

Frequently Asked Questions

A. Information about the claim

1 Who is the proposed claim against?

The proposed claim will be brought against several entities within the Booking.com group of companies, which operate the online travel agent Booking.com.

2 What is the proposed claim about?

The proposed claim against Booking.com arises from its “wide price parity policies”, which prevent accommodation providers from charging lower room prices on other platforms and websites even where the costs of selling through those other sales channels – including commissions chargeable by the platforms – are lower.

These wide price parity policies protect Booking.com from competition from other online travel agents, allowing it to set its commissions at anticompetitive levels. If these wide price parity policies were not in place, accommodation providers would be able to offer lower room prices on other online travel agents' websites and their own websites, diverting sales to other platforms and applying competitive pressure on Booking.com to reduce the commissions it charges accommodation providers.

The proposed claim would seek to recover damages suffered by UK-based accommodation providers as a result of Booking.com's anticompetitive conduct.

3 What is the B&B Association's role in the proposed claim?

The B&B Association is the proposed class representative, i.e. an organisation which represents the interests of a defined class of persons on whose behalf compensation is being sought.

The class representative has conduct of the collective proceedings on behalf of all class members and works with the legal team to progress the claim.

In broad terms, the B&B Association is proposing to act as class representative on behalf of all UK-based accommodation providers, including hotels and B&Bs of all sizes, who used Booking.com's services between 2019 and 2024. The claim will be brought as an ‘opt-out’ collective action, which means that class members do not need actively to participate in the proceedings.

A class representative's main responsibilities can be described as follows:

- Representing the class's best interests: a duty to act impartially and in the best interests of the entire class, rather than prioritising any individual claimant.
- Strategic and procedural decision-making: authority over a range of decisions, to be taken having received legal advice and assistance, such as (i) making or defending an application in the course of the collective proceedings; (ii) instructing, via their solicitors, experts and

barristers; (iii) making or accepting settlement offers; and (iv) managing funding arrangements and case budgets.

- Communicating with class members: promoting and publicising the claim, updating class members on the progress of the claim and working with advisers to implement procedures to distribute damages, or any agreed settlement amount, to class members following a settlement or a final judgment in the class's favour.

A class representative receives comprehensive and ongoing support from a legal team, economic experts, the litigation funder and other parties, such as the claims administration and notice services provider, to ensure that the class representative can perform their responsibilities and act in the class's best interests at every stage of the proceedings.

4 Why is the B&B Association acting as a class representative, and how does it fit with the B&B Association's purpose?

Established in 2006, the B&B Association is the UK trade association for B&Bs and guest houses. It represents the interests of its members and campaigns on behalf of those interests to government and regulatory bodies. The B&B Association also provides information, support, and continuous professional development opportunities to help its members improve and develop their businesses.

The B&B Association has decided to act as the class representative in this claim against Booking.com because the issues at stake are of great significance to its members and the wider hotel and accommodation industry in the UK. The B&B Association is uniquely well positioned to do so given both its deep experience in the sector, and its longstanding involvement in campaigning against harmful anti-competitive practices affecting UK accommodation providers, including, in particular, those of Booking.com.

The B&B Association's view is that Booking's practices have, for many years, stifled price competition in the online booking market, to the detriment of all UK accommodation providers, including, in particular, small, independent B&Bs and hotels. This led to the B&B Association making five formal complaints to the CMA in relation to those practices, including on price parity matters, in 2017.

5 Who is the B&B Association working with on the proposed claim?

The B&B Association has instructed leading solicitors, barristers and economic experts to represent the class of UK based accommodation providers.

Stephenson Harwood LLP is a leading international law firm with more than 1,400 employees worldwide, including around 210 partners, working from a total of eight offices across Asia, Europe and the Middle East. Stephenson Harwood LLP is recognised as a leader in group litigation. Stephenson Harwood LLP's Group Actions and Competition team has led several other group claims in the Competition Appeal Tribunal, including:

- **The Merchant Interchange Fee Umbrella Proceedings**, representing more than 1,800 companies in group claims against Visa and Mastercard relating to interchange fees. Stephenson Harwood LLP successfully secured settlements for their clients.
- **Supermarkets salmon cartel claim**, in which the firm is presently representing seven of the UK's leading supermarkets (Asda, Aldi, Co-op, Iceland, M&S, Morrisons and Ocado) in a group claim against Norwegian salmon producers in relation to an alleged cartel in the market for farmed Atlantic salmon.
- **ACSO v Amazon**, in which Stephenson Harwood LLP is acting for the Association of Consumer Support Organisations in its proposed collective proceedings against Amazon in relation to allegedly anticompetitive price parity policies.

