

TESTIMONY FOR PENNSYLVANIA HOUSE OF  
REPRESENTATIVES HOUSE TOURISM AND  
RECECREATIONAL DEVELOPMENT COMMITTEE  
HEARING ON TRAVEL INTERMEDIARY TAX  
LEGISLATION

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CHICAGO, IL

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Democratic Chairman Kirkland, Republican Chairman Barrar  
and members of this committee,

As the grandson of a proud Bethlehem Steel worker and son of a mother who grew up in Fountain Hill, PA, it is a great honor to testify before this house. My name is Brian Hoyt. I'm the Vice President of Communications and Government Affairs for Orbitz Worldwide, which is a leading online travel company based in Chicago, IL. We own Orbitz, Cheaptickets.com and Orbitz for Business - a corporate booking service - here in the Americas. We also operate online travel brands ebookers.com in Europe and HotelClub, based in Australia...a hotel-only booking service that operates in over 120 countries around the world. We are a travel promotion and marketing service provider that refers millions of travelers to Pennsylvania from destinations around the globe.

Thank you for the opportunity to testify this morning on why we strongly oppose this new, proposed tax on the tourism industry. And I appreciate the opportunity to explain why we should all - for the good of tourism and business travel in Pennsylvania - come together in our opposition to this bill.

I'll keep my remarks brief and will submit more extensive comments to members of the committee following today's hearing.

I work for Orbitz, but I represent all the online travel companies today as a proxy for our trade association, the Interactive Travel Services Association...or ITSA for short. ITSA's members also include Expedia, Hotels.com, Priceline and Travelocity. These companies join Orbitz and our offline travel agency and tour operator partners in our opposition to this bill.

**First, this proposed tax is based on a false understanding of how our business model operates and fails to appreciate how our business is modeled on an incentive program to help hoteliers fill their properties.**

The myth that led to this bill's creation is that travel intermediaries buy and re-sell hotel rooms and mark up the price of the rooms. That "mark up" - it has been suggested - should be taxed as room rent locally.

The facts are these:

-- We don't buy and resell hotel rooms.

-- We take on **zero** inventory risk from hotels. For instance, there are no rooms from the Hilton or the Marriott in the back storage shed about to expire.

-- There is no such thing as wholesale and retail room rent. In fact, Orbitz does not charge rent for lodging - hotels do.

-- We are not hotel operators.

Therefore local occupancy taxes on lodging rent should not apply to the service fees we charge consumers when we help facilitate a booking.

Understand that the courts have affirmed our position as fact, including two federal courts of appeal that ruled travel intermediaries are not subject to local occupancy tax laws because our service fees are not hotel room rent and companies like Orbitz are not hotel operators.

The vast majority of the other court cases on this matter, close to 90%, have on the merits ruled with similar opinions.

We have also heard the myth that we are collecting a tax on the retail rate and only remitting a tax on the wholesale rate. This too is a falsehood struck down by the courts.

Hotels are responsible for paying tax on the room rent they charge. Travel intermediaries ensure hotels can remit every single solitary dollar of tax owed on the room rent they charge consumers. In fact, travel intermediaries (through their promotion of this state) help put heads in what would otherwise be empty hotel beds. The end result is millions in local occupancy tax revenues made possible because of the hotels we promote and the bookings we help facilitate.

**Second, the legislation fails to consider the incredible administrative burden created for travel intermediaries forced into being a tax payer locally.** For many travel intermediaries, local taxation of our fees will be a barrier to doing business in many mid-size to small communities within this state. The administrative costs will most likely outweigh the ROI of promoting smaller communities outside of major destinations like Philadelphia and Pittsburgh. Unfortunate, because today travel intermediaries help facilitate thousands of hotel bookings in big towns and small, for large chain hotels and small, independent motels and inns. The end result could cost many communities in Pennsylvania millions in taxable revenue as travel intermediaries discontinue promoting and facilitating hotel room bookings in these communities (where I should add small independently owned and operated hotels are disproportionately impacted). In fact, Orbitz has been forced - due to litigation - to already pull out of an entire county north of Pittsburgh because of the cost of doing business outweighed the profits possible in that market.

**Finally, this legislation fails to consider the amount of free promotion and marketing travel intermediaries provide for Pennsylvania tourism.** Administrative and liability costs aside, travel intermediaries make money only when we help hotels fill up their properties. We receive no

commission from hotels for facilitating bookings, and the service fees we charge get reinvested into the business so we can market and promote destinations in Pennsylvania down to the property level. And that investment in marketing Pennsylvania to the millions of world travelers includes everything from investing in our websites to buying keywords on Google to higher level forms of advertising - like integration into our print, radio and television ads.

**In closing,** I understand some of you may have been told that this legislation clarifies existing tax law. This is not true, and such statement fails to understand or appreciate how our business model operates and how we are incentivized to create demand and facilitate hotel room bookings in Pennsylvania. Do not be fooled. This is a new services tax on tourism in Pennsylvania, something no other state in the country has implemented.

Some states have considered similar legislation, but in their deliberations they opted to work with us to help us spend our marketing dollars better and more efficiently to position their cities and towns with consumers versus trying to tax our services, which would create a lack of incentive to promote tourism locally. In truth, our marketing dollars we reinvest in the business make us one of the largest tourism promotion corporations on the planet.

With all due respect, our industry would argue such a tax is penny wise and dollar foolish - because this sort of revenue policy will ensure that less travelers come to Pennsylvania.

Larry Summers, on President Obama's economic team, said recently that **now is the time** to support demand creation businesses in the U.S. This tax is not only counter to that philosophy, but it would be a sign to our industry that Pennsylvania is rolling up the welcome mat for tourism companies like ours that sends millions to this state.

Thank you.