

# An Overview of Some Socio-Legal Issues in Hotel Marketing

## Abstract

The type of economy dictates the role of marketing- on one hand satisfying customers to earn return is the aim in the capitalist economy; the socialist economy facilitates the welfare of the society. In the broader perspective, marketing raises many socio-legal issues and rapid advancement in technology has thrown up issues unimaginable in the past. This paper is an effort towards identifying social and legal issues specifically concerning hospitality marketing. The concern is whether these widely accepted contemporary practices lack social welfare.

**Keywords:** Marketing, Hospitality, Overbooking, Guest history, Webcams, Advertisement, Socio- Legal.

## Introduction

Hospitality means kindness in welcoming guests or strangers. The word comes from the Latin 'hospes', meaning guest and developed into 'hospice', a place of shelter for travelers. The hotel and catering or food service industry now widely known as the hospitality industry is a key member of the service sector. The hospitality industry is identified by its output of products which satisfy the demand for accommodation, food and beverages away from home. The hospitality industry develops a product with three principal components:

1. Accommodation
2. Food
3. Beverages

While these are essential components the infinite variations with which hospitality marketers combine these core products to meet the demand of customers suggests that customers seek rather more than the utilitarian satisfaction of a comfortable bed and full stomach. These three core products are enhanced, made more attractive by being tailored to satisfy demands and besides this, consumption often takes place in an environment that is also tailored to deliver satisfaction.

Marketing is as old as civilization itself and whether we recognize or not, we are all involved willingly or unwillingly in the process of marketing as buyers, sellers, consumers of goods and services. We are also involved as shoppers, readers of advertising and as advisors of friends and relatives. Marketing has been defined in more ways which often appear to conflict- earlier definitions emphasized marketing as a business function with profit as the end purpose of activities such as selling or advertising. Because marketing skills are now widely applied outside the profit oriented business environment, this is no longer acceptable.

## The Problem

The role of marketing in business varies between types of economy. Marketing, in most capitalist business, is aimed at producing satisfied consumers for a satisfactory return to the business owners while this is not the aim in socialist economy. The Socialist Marketing Association of Poland emphasizes on social marketing and is of the opinion that "Socialist marketing is that set of integrated activities having as their aim the organization of production from the point of view of domestic and foreign markets and the interests of the national economy." The conflict in the aim of marketing and social welfare has resulted many a time in 'socio – cultural carnage'. Consumer wants are sometimes met regardless of their socio cultural consequences. The New Internationalist has investigated the marketing activities of powdered milk manufacturer: -

"Our investigation showed that companies like Nestle' were busy persuading poor and often illiterate mothers to abandon breast feeding in favor of powdered milk food which, in most cases, they did not need, could not afford and were unable to use safely. As a result, unknown thousands of babies were being fed over-diluted milk from unsterilized bottles and

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were therefore exposed to disease and malnutrition. These facts are known to the European and American baby food companies like Nestle' and Abbott Laboratories, American makers of a milk brand called 'Similac'. Yet they continued to promote their products on radio, in newspapers and on hoarding boards with concern for the misery they are inflicting on mothers and children." A similar story is being repeated in many other countries including India. Although in India, direct marketing of powdered milk as baby food was restrained by law but marketing of other supplementary baby food like Cerelac continues unabated.

The basic issue in the criticism is that marketing has lacked societal concern. Marketers are becoming more aware of this and some have responded by suggesting the need for a special 'society oriented' definition of marketing, such as, "Marketing is a matching process, based on goods and capabilities by which a producer provides a marketing mix that meets consumer needs within the limits of the society." or "The societal marketing concept holds that the organization's task is to determine the needs, wants and interests of target markets and to deliver the desired satisfaction more effectively and efficiently than competitors in a way that preserves or enhances the consumers' and society's well being."

As in any other business, there are several socio – legal issues in hospitality business e.g. child labor, flouting of provisions of minimum wages act, hazardous waste disposal and ecological & cultural degradation.

#### **Aim of the Study**

The aim of this paper is to highlight following important socio-legal parameters of hospitality marketing with a view that policies may be developed in future in this grey area.

1. Overbooking
2. Recording guests' history
3. Encroaching privacy of the guests through cameras
4. Misleading advertising to induce guest to book at the Hotel

#### **Review of Literature**

Philip Kotler, the father of modern marketing defines marketing as "the science and art of exploring, creating, and delivering value to satisfy the needs of a target market at a profit. Marketing identifies unfulfilled needs and desires. It defines measures and quantifies the size of the identified market and the profit potential. It pinpoints which segments the company is capable of serving best and it designs and promotes the appropriate products and services." The American Marketing Association (2013) defines Marketing as "the activity, set of institutions, and processes for creating, communicating, delivering, and exchanging offerings that have value for customers, clients, partners, and society at large."

