a service provided by an undertaking is a CPS that meets the requirement set out in Article 3(1), point (b) of the DMA, it is necessary, as a preliminary step, to qualify and delineate the respective service. A relevant criterion for qualifying and delineating CPSs is the purpose for which the service is used by either end users or business users or both.

<sup>(1)</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), OJ L 265, 12.10.2022, p. 1–66.

<sup>(2)</sup> Notification of 1 March 2024 made by Booking Holdings Inc. pursuant to Article 3(3) DMA.

<sup>(3)</sup> Notification of 1 March 2024 made by Booking Holdings Inc. pursuant to Article 3(3) DMA.

- (6) According to Article 3(1) DMA, the Commission is to designate an undertaking as a gatekeeper if it fulfils three cumulative requirements, namely: (a) it has a significant impact on the internal market; (b) it provides a CPS which is an important gateway for business users to reach end users; and (c) it enjoys an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future. Article 3(2) DMA lays down a presumption that those requirements are satisfied where certain quantitative thresholds are met, namely the company's turnover or market capitalisation as well as the numbers of end users and business users of a particular CPS in each of the last three financial years.

#### 4. THE COMMISSION'S ASSESSMENT

- (7) The Commission considers that Booking.com constitutes an OIS CPS which is distinct from the other OISs offered by Booking Holdings – Agoda, Priceline, Kayak and OpenTable. This is because these services (i) are offered as entirely distinct services, and, (ii) in the case of Kayak and OpenTable, are used for different purposes by their end users and their business users.
- (8) Furthermore Booking.com constitutes a single OIS CPS, irrespective of the different types of travel services available through the Booking.com service (e.g., hotels, flights and other types of travel services, or categories). This is because Booking.com is used for the single purpose of intermediating travel services. Furthermore, the RentalCars.com service provided by Booking Holdings forms part of Booking Holdings' OIS CPS Booking.com. This is because RentalCars.com is offered to users as a conduit into the same travel services offering provided through Booking.com.
- (9) Finally, the Booking Network Sponsored Ads (BNSA) service is provided by Booking Holdings as a distinct service from the online intermediation CPS Booking.com, irrespective of whether that service constitutes a CPS. This is because BNSA and Booking.com (i) are offered by Booking Holdings as entirely distinct services, irrespective of the fact that certain features of the BNSA service are accessed through the platform of the third party provider Koddi and in any event, (ii) are used for different purposes by their end users and their business users. BNSA has the specific purpose of promoting offers in the designated space on the online interface on top of the search results of the OIS CPS Booking.com, with the aim of increasing business users' chance of being clicked on and securing more bookings.
- (10) The findings in the Decision are based on the information available to the Commission at the time of the Decision. Should there be any substantial change in any of the facts on which this Decision is based, or if this Decision is based on incomplete, incorrect or misleading information, the Commission may reconsider or amend the Decision pursuant to Article 4(1) DMA.

#### 5. THE COMMISSION'S ASSESSMENT

- (11) For the reasons set out above, the Decision designates Booking Holdings as a gatekeeper in relation to Booking Holdings' OIS Booking.com.