

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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RE: **Opposition to Council Bill 16-0737 – Hotel Tax on STRs and Hosting Intermediaries**

Dear Chairman James B. Kraft and members of the Judiciary and Legislative Committee,

We ask that you not adopt the Council Bill 16-0737 as it opens the door to new taxes on services rendered by Baltimore City businesses, violates federal law, and creates higher taxes on travelers to Baltimore.

CB 737 would allow tax collectors to levy their occupancy tax on more than just hotel rooms

Baltimore travel agents routinely create packages that bundle hotel rooms, food, travel, and events into one price. The CB 737 allows tax collectors to impose their occupancy taxes on all kinds of goods and services when included in travel packages:

- taxi from BWI to the hotel
- food served at a hotel restaurant
- tickets to the USS Constellation
- Maryland Science Center tours

CB 737 Harms Baltimore’s travel agents

Travel agents across Maryland came out against similar attempts to tax travel agent service fees. For example:

Karen Dunlap from Travel-On Ltd in Beltsville, MD said: *“Taxing travel service fee income...creates a disincentive for agents to spend their time brining people to the state and risks dampening overall demand for travel to Maryland.”*

The Independent Lodging Industry Association says, these taxes will *“harm Maryland’s travel and tourism economy.”*

That’s because taxes like CB 737 can *only* be enforced against local, in this case Baltimore, travel agents – placing them at a disadvantage to their out-of-city rivals. Also, the new taxes impose compliance costs that fall heaviest on smaller travel agents.

Big Hotel Chains Benefit Most from CB 737’s passage

Big hotel chains are backing this new tax for entirely selfish reasons. This new tax would not affect reservations made directly at hotels and their websites. But this new tax raises the traveler’s cost for booking through their local Baltimore travel agent.

By making it more expensive to use Baltimore travel agents, travelers are encouraged to book directly through the big hotels’ websites. Channeling travelers to the big hotel websites keeps Baltimore’s boutique hotels hidden from travelers and allows big hotels to avoid competing with lower room rates and better amenities.

We ask you to not impose these new costs on Baltimore travel agents and not give big hotel chains even more of an advantage over Maryland's travel agents. We appreciate your consideration of our views, and please let us know if we can provide further information.

CB 737 Would Undermine a Key Benefit of the internet and would likely be Unconstitutional

CB 737 forces hosting intermediaries like HomeAway, Airbnb, and VRBO to determine and collect the taxes for a listing posted on their site by a city resident. However, such a requirement is surely unconstitutional as the CB 737 is preempted by federal law.

The internet is an open resource that enables people from all parts of Baltimore to publish their views and pursue their goals. While some nations discourage user-generated content, the United States created a fertile ground for business models that have transformed the world.

Moreover, this openness is bolstered by Section 230 of the federal Communications Decency Act, which says platforms can't be held strictly liable for content posted *by others*.

However, CB 737 ignores Section 230. This not only threatens a core tenet of the internet, but is at odds with federal law – resulting in the likely injunction of the CB 737.

Moreover, because the CB 373 specifically targets “online” for application of these taxes, it would likely violate the Federal Internet Tax Injunction Act which protects online businesses from discriminatory taxes.

We ask that you not create new taxes on your local travel agents nor discourage travelers from visiting your city by increasing occupancy taxes.

So while we ask that you not adopt the CB 737. We welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Sincerely,



Carl Szabo

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NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org