****

**Competition Law**

**Favouring hotels or serviced apartments over short-term lets in Scotland could raise concerns of anti-competitive behaviour and potentially lead to legal challenges with regard to violations against Competition Laws**. Competition laws are designed to promote fair competition, prevent market distortions, and protect consumers. If a local authority were to enact policies or regulations that explicitly favour hotels or serviced apartments over short-term lets, it could be viewed as discriminatory and anti-competitive. Implications include:

**1. Anti-Competitive Behaviour:** If a local authority implements regulations that create an uneven playing field, giving preferential treatment to hotels or serviced apartments while placing burdensome restrictions or limitations on short-term lets, it could be considered anti-competitive. Such actions may limit consumer choice and hinder competition in the accommodation market.

**2. Potential Legal Challenges:** Short-term let operators or platforms may challenge the local authority's policies in court, citing violations of competition laws. They could argue that the policies create barriers to entry, unfairly advantage one sector over another, and restrict fair competition.

**3. Impact on Innovation:** Competition is often a driving force behind innovation and improvements in service quality and pricing. By favouring hotels and serviced accommodation over short-term lets, the local authority could stifle innovation in the accommodation sector and limit the range of options available to consumers.

**4. Housing Market Distortions:** Short-term lets are often used to address temporary accommodation needs and can have a different impact on the housing market compared to hotels. Favouring hotels and serviced apartments over short-term lets could distort the housing market dynamics and affect the availability of short-term accommodation options.

**5. Consumer Choice and Prices:** Competition between hotels and short-term lets can lead to more competitive pricing and a wider range of accommodation options for consumers. By favouring hotels and serviced apartments, consumers may have fewer choices, and prices could be higher than they would be in a competitive market.

**6. Tourism Industry Impact:** Short-term lets play a vital role in supporting the tourism industry, attracting visitors who seek alternative and unique accommodation experiences. Favouring hotels and serviced apartments over short-term lets might hinder the growth of this segment of the tourism industry.

**7. Consideration of Public Interest:** While local authorities may have legitimate reasons for regulating short-term lets, such as concerns about health & safety, housing availability or community impact, they must carefully balance these considerations with competition laws and avoid unjustifiably favouring one sector at the expense of another.

Local authorities in Scotland, like any governing body, must be cautious in their approach to regulating the accommodation market. They should ensure that any policies or regulations they implement do not unfairly favour hotels or serviced apartments over short-term lets in a way that violates competition laws or inhibits fair competition. Instead, they should seek to create a level playing field that encourages healthy competition and benefits consumers while also addressing any legitimate concerns related to short-term lettings or other accommodation types.

**Scottish Government’s Business Regulatory Impact Assessment**

The Scottish Government’s Business Regulatory Impact Assessment references in the Competition Assessment section, that “*In some areas, local authorities may choose to implement control areas specifically to reduce the number or manage the growth of short-term lets and this could be expected to increase demand for hotel accommodation in these areas.”[[1]](#footnote-1)* A result of this, it refers back to the same paragraph and notes: *“Will the proposal indirectly limit the number or range of suppliers?* ***Yes”***

**One of the benefits cited for *“****Other hospitality (e.g. hotels and premises licensed under the Licensing (Scotland) Act 2005 to provide accommodation”* is *“Increased business in some areas if availability of short-term let accommodation reduces”.[[2]](#footnote-2)*

It is clear that the 2022 Licensing Order is intended to **actively shrink the self-catering industry** in Scotland, which could be in breach of Competition Law**.** This intention was very clearly laid out in an opinion given by Mr Tony Cain in evidence before the Local Government Housing and Planning Committee on 14 December 2021 in response to a question from the Convener, **Ariane Burgess "What would we need to do to manage down the levels of STLs?"**

[**How big business made a mockery of the Scottish Government’s short term let crackdown**](https://gethin.substack.com/p/how-big-business-made-a-mockery-of?r=u8qe&utm_campaign=post&utm_medium=web)

22nd July 2023

1. [Scottish Government BRIA](https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2021/11/short-term-lets-business-regulatory-impact-assessment2/documents/short-term-lets-licensing-scheme-planning-control-area-legislation-business-regulatory-impact-assessment-bria/short-term-lets-licensing-scheme-planning-control-area-legislation-business-regulatory-impact-assessment-bria/govscot%3Adocument/short-term-lets-licensing-scheme-planning-control-area-legislation-business-regulatory-impact-assessment-bria.pdf), page 65, paragraph 195 [↑](#footnote-ref-1)
2. [Scottish Government BRIA](https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2021/11/short-term-lets-business-regulatory-impact-assessment2/documents/short-term-lets-licensing-scheme-planning-control-area-legislation-business-regulatory-impact-assessment-bria/short-term-lets-licensing-scheme-planning-control-area-legislation-business-regulatory-impact-assessment-bria/govscot%3Adocument/short-term-lets-licensing-scheme-planning-control-area-legislation-business-regulatory-impact-assessment-bria.pdf), page 31 [↑](#footnote-ref-2)