ANNEXE 1

COMMITMENTS

RECITALS

1. In order to address the OFT’s competition concerns and assist with bringing the Investigation to a close, the Parties have offered Commitments under section 31A of the Act.

2. Consistent with sections 31A and 31B of the Act, the Commitments are given in the understanding that the OFT will close its Investigation without any finding of infringement.

3. The offering of the Commitments by the Parties does not constitute an admission of wrongdoing by the Parties.

4. The Commitments shall be binding on IHG (including HIL), the OTA Parties and Priceline (on behalf of Booking.com) and on any organisation which in the future carries on a material part of IHG’s business or the OTA Parties’ respective room-only, hotel room booking service activities (excluding corporate travel programmes and Opaque Hotel Room Booking Service activities).

5. The Commitments concern the freedom of OTAs to offer Reductions in respect of Hotel Rooms at Hotel Properties to Closed Group Members who have made at least one Prior Booking with that OTA.

6. The freedom to offer Reductions will be given to OTAs operating under any business model, irrespective of, for example, whether the Closed Group Member pays for the hotel room booking at the end of the hotel room reservation process or after his or her stay at the relevant hotel, or to whom the Closed Group Member makes payment.

7. The Commitments only apply to bookings made by EEA Residents in respect of Hotel Rooms at Hotel Properties located in the UK.

8. The Commitments shall remain in force for a period of two years. The Parties agree to consider, at the end of two years, extending the Commitments but there is no obligation to do so.

REQUIRED CONDUCT

Joint commitments from IHG and Booking.com

9. IHG and Booking.com will:
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(a) amend any existing commercial arrangements between IHG and Booking.com to ensure that these arrangements comply with the Principles without undue delay and in any event within one calendar month from the Effective Date;

(b) ensure that, for the duration of the Commitments, any new commercial arrangements between IHG and Booking.com comply with the Principles; and

(c) to the extent necessary, clarify or amend in their existing commercial arrangements, and omit from any new commercial arrangements, any provisions which are incompatible with the Principles because they directly or indirectly prevent:

(i) IHG from entering into arrangements with OTAs which are consistent with the Principles;

(ii) IHG from operating on the basis of arrangements which are consistent with the Principles; or

(iii) OTAs other than Booking.com from operating on the basis of arrangements which are consistent with the Principles.

Joint commitments from IHG and Expedia

10. IHG and Expedia will:

(a) amend any existing commercial arrangements between IHG and Expedia to ensure that these arrangements comply with the Principles without undue delay and in any event within one calendar month from the Effective Date;

(b) ensure that, for the duration of the Commitments, any new commercial arrangements between IHG and Expedia comply with the Principles; and

(c) to the extent necessary, clarify or amend in their existing commercial arrangements, and omit from any new commercial arrangements, any provisions which are incompatible with the Principles because they directly or indirectly prevent:

(i) IHG from entering into arrangements with OTAs which are consistent with the Principles;
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(ii) IHG from operating on the basis of arrangements which are consistent with the Principles; or

(iii) OTAs other than Expedia from operating on the basis of arrangements which are consistent with the Principles.

Commitments from IHG

11. IHG will:

(a) subject to paragraph 12 below, clarify or amend any existing commercial arrangements, if necessary, with Other OTAs to ensure that these arrangements comply with the Principles without undue delay and in any event within three calendar months from the Effective Date;

(b) ensure that, for the duration of the Commitments, any new commercial arrangements with Other OTAs comply with the Principles;

(c) to the extent necessary, clarify or amend in its existing commercial arrangements with Other OTAs, subject to paragraph 12 below, and omit from any new commercial arrangements with Other OTAs, any provisions which are incompatible with the Principles because they directly or indirectly prevent:

(i) IHG from entering into arrangements with OTAs which are consistent with the Principles;

(ii) IHG from operating on the basis of arrangements which are consistent with the Principles; or

(iii) OTAs from operating on the basis of arrangements which are consistent with the Principles; and

(d) amend any standard terms and conditions under which it operates in pursuit of its obligations under subparagraphs (a), (b), and (c) above.