Dekay and Toh (2002) observe that hotel managers have to engage in a certain level of overbooking so as to ensure that the potentially vacant rooms are sold.

Hadjinicola and Panayi (1997) observe that by accepting more reservations than their available capacity, hotels hedge against the problem of cancellations. According to Wilson, Enghagen and Sharma, "Overbooking in hotels is a strategy designed to respond to the problem of lost revenue due to no-shows and late cancellations.

Ivanov and Ayas (2017) find in a study of accommodation establishments in Turkey that hoteliers are less likely to consider overcontracting and overbooking since focus is on price discrimination and room availability guarantee. Hwang (2009) finds that customers perception of a hotel's overbooking and compensation practices affect their loyalty to the hotel in future. Compared to men, women were more likely to perceive the practice of hotel overbooking as unfair. Most legal authorities agree that when overbooking results in walking guests, a breach of contract occurs. Under certain circumstances, it may constitute fraud or misrepresentation as well."

Sparks (1993) points out that Guest history serves as a valuable service and marketing tool. Dave and Ellis (1991) observe that recording of guest history by hotels might be considered by some guests as an invasion on their privacy and recognition of guests due to this practice by hotels could be embarrassing in some situations and lead to personal problems for the guest.

Girimaji (2013) explains "Misleading and false advertisements are not just unethical; they distort competition and of course, consumer choice. False and misleading advertisements in fact violate several basic rights of consumers: the right to information, the right to choice, the right to be protected against unsafe goods and services as well as unfair trade practices."

Previous studies have dealt with overbooking, misleading advertisements, webcams and recording guest history as separate issues and this study brings it under one umbrella. Zheng (2017) in a study regarding impact of compensation on repurchase decisions after service failure finds that

"The results provide support for the interaction effects of magnitude of failure, compensation and stability/locus of responsibility in both airline and hotel contexts, such that for a high (low) magnitude service failure, high compensation will lead to higher customers' repurchase likelihood when the failure is unstable (when the company is not responsible for the failure) than when the failure is stable (when the company is responsible for the failure). These findings provide implications for companies to effectively recover service failures using compensation."

#### **Research Methodology**

This is an exploratory study to bring to attention some socio-legal issues in hospitality marketing which are widely accepted practices. The study is based on unstructured interviews with hotel marketing staff and secondary data available online.

**Overbooking**

As defined by Nolo's Plain-English Law Dictionary overbooking is "A common practice whereby an airline, hotel, or other company accepts more reservations than it has seats or rooms available, on the presumption that a certain percentage of people will not show up. Airlines have a legal right to overbook, while hotels do not. A hotel must find a room for everyone who has a reservation and shows up on time. An airline may be required to offer compensation for people involuntarily bumped from a flight, depending on several factors, including how long they must wait for another flight."

Overbooking is a well known and common practice in the hotel industry which is actually the acceptance of more reservations than there are rooms available. This is done to allow for no shows, cancellations and early departures that regularly occur in hotels. Customers who cancel their bookings at the last minute or simply do not show up on the expected day of arrival cost the hotel a large amount of revenue because a room is being held for them and the hotel does not receive the revenue because they do not arrive. A hotel room is a perishable commodity and cannot be stored for future use or shifted to another geographical area and hence the lost revenue from each unsold room is gone forever and is irrecoverable. To maximize revenue and yield, hotels confirm more rooms than actually available in the accommodation and the management of overbooking is considered as part of the revenue and yield management of hotels. Hotels overbook and hence overbooking is a strategy used by hotels to compensate for lost revenue due to no-shows and late cancellations.

But there are several advantages of overbooking due to which hotels indulge in this practice- overbooking helps achieve full occupancy levels thus maximizing revenue and optimizes the operations efficiency by increasing profitability. Thus long term revenue and profits increase by practicing overbooking which is low risk and the oldest most commonly used method to increase profitability. When overbooking is done based on past statistics then chances of miscalculation decrease and compensation are normally cheaper than keeping a room empty.

