TESTIMONY OF

JONATHAN PERKEL

SENIOR VICE PRESIDENT AND GENERAL COUNSEL

TRAVELOCITY.COM

BEFORE THE

TOURISM & RECREATIONAL DEVELOPMENT COMMITTEE

PENNSYLVANIA HOUSE OF REPRESENTATIVES

April 26, 2010 -- Chairman Kirkland, Members of the Tourism and Recreational Development Committee, my name is Jonathan Perkel and I am Senior Vice President and General Counsel of Travelocity.com, one of the nation's top online travel companies. I'm also a proud graduate of the University of Pennsylvania. While Travelocity is headquartered in Southlake, Texas, we have a call center in Wilkes-Barre, Pennsylvania, where we provide important jobs to over 150 people who help our customers have great travel experiences when they fly, stay, drive or cruise with our supplier partners. We do a brisk business in Pennsylvania, where we arranged nearly 175,000 room nights in 2009. We vigorously promote the state and its attractions to potential travelers not only in the United States, but throughout the world.

And very importantly, we have a proven track record of putting, as we say in the business, "heads in beds" that would otherwise be empty. I have personally negotiated many distribution contracts with our hotel partners, including Starwood and Marriott, whom we understand are also providing testimony today.

Hotels, including those in Pennsylvania, voluntarily seek the assistance of online travel companies like Travelocity because they need the reach of our marketing services to reach their customers. Anyone who recognizes the Travelocity Roaming Gnome, or the Priceline Negotiator, will understand the value to hotels of the millions of dollars online travel companies spend every year to promote tourism and travel. Independent hotels, without the benefit of a relationship with a major franchise, depend on us even more so to raise awareness of, and bring guests to, their properties. We have teams of folks whose job it is to work with our hotel partners on a daily basis to promote their properties and provide guests to fill their beds.

That's why we find it difficult to understand that, rather than working with us to promote the state as a destination and fill its often undersubscribed hotels during a hugely challenging economic downturn, some are instead seeking to impose new tax schemes that would incentivize online travel companies and leisure and business travelers to go elsewhere. Let me be very clear – enacting HB 1651 would hurt our distribution model and directly undermine Travelocity's and other online travel companies' ability to succeed in Pennsylvania and provide the services that are a major engine of Pennsylvania tourism.

The bill before this committee, HB 1651, is bad tourism policy that is out of step with other states. Similar intermediary occupancy tax schemes have been rejected in every state that has considered them, including Massachusetts, Florida, New York, Montana, Hawaii, Virginia and Minnesota. If HB 1651 passes, Pennsylvania will have the dubious distinction of becoming the first state in the country to tax intermediary services under its hotel occupancy tax law.

HB 1651 rolls up the welcome mat for "intermediaries," which include online travel companies, travel agencies and tour operators. These companies have choices about the vacation, meeting, convention, and incentive destinations they feature on their websites and in their brochures. The compelling Pennsylvania promotions they feature enhance the work and effectiveness of Pennsylvania's state and local CVBs. Without motivated intermediaries, the tourism story Pennsylvania would like to tell the country and the world does not reach the huge audiences it should.

The small and speculative incremental revenue that would come from this new tax would almost surely be outweighed by the reduction in travel and tourism to the state. This bill is simply a reckless gamble. The bottom line is that without the efforts put forth by our industry, many hotel rooms would remain empty. And it goes without saying, perhaps, that empty rooms generate no occupancy taxes. The potential loss in hotel occupancy as well as all the other powerful "multiplier effects" of tourism (taxis, restaurants, theater tickets, attraction admissions) could be enormous.

Collecting this new intermediary tax will prove to be a nightmare for the state and cities and for the intermediaries, as well as for the travelers who will have to pay the tax. Intermediaries that facilitate hotel room occupancy in Pennsylvania are based all over the country and the world. Serious compliance and nexus problems will be created. The administrative burdens of registration, filing, collection and remittance of new taxes are very significant for all travel intermediaries, for small businesses as well as larger companies engaged in interstate commerce. Inevitably, most of these burdens would end up falling on Pennsylvania travel businesses, which would be disproportionally affected by them as compared to travel agents located in other states or abroad.

Determining how fees paid to intermediaries for package trips (that include air and/or car with a hotel room) should be allocated for Pennsylvania tax purposes would be an extremely challenging exercise, and frankly one that many intermediaries might not stay around to figure out. For many, the burden of becoming a taxpayer all throughout Pennsylvania will not be worth the benefit of doing business here. Online travel companies are Internet businesses. The surest way to hobble our success is to impose tax schemes on us like HB 1651 that open the floodgates to hundreds of remote cities and towns to decide individually how they want us to register, file, collect and remit tax. There's no software solution to this vexing problem.

HB 1651 will directly lead to less destination marketing of smaller Pennsylvania towns. While Philadelphia and Pittsburgh which have larger promotion budgets may see less harm, smaller towns like Reading and Lancaster can expect many intermediaries to simply give up on them. Many independent hotels in small Pennsylvania towns depend on online intermediaries in particular to get their businesses noticed and their rooms filled.

There are myths that have been perpetuated about the online travel companies' business practices that should be put to rest, some of which you may have heard or will hear today. Here are the facts:

1. There is no retail and wholesale price for a hotel room under the merchant model. There is simply a pre-negotiated rate between the hotel and the online company. That pre-negotiated rate paid by a consumer is the "rent." We pay over to the hotels the rent and an amount equal to the occupancy taxes on the rent and hotels then pay the occupancy tax on that rent. Therefore, Pennsylvania is getting every dollar of occupancy tax on rent that it is entitled to receive.
2. There is no competitive disadvantage to hotels because our service fees are not taxed. The contracts between the hotels and the online travel companies require price parity. The hotel companies demand that and we agree to it. If we undersell a hotel company in the marketplace, that hotel

company will not give us access to any more rooms. We've been successfully moving hotel rooms under the merchant model for over 8 years.

3. We do not take inventory risk on any hotel rooms. Our contracts make that crystal clear. We are not an hotelier and we are not a room reseller, just as we are neither an airline nor a car rental company nor a cruise line. Here's what we are: we are travel marketing companies and we operate world class websites. We pay business income taxes on the fees we collect for marketing our suppliers' products. I understand your need for new revenues, but overreaching for occupancy taxes is anti-tourism and the wrong way forward for Pennsylvania. Instead, let's raise revenues by working together to bring more valuable tourism to the state.

Mr. Chairman, I want to thank you again for the opportunity to provide this written testimony today and I would be happy to answer any additional questions that the committee may have.

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