12. To the extent that IHG’s ability to clarify or amend any existing commercial arrangements with Other OTAs pursuant to paragraphs 11(a) and 11(c) above requires the consent of the respective counterparty, IHG will use Reasonable Endeavours to procure such consent.
Commitments from HIL

13. HIL will take any such steps within its power to give effect to the Commitments offered by IHG.

Commitments from Booking.com

14. Booking.com will:

(a) subject to paragraph 15 below, clarify or amend any existing commercial arrangements, if necessary, with Other Hotels to ensure that these arrangements comply with the Principles without undue delay and in any event within three calendar months from the Effective Date;

(b) ensure that, for the duration of the Commitments, any new commercial arrangements with Other Hotels comply with the Principles;

(c) to the extent necessary, clarify or amend in its existing commercial arrangements with Other Hotels, subject to paragraph 15 below, and omit from any new commercial arrangements with Other Hotels, any provisions which are incompatible with the Principles because they directly or indirectly prevent:

(i) any Other Hotel from entering into arrangements with OTAs which are consistent with the Principles;

(ii) any Other Hotel from operating on the basis of arrangements which are consistent with the Principles; or

(iii) OTAs other than Booking.com from operating on the basis of arrangements which are consistent with the Principles; and

(d) amend any standard terms and conditions under which it operates in pursuit of its obligations under subparagraphs (a), (b), and (c) above.

15. To the extent that Booking.com’s ability to clarify or amend any existing commercial arrangements with Other Hotels pursuant to paragraphs 14(a) and 14(c) above requires the consent of the respective counterparty, Booking.com will use Reasonable Endeavours to procure such consent.
Commitments from Expedia

16. Expedia will:

(a) subject to paragraph 17 below, clarify or amend any existing commercial arrangements, if necessary, with Other Hotels to ensure that these arrangements comply with the Principles without undue delay and in any event within three calendar months from the Effective Date;

(b) ensure that, for the duration of the Commitments, any new commercial arrangements with Other Hotels comply with the Principles;

(c) to the extent necessary, clarify or amend in its existing commercial arrangements with Other Hotels, subject to paragraph 17 below, and omit from any new commercial arrangements with Other Hotels, any provisions which are incompatible with the Principles because they directly or indirectly prevent:

   (i) any Other Hotel from entering into arrangements with OTAs which are consistent with the Principles;

   (ii) any Other Hotel from operating on the basis of arrangements which are consistent with the Principles; or

   (iii) OTAs other than Expedia from operating on the basis of arrangements which are consistent with the Principles; and

(d) amend any standard terms and conditions under which it operates in pursuit of its obligations under subparagraphs (a), (b) and (c) above.

17. To the extent that Expedia’s ability to clarify or amend any existing commercial arrangements with Other Hotels pursuant to paragraphs 16(a) and 16(c) above requires the consent of the respective counterparty, Expedia will use Reasonable Endeavours to procure such consent.

HOTEL ONLINE BOOKING PRINCIPLES

18. OTAs shall be free to offer Reductions in respect of Hotel Rooms at Hotel Properties located in the UK that are:

(a) available to and redeemable by Closed Group Members who have made at least one Prior Booking with that OTA;
(b) no greater than the level of commission earned by that OTA for the relevant Hotel Property by reference (at the choice of the OTA) to:

(i) the level of commission for the particular transaction in respect of which a Reduction is being offered; or

(ii) the aggregate commission earned for the relevant Hotel Property over the course of a time period determined by the OTA but not exceeding one year, starting from the Effective Date or such later date as the OTA chooses; and

(c) available to EEA Residents in respect of Hotel Rooms at Hotel Properties located in the UK.