6 Will the B&B Association and / or its members have any liability as a result of this claim, e.g. for adverse costs?

The B&B Association and its members will face no liability whatsoever because of the B&B Association's decision to act as the proposed class representative in the proposed collective proceedings against Booking.com.

The B&B Association is the named party to the litigation. The B&B Association's members are not party to the proposed collective proceedings and are not required to participate in the claim in any capacity.

The B&B Association has secured litigation funding from a reputable litigation funder to cover the costs of the litigation. The B&B Association's members will not be expected to contribute financially to the claim in any way, at any stage.

The B&B Association will not be liable for any of Booking.com's costs in the event that the claim is unsuccessful. After-the-event insurance has been arranged which offers the B&B Association protection against any adverse costs liability and having to pay Booking.com's costs in the event the claim is unsuccessful.

7 Who is funding the claim?

The claim is being funded by a leading litigation funder with extensive experience supporting collective proceedings in the UK and internationally. The funder manages many billions of pounds in investment and committed capital worldwide and has a strong track record of financing similar claims.

8 Will the B&B Association receive part of any future settlement?

The B&B Association will not receive part of any future settlement or damages award. However, the B&B Association will be provided with reasonable compensation by the litigation funder for the time and cost spent in pursuing the collective proceedings during the life of the proposed claim.

9 Is anyone excluded from the class?

The B&B Association is bringing this claim on behalf of UK-based accommodation providers who marketed their rooms/properties on the Booking.com platform between 2019 and 2024 and paid Booking.com's commission.

If your business meets these criteria, you will be automatically included in the claim. However, accommodation providers who have assigned their claim to another party (including in the Dutch HOTREC action) will be excluded from the Represented Class in the B&B Association's claim.

10 Am I included in the claim if my hotel/bed and breakfast is located in Guernsey or Jersey?

No. As Guernsey and Jersey are Crown Dependencies with their own legal systems, courts, and legislation, accommodation providers located in the Channel Islands are not automatically included in the proposed class of claimants. This is also the case with accommodation providers based in outside the UK.

11 Are accommodation providers who used Booking.com's platform at any time between 2019 and 2024, but have since stopped using it, still eligible to be part of the claim?

Yes. If your business used Booking.com's platform at any time during the relevant period (2019–2024), you will be eligible to claim compensation from any damages award or settlement that is recovered.

12 Am I still eligible to be part of the claim even if I did not use Booking.com's "preferred partner" programmes?

Yes. The claim alleges that Booking.com's anti-competitive conduct artificially inflated the commissions charged by it for all accommodation providers. Accordingly, all accommodation providers who were active on Booking.com's platform during the relevant period (2019–2024) are included in the claim.

13 Have there been other claims against Booking.com relating to its price parity policies?

Yes. The B&B Association is aware of a pan-European initiative promoted by HOTREC, a Belgian-headquartered association of European hotels, restaurants and cafés, and various national hotel associations, concerning similar issues, which is currently seeking participants for claims which it is intended will be pursued in the Netherlands.

The B&B Association is also aware that claims against Booking.com about its price parity policies have been filed in France and Spain, led by law firm Geradin Partners in France and Eskarim in Spain.

14 Are UK-based accommodation providers better served by the HOTREC claim in the Netherlands or the claim brought by the B&B Association in the UK?

The B&B Association firmly believes that UK accommodation providers are better served by the B&B Association's UK opt out claim, as opposed to the initiative promoted by HOTREC, for the following reasons:

