

## Trivago facing \$90m fine

THE Australian Competition & Consumer Commission (ACCC) has told a federal court that hotel comparison site Trivago should be fined at least \$90 million for misleading consumers about hotel rates (TD 21 Jan 2020).

The penalty hearing for the online travel company is currently before Justice Mark Moshinsky after Trivago failed to overturn a court ruling late last year (TD

05 Nov 2020), which at the time stated the Expedia-owned brand had breached Australian Consumer Law when it knowingly “tricked” users into believing the most visible search results were the best value.

If a penalty in the vicinity of \$90 million were to be handed down, it would make it one of the highest ever imposed in Australia for a breach of consumer laws, a justifiable amount in the view of Tim Begbie QC representing the ACCC, who said Trivago’s conduct was “careful and calculated”.

The court heard yesterday that 213 million searches for hotel rooms on Trivago’s site were made over a 13-month period, less than half of the time the company had misled people.

In its presentation, Trivago argued a much smaller fine was reasonable, putting forward \$15 million as a logical amount.

During its failed appeals case, the Full Federal Court ruled that Trivago had not sufficiently disclosed to users that its website used an algorithm that gave prominence to accommodation providers, paying the site a higher payment fee (cost per click).

ACCC Chair Rod Sims said at the time the case represented an important warning to comparison sites that they must not mislead consumers about the results they recommend.