19. OTAs may publicise information regarding the availability of Reductions in a clear and transparent manner, including to price comparison websites and meta-search sites, subject to the following:

(a) OTAs cannot publicise Specific Information about Reductions for any IHG Room to consumers who are not Closed Group Members, including on OTAs' own public websites and via price comparison websites and meta-search sites; and

(b) any Other Hotel may prevent OTAs from publicising Specific Information about Reductions to consumers who are not Closed Group Members, including on OTAs' own public websites and via price comparison websites and meta-search sites.

20. IHG and/or any Other Hotel contracting with an OTA is entitled to require from that OTA such information as may reasonably be required to enable IHG or the Other Hotel to assess and verify compliance with paragraphs 18(a), 18(b) and 18(c). However, IHG and/or any Other Hotel may not impose any method of accounting on any OTA which may restrict, limit or impede the OTA from operating on the basis of arrangements which are consistent with the Principles.

21. OTAs shall not enter into or enforce any most favoured nation or equivalent provision as regards Reductions offered by Hotels to their respective Closed Group Members who have made at least one Prior Booking directly with that Hotel provided that:

(a) such Reductions are only available to EEA Residents in respect of Hotel Rooms at Hotel Properties located in the UK; and
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(b) the Hotel does not publicise Specific Information about Reductions to consumers who are not Closed Group Members, including on the Hotel’s own public website(s) and via price comparison websites and meta-search sites.

22. For the avoidance of doubt, the commitments do not in any way restrict:

(a) the ability of Hotels to set the Headline Room Rates for their respective Hotel Rooms; or

(b) benefits available to members of OTAs’ and Hotels’ existing loyalty schemes prior to the Effective Date.

REPORTING

23. The Parties:

(a) will provide to the OFT any information and documents which the OFT reasonably requires for the purposes of enabling the OFT to monitor and review the operation of the Commitments or any provisions of the Commitments; and

(b) may be required by the OFT to keep, maintain and produce those records specified in writing by the OFT that relate to the operation of any provision of the Commitments.

24. IHG and each of the OTA Parties will each deliver an annual compliance report to the OFT, for each year in which the Commitments are in force, within three months after the end of the year to which the annual compliance report relates. The annual compliance report shall include a detailed and accurate account of any matters notified to IHG and/or the OTA Parties by the OFT.

COMPLIANCE

25. The Parties, any Other Hotel and/or Other OTAs may write to the OFT regarding alleged non-compliance by the OTA Parties and/or IHG with the Commitments. The Parties may also write to the OFT regarding contractual arrangements of any Other Hotel and/or Other OTAs which may be incompatible with the Principles. The OFT may take such enforcement action as it considers appropriate.
DEFINITIONS

Act means the Competition Act 1998 (as amended).

Booking.com means Booking.com B.V. and any of its current and future subsidiaries, including those which are jointly-controlled.

Closed Group means a group where membership is not automatic and where: (i) consumers actively opt in to become a member; (ii) any online or mobile interface used by Closed Group Members is password protected; and (iii) Closed Group Members have completed a Customer Profile.

Closed Group Members means consumers who are members of a Closed Group (each, a Closed Group Member).

Commitments means the commitments set out in this document (as varied by the OFT if applicable).

Customer Profile means a form requiring the applicant’s name, email address and password plus one or more of the following: (a) country of residency (with or without postcode); (b) a telephone number; (c) full postal address; and/or (d) details of the applicant’s credit or debit card (including country of registration) (but may, at the choice of the OTA or Hotel offering Closed Group membership, require or request more information to be included).

Effective Date means the date upon which each Party receives formal notification of a decision by the OFT to accept the Commitments.

Expedia means Expedia, Inc. and any of its current and future subsidiaries, including those which are jointly-controlled.

EEA Resident means a consumer who has an EEA address, an EEA telephone number or an EEA registered credit or debit card; for the avoidance of doubt, the nationality or legal residency or tax status of the individual is irrelevant.

Headline Room Rate means (i) the room-only headline hotel room rates set by IHG for IHG Rooms or (ii) the room-only headline hotel room rates set by the relevant Other Hotel for its Hotel Rooms.