Nevertheless, overbooking does not justify the guest expectations which result in bad experience and mar the reputation of the hotel with negative reviews on internet e.g. Social media, Tripadvisor etc, decreased customer loyalty, negative word-of-mouth publicity therefore it may not be good long-term strategy for hotels. This common practice of the hotel industry is a clear case of selling twelve apples when you have just ten. What happens if a guest arrives

with a confirmed reservation and there is no vacant room available because of overbooking? Hoteliers say that they make alternate arrangements in hotels of similar standard. There are more questions than answers, for example, what is similar standard of hotel for the hotelier may not be so from guest's point of view, and who will pay for the extra amount another hotel is charging and what about the transportation to another hotel and so on. Interestingly, if the guest is cantankerous he gets all services paid by defaulting hotels but not if he is not so fussy. If a meaningful meeting has to be cancelled by a guest because of overbooking by the hotel, it will be difficult to compensate the guest. The practice of overbooking, in one form or another, has been practiced not only by hotels but also by airlines. House of Lords has, in a case; "British Airways v/s Taylor" in year 1976 decided that this practice of overbooking is an illegal act by the British Airways. Legal experts are of the opinion that a breach of contract happens when overbooking results in walking guests.

**Recording Guest History**

Some hotels maintain record of guest's history using software or a file that records and tracks guest preferences and personal information like dates of stay at the hotel, room number, credit rating, birthdays, anniversaries, any special needs, usual & unusual habits etc. With technological advancement, hotel management software have capabilities to record centralized guest history for chain hotels with multiple properties thus providing access to guest data from any of the properties. Hospitality companies practice this to be hospitable especially to their regular and VIP guests and this record helps to address their special needs and mark the guest's special dates. For example, hotels may arrange a small setup or a cake to the guest's room for a birthday; or take care to avoid serving anything that the guest is allergic to. Hotels and restaurants do not share any guest information with a third party and record this to treat their guests well and make them feel special so as to increase satisfaction levels. Some guests may have proved to be undesirable because of their habits or they might have left or tried to leave the hotel in the past without settling the accounts. There may be a few guests who are blacklisted by the hotel for a variety of reasons. But is it really correct to record and use guest history to provide exceptional guest experience to customers? Does it encroach upon the guest's privacy? So far as the hotel uses this profile of the guests secretly, there seems no problem. However, if the information is leaked, may be by a disgruntled employee of the hotel, and if the guest concerned is rich & famous, implications both social and legal, may be immense.

**A Sample Guest History Card**

Name		Nationality British				
Address 16, THE GROVE, ANYTOWN, WESSEX						
Room No.	Date of arrival	Date of departure	Room rate	Total bill	Paid by	Remarks
206	29.3.19	7.4.19	£25	£157.20	Access	<b>Refer To Manager</b> <i>Habitually drunk.</i>
						<b>Causing offence to other guests.</b>
						<b>Uses foul language</b>

Note: A black sticker to indicate a guest on black list.

### Encroaching Privacy of The Guests Through Live Cameras

Hotels market their properties through live web cameras installed at public places in these hotels. Live cameras are installed all over the place like the lobby, bar, discotheque, restaurants, and swimming pools and so on. These live cameras can be controlled at the click of the mouse, from anywhere in the world if connected to the net and one can zoom, and can change the angle of the camera. Cameras should be only used in areas where the guest does not have a reasonable expectation of privacy; otherwise this practice may cause embarrassment and personal problems for guests. Also, this may be a serious security hazard for many persons. Hotels may come under scrutiny for violating privacy laws which relate to a person's right to be left free from public exposure in their daily lives.

### Misleading Advertisements That Induce Guests to Book At the Hotel

As in any other businesses, there are misleading advertisements in the hospitality business too. E.g. a Hotel may claim to be at 3 minutes walk from the Railway Station but actually it is at 30 minutes walk. Hotels in a beach resort may claim to be 100 yards from the beach with sea view rooms. But actually the hotel is half a mile away from the beach and all rooms do not overlook the sea. Hotels may claim to be star categorized but at times their applications are pending with the classification committee. In some cases they may never have applied for star categorization. In small towns, hotels install stars on their hoardings that may be misleading and also names similar to leading chains are used and so on.

When a person is induced to make a contract by a misleading or false statement, this may aggrieve a guest and may have legal implications. In such a case, Cox & Kings Pvt. Ltd., a tour company was ordered to pay compensation due to a misleading advertisement regarding the duration of the cruise. The National Consumer Disputes Redressal Commission observed that the practice was not only a case of misrepresentation through misleading advertisement but also an unfair trade practice under the Consumer Protection Act.

### Conclusion

Above discussed commonly used practices by the hotel industry helps increase occupancy rates and hence revenue for hotel companies. Rapid advancement of technology is throwing up new issues unimaginable in the past

and the law in these areas is lagging behind, nevertheless, these issues have legal consequences, hence deliberations on the above socio- legal issues is needed amongst educators, academicians, industry practitioners and researchers to arrive at policies in these areas which can lead to promotion of good business practices. Previous studies have dealt with over booking, misleading advertisements, webcams and recording guest history as separate issues and this study brings it under one umbrella which can be a starting point of further research.