- First, the B&B Association's action is a collective proceedings claim, meaning that it will be brought on behalf of a group of claimants that have suffered similar losses following a breach of competition law. It is an 'opt-out' claim, which means that members of the Represented Class will automatically be included in the action (unless they take specific steps to opt out). This means that, unlike in other proceedings, such as the HOTREC initiative, class members will not need to take any steps to be a part of the action or authorise the B&B Association to pursue the action on their behalf.
- Secondly, by contrast with the HOTREC initiative, individual class members will not need to be named or identified in the B&B Association's action. There is therefore no need for accommodation providers to worry about their involvement having a negative impact on their relationship with Booking.
- Thirdly, the B&B Association's action is to be brought before the UK's Competition Appeal Tribunal, a specialist tribunal experienced in determining complex competition claims. As the B&B Association's action is to be brought on behalf of UK accommodation providers and concerns anti-competitive conduct and matters of UK law, the B&B Association considers the Tribunal to be the appropriate forum for proceedings against Booking by UK accommodation providers. The HOTREC initiative would, if pursued, entail claims affecting UK accommodation providers being determined in another jurisdiction (i.e. the Netherlands). By contrast, the B&B Association's action straightforwardly involves UK accommodation providers' claims being litigated by English lawyers before a UK tribunal. Those claims will be the sole focus of the B&B Association's claim, rather than a peripheral aspect.
- Fourthly, the B&B Association's action seeks aggregate damages. This means that there is no need for class members to provide evidence of their individual losses (or otherwise to participate in the proceedings). Instead, the Tribunal will determine the total losses suffered by all class members in the aggregate based on expert economic methodologies. Working with a specialist claims administrator, the B&B Association would then oversee the distribution of any damages awarded to individual class members. By contrast, participants in the HOTREC initiative are required to provide HOTREC any documents, financial information, or records that it may require to pursue its claim.
- Fifthly, the B&B Association anticipates that given the specialised nature of the UK Competition Appeal Tribunal and the more focussed nature of its claim, it is expected that the B&B Association's action will be resolved more quickly than those being pursued in the pan-European HOTREC initiative.

15 When is the proposed claim likely to be filed?

The B&B Association has secured third-party litigation funding for this case. Over the next few months, the B&B Association will be working with the legal team at Stephenson Harwood LLP, the barristers, and the expert economists to prepare the claim to be filed.

16 How long is the litigation expected to take? When can class members expect to receive compensation?

At this stage it is not certain how long the proceedings will take. Opt-out collective proceedings of this nature generally take several years before a trial is heard and determined. The B&B Association will be working with the legal team, experts, and claim administrator to progress the claim as quickly as possible. The B&B Association will also actively explore the possibility of settlement with the B&B Association at the outset of the proceedings, and throughout, to secure early resolution and compensation on behalf of the class.

17 How much compensation should I expect to receive?

The claim will seek damages based on the estimated aggregate loss suffered by the class. This estimate will be determined on the basis of expert evidence, relying on publicly available information and additional data obtained from Booking.com through disclosure during the proceedings. At this stage, the B&B Association cannot predict the amount that any individual class member may ultimately receive.

18 Will Booking.com know that my business is participating in this claim?

No. The claim is being brought by the B&B Association in their name only on behalf of a defined class of claimants. As this is an opt-out action, you are automatically included if you meet the criteria in the class definition and have not taken steps to opt-out or assign your claim. There will be no register of eligible claimants and Booking.com will not know whether you are participating. If compensation is awarded or a settlement is reached, you will need to provide evidence that you qualify as a class member in order to claim your share. However, this evidence will not need to be provided to Booking.com, but instead to a claims administrator appointed by the class representative.

B. General Information about collective proceedings

19 What are collective proceedings?

Collective proceedings are a form of class action introduced by the Consumer Rights Act 2015, which came into force on 1 October 2015, and Section 47B of the Competition Act 1998. The collective proceedings regime seeks to provide access to justice to consumers and businesses who have suffered a common loss and who might not otherwise be able to initiate proceedings against companies that have infringed competition law, as individual claims are likely to be small in amount and the cost of litigation can be prohibitive. The collective proceedings regime means that the claimants (referred to as “class members”) do not need to bring their own individual claims for compensation. Instead, a class representative can bring a claim on behalf of the whole class.

20 What is the Competition Appeal Tribunal?

The Competition Appeal Tribunal is a specialist court based in London which exclusively hears cases involving competition or regulatory issues, including claims concerning breaches of UK and EU competition law.

21 What is the difference between opt-out and opt-in collective proceedings?

Opt-out collective proceedings (such as the B&B Association's) automatically include all eligible claimants (i.e., class members) within the proposed class unless they take active steps to opt out. Class members are bound by any judgment or settlement and unable to bring their own claim against the defendant on the same legal basis unless they choose to opt out of the collective proceedings.

By contrast, opt-in collective actions (such as the HOTREC action brought in the Netherlands) include only those members of the class that actively choose to participate in the collective proceedings by registering their interest or providing consent for a representative to act on their behalf.

22 How do I get involved?

As the B&B Association intends to bring this claim as an opt-out collective proceedings, affected class members do not need to take any action in order to be included in the claim or to be eligible for compensation.

23 How can I learn more about the claim?

The B&B Association will soon launch a claim website that will provide more information about the claim. Class members will be able to register their email on the website to receive news and updates about the progress of the claim.

In the meantime, the B&B Association will continue to provide updates regarding the proposed claim on its website and via communications with its membership and through other relevant industry bodies such as UK Hospitality.