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Amtsgericht Charlottenburg
unter HRB 132059 B

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Comments on draft revised Vertical Block Exemption Regulation

To Whom It May Concern,

Thank you for giving us the opportunity to share our thoughts on the current draft of the VBER.

1. Who we are

GetYourGuide is a platform for travel experiences which started as an innovative idea 13 years ago. We give our customers access to guided tours, attraction tickets and other activities worldwide. GetYourGuide acts as an intermediary for thousands of providers of travel experiences on our platform and also as a reseller of tickets.

Today, GetYourGuide is a 600 employees company headquartered in Berlin, running offices in various countries in Europe and throughout the world.

2. Our view on the current draft of the VBER

Running a platform we appreciate the higher degree of clarity provided by the most recent draft of the Vertical Block Exemption Regulation. Nevertheless we are quite concerned about section 2.7 of the proposal. We understand that this provision would have the effect that the

VBER would not be applicable any more to hybrid platforms. This would lead to tremendous issues for many smaller and mid-sized European platforms including GetYourGuide. We believe that the majority of smaller and mid-sized platforms are hybrid platforms. Hybrid offerings are certainly a trend in the industry. This provision could potentially make smaller and mid-sized European platforms fall even more behind while they try to catch up with big tech and foster competition. As a result, this could harm innovation by independent players which are the real driver of digital transformation. It also provides a competitive disadvantage for European based start-up and innovative platform models.

3. Why is GetYourGuide acting as a hybrid platform

While we act as an intermediary for the vast majority of providers on our platform, we also act as a reseller of a small share of tickets on our platform. These tickets are purchased by the GetYourGuide daughter GetYourGuide Tours & Tickets GmbH offering them for resale on the platform provided by GetYourGuide Deutschland GmbH.

While it is economically much more beneficial for GetYourGuide to act as an intermediary and while we prefer this business model, we are forced to act as a reseller as well. Especially important and unique sights like the Eiffel Tower do not agree to sell their tickets on a platform like GetYourGuide themselves and manage their bookings there. The only way for us to have them on our platform is to buy contingents of tickets from them and resell these tickets. Even though this creates a lot of internal manual work and comes along with additional business risks, we are forced to agree to a resale-model cooperation with top-notch attractions because we need to have them on our platform in order to be able to offer our customers a complete variety of things to do in every city. At the end of the day, this is a prerequisite to compete with other solutions and major platforms. This is why we are forced into the position of being a hybrid platform while we would very much prefer being a platform solely acting as an intermediary.

For smaller and mid-sized platforms like GetYourGuide being hybrid is not a shady business model used to cover the entire value chain for the most interesting products on their platform and push small providers of these products aside. It is rather something they need to accept in order to run the business model they actually want to run - the intermediary model.

4. Why do we need the VBER to be applicable to smaller and mid-sized hybrid platforms like GetYourGuide

We believe that the majority of platforms are hybrid. This does not only affect big tech like Amazon or Google but many small European platforms as well.

Not having the VBER applicable as a safe harbor, platforms like GetyourGuide would need to allocate significant resources to the assessment of individual exemptions and would still see a high degree of legal uncertainty. This uncertainty would be seen as an additional business risk which could even become a blocker for new and innovative business models and products and competition with bigger players. Since big players like Google or Amazon have much more resources available and at the same time have the financial background to bear additional risks, these effects would hit smaller and mid-sized companies even harder. The result would be that smaller and mid-sized platforms - while they are trying to foster competition - would fall even more behind and that big platforms would gain an even bigger market share. This could also harm innovation by independent players which are the real driver of digital transformation. Last but not least, not having the VBER applicable to hybrid platforms would constitute a competitive disadvantage for European based start-up and innovative platform models.

5. How can horizontal effects of hybrid business models be addressed

While we understand that hybrid business models can potentially have a horizontal effect, we believe that this effect is not strong enough to justify the negative impact described above without limitation. So we recommend making the VBER applicable to all hybrid platforms.

In case the Commission would see the need to exclude some of the bigger hybrid platforms from the applicability of the VBER, we recommend establishing reasonable thresholds, e.g. regarding the absolute revenue made with the resale part of the business or the share of total revenue generated by resale. These thresholds should ensure that also in the future small and medium-sized platforms not focussing on resale can rely on the VBER.

With kind regards,

Björn Borrmann

Director Legal