HIL means Hotel Inter-Continental London Limited, an indirectly wholly-owned subsidiary of InterContinental Hotels Group plc, and an addressee of the statement of objections in the Investigation.
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**Hotel** means any hotel entity located in the UK, including an individual hotel, hotel group or chain, offering hotel reservations to consumers relating to Hotel Properties, including IHG and Other Hotels.

**Hotel Properties** means all hotel properties located in the UK which are owned, managed or franchised by the relevant Hotel (each, a Hotel Property), including IHG Properties.

**Hotel Rooms** means IHG Rooms and any rooms at Hotel Properties of Other Hotels which are available for room-only, non-opaque room reservations (excluding reservations for corporate travel programmes) (each, a Hotel Room).

**IHG** means InterContinental Hotels Group plc and any of its current and future subsidiaries, including those which are jointly-controlled, including for the avoidance of doubt, HIL.

**IHG Properties** means all hotel properties located in the UK which are IHG owned, managed or franchised, including, for the avoidance of doubt, the Intercontinental London-Park Lane Hotel.

**IHG Rooms** means any rooms at IHG Properties which are available for room-only, non-opaque room reservations (excluding reservations for corporate travel programmes).

**Investigation** means the OFT’s investigation in case CE/9320/10.

**OFT** means the Office of Fair Trading and any successor organisation.

**Opaque Hotel Room Booking Service** means a booking service where the identity of the hotel remains undisclosed to the customer until after the booking of hotel room accommodation is completed.

**OTA** means any third party hotel room reservation service that directly, or through affiliates, offers hotel room booking services on the internet or via mobile/app based platforms (whether exclusively online/mobile/app based or not) to consumers (excluding corporate travel programmes). It refers to the OTA Parties and Other OTAs.

**OTA Parties** means Expedia and Booking.com (each, an OTA Party).

**Other Hotel** means any hotel entity, including hotel group or chain, other than IHG, offering hotel reservations to consumers relating to Hotel Properties located in the UK (together, Other Hotels).
Other OTAs means OTAs other than the OTA Parties.

Parties means IHG, the OTA Parties and Priceline (each, a Party).

Priceline means priceline.com Incorporated.

Prior Booking means a booking of room-only hotel accommodation with an OTA or Hotel as a Closed Group Member, after the Effective Date, that is or has become non-refundable.

Principles means the hotel online booking principles specified in the Commitments at paragraphs 18 to 22.

Reasonable Endeavours means reasonable efforts including:

(1) Amending, if appropriate, the relevant Party’s own standard terms and conditions for the duration of the Commitments so as to ensure their compliance with the Commitments and using those as the starting point for commercial negotiations;

(2) Contacting contractual partners in writing to raise the relevant Party’s obligations pursuant to the Commitments in contract negotiations with a view to trying to convince the contractual partner to agree to the amendment or clarification sought by the relevant Party; and

(3) Notifying the OFT in writing within three months if any contractual partner does not agree to the amendment or clarification sought by the relevant Party.

However, for the avoidance of doubt, it does not require a Party to sacrifice any of its commercial interests to obtain the relevant agreement by the contractual partner.

Reductions means reductions off Headline Room Rates, for example by way of discounts, vouchers, rewards and/or cash back, that satisfy the conditions of paragraph 18 in the case of OTAs and paragraph 21 in the case of Hotels.

Specific Information about Reductions means information regarding the specific level or extent of Reductions for any Hotel Room or any other information which would allow a discounted retail rate to be calculated (including, for the avoidance of doubt, the discounted rate itself).
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EXECUTED BY:

On behalf of InterContinental Hotels Group plc
Name
Title
Date

On behalf of Hotel Inter-Continental London Limited
Name
Title
Date

On behalf of Expedia, Inc
Name
Title
Date

On behalf of Booking.com B.V.
Name
Title
Date

On behalf of priceline.com Incorporated
Name
Title
Date