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# Czech fine for Booking.com confirmed by the Supreme Administrative Court

## Case summary

In April 2024, the Czech Supreme Administrative Court issued a final decision in the Booking case, upholding the fine of 8.336 million CZK (approx. 330,875 EUR) imposed by the Czech Competition Authority (the 'CCA').

According to the CCA's 2018 decision, Booking entered into vertical agreements with short-term accommodation providers between 2009 and 2015, requiring them to ensure price and availability parity as part of the service's general terms and conditions. Furthermore, the accommodation providers could only offer more favourable conditions to customers who booked their accommodation through the Booking platform. As a result, customers using the Booking platform would always pay a lower price than if they had used another booking method or contacted the provider directly. This practice was confirmed by hundreds of accommodation establishments in Czechia.

At the end of 2019, the CCA's decision was upheld by the CCA's Chairman in the appellate proceedings. In its appeal, Booking disagreed with the definition of the relevant product market, claimed there were no anticompetitive effects and that its practices were covered by the VBER (then applicable Regulation 330/2010). The Chairman, however, found none of the objections to be justified.

Booking filed a lawsuit with the Regional Administrative Court in Brno, which dismissed it, agreeing with the conclusions of the CCA and its Chairman. With reference to the German Competition Authority's decision, the court held that the parity agreements did not fall within any block exemption.

Recently, the Supreme Administrative Court upheld the first-instance court's decision and the fine in its entirety, agreeing that Booking prevented the development of effective competition in the market. The Supreme Administrative Court's judgment is final.

## Commentary

The CCA is one of the few EU competition authorities to find Booking's conduct in breach of competition law, and subsequently imposing a fine for it. According to the Supreme Administrative Court, this does not conflict with Article 11(1) of Regulation 1/2003.

Furthermore, within the context of the Booking.com case, the Rechtbank Amsterdam (District Court, Netherlands)

has sought a preliminary ruling – in particular on how the relevant market should be defined and whether parity clauses constitute an ancillary restraint under Article 101(1) TFEU. It will be interesting to see how the CJEU will deal with issues that are similar to those reviewed by the CCA and the Czech courts in their respective national proceedings.