### References

1. *Advantages and Disadvantages of Overbooking in Hotels, Set up my hotel,*
2. Retrieved from: <https://setupmyhotel.com/train-my-hotel-staff/front-office-training/439-overbooking.html>
3. Bardi James A. (1993) *Hotel Front office Management, John Wiley & Sons*
4. Buker S, Bradley P., Huyton J. (1994) *Principles of Front Office Operations, Cassell*
5. Dev, C. S., & Ellis, B. D., (1991). *Guest histories: An untapped service resource. Cornell Hotel and Restaurant Administration Quarterly, 32(2).* 29-37. doi: 10.1016/0010-8804(91)90075-3
6. Forget, F. (Sept.2015), *Overbooking Practices in hotel revenue management, Retrieved from: https://www.linkedin.com/pulse/overbooking-practices-hotel-revenue-management-forget*
7. Girimaji, P. (2013), *misleading advertisements and consumer. Retrieved from https://consumeraffairs.nic.in/WriteReadData/userfiles/file/misleading\_advertiesment\_and\_consumer%20(1).pdf*
8. Hadjinicola, G.C and Panayi, C. (1997) *"The overbooking problem in hotels with multiple tour-operators", International Journal of Operations & Production Management, Vol. 17 Issue: 9, pp.874-885, https://doi.org/10.1108/01443579710171208*
9. HG legal resources, Retrieved from : <https://www.hg.org/article.asp?id=35154>
10. *Hospitality Technology (2017), Hotelogix Adds Centralized Guest History Functionality to Its Next-Gen Hotel Management System*
11. Retrieved from : <https://hospitalitytech.com/hotelogix-adds-centralized-guest-history-functionality-its-next-gen-hotel-management-system>

**Remarking An Analisation**

12. Ivanov, S. and Ayas, C. (2017), Investigation of the revenue management practices of accommodation establishments in Turkey: An exploratory study, *Tourism Management Perspectives*, Vol.22, pp 137-149, <https://doi.org/10.1016/j.tmp.2017.03.007>, Retrieved from : <https://www.sciencedirect.com/science/article/abs/pii/S2211973617300247>
13. Johye Hwang, Li Wen, (2009) "The effect of perceived fairness toward hotel overbooking and compensation practices on customer loyalty", *International Journal of Contemporary Hospitality Management*, Vol.21 Issue:6, pp.659-675, <https://doi.org/10.1108/09596110910975945>
14. Kotler, P. (1984) (5th edn) *Marketing Management; Analysis, Planning and Control*, Englewood Cliffs, NJ: Prantice – Hall
15. [http://www.kotlermarketing.com/phil\\_questions.shtml](http://www.kotlermarketing.com/phil_questions.shtml)
16. Kwok, L. (2011) Does Guest History Interfere with Guest Privacy? Retrieved from: <http://www.linchikwok.net/2011/09/does-guest-history-interfere-with-guest.html>
17. Legal information institute, Cornell Law School, Retrieved from <https://www.law.cornell.edu/wex/overbooking>
18. Crosier, K. (1975) What exactly is marketing? *Quarterly Review of Marketing*, Winter/New Internationalist, March 1975
19. Rosenberg, L.J. (1977) *Marketing*, Englewood Cliffs, NJ: Prantice – Hall
20. Sparks, B. (1993) "Guest History: Is It Being Utilized?", *International Journal of Contemporary Hospitality Management*, Vol. 5 Issue: 1, <https://doi.org/10.1108/09596119310026260>
21. Toh, R.S. and Dekay, F. (2002), *Hotel room inventory management-an overbooking model*, *Cornell Hospitality Quarterly*,
22. Waniewski, J. (1976) *The Importance of Marketing in Production: Its significance for turnover and for the market*. Wasaw
23. Wilson, R.H., Enghagen, L.K., Sharma, P. (Feb.1994) *Overbooking: the Practice and the Law*, *Journal of Hospitality and Tourism Research*, Retrieved from: <http://journals.sagepub.com/doi/pdf/10.1177/109634809401700209>
24. Wearne Neil (1994), *Hospitality Marketing*; Hospitality Press
25. Zheng, Y (2017), *How Compensation Affects Customers' Repurchase Decisions after Service Failure?*, University of Guelph, Theses, <http://hdl.handle.net/10214/10422>, Retrieved from : <https://atrium.lib.uoguelph.ca/xmlui/handle/10214/10422>