



## **HOTREC welcomes German court decision declaring parity clauses of HRS for anti-competitive**

**Düsseldorf, Brussels (9 January 2015) - The Higher Regional Court Düsseldorf dismissed the appeal of the hotel booking portal HRS against the decision of the German Federal Cartel Office (Bundeskartellamt) concerning so-called MFN clauses ("most favored nation clauses"). With such MFN clauses HRS had obliged its hotel partners for many years for instance not to offer anywhere else cheaper room rates than on the HRS portal. "This is an extremely important step in the recovery of the entrepreneurial freedom for the hospitality industry", welcomes Markus Luthe, Chair of HOTREC's Distribution Task Force, the outcome of the process.**

On December 20, 2013 the Bundeskartellamt prohibited HRS from using MFN clauses in its contracts with hotels. Such clauses are mandatorily imposed by distribution partners to maintain identical rates for the same room type and identical booking conditions across all online and even offline channels. The Bundeskartellamt had concluded that these MFN clauses violated German and European competition law. Since March 2014 HRS has not been allowed to apply such MFN – or best rate – clauses in contracts with hotels in Germany. HRS had filed an appeal against this prohibition of the Bundeskartellamt and complained at the Higher Regional Court Düsseldorf. The German Hotel Association (IHA) took officially part in the legal proceedings. Parallel to the HRS proceedings before the Higher Regional Court Düsseldorf the Bundeskartellamt investigates – on complaint of the German Hotel Association (IHA) – as well in terms of MFN clauses in the contracts of Booking.com and Expedia.

"With today's decision by the Higher Regional Court Düsseldorf we are fully confirmed in our legal opinion that MFN clauses imposed by HRS and other hotel booking portals represent a clear and blatant restraint of competition. Competing booking portals have also been hindered unlawfully, as well as the direct distribution of the hotel industry", commented Markus Luthe.

With its decision the Bundeskartellamt broke new grounds. Accordingly today's judgment of the Higher Regional Court is of great interest to many other European antitrust authorities, which have also launched investigations against MFN clauses in the contracts of hotel booking portals. "We are confident that today's decision will open the door widely to end the practice of imposing MFN clauses on hotels across Europe, and hoteliers will regain their entrepreneurial freedom. Today's decision makes also clear that this practice is simply anti-competitive." added Christian de Barrin, CEO of HOTREC.

### ***What is HOTREC?***

HOTREC represents the hotel, restaurant and café industry at European level. This industry includes around 1,8 million businesses, of which 99% are small and medium sized enterprises (91% of them micro enterprises, i.e. employing fewer than 10 people). These businesses make up some 59% of industry value added. The hospitality industry provides some 10.2 million jobs in the EU alone. Together with the other tourism industries, the sector is one of the largest industries in Europe. HOTREC brings together 42 national associations representing the sector in 27 different European countries.

For further information: [www.hotrec.eu](http://www.hotrec.eu)

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