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Ms Jess Shaw  
Chair  
Economics and Industry Standing Committee  
Parliament House  
4 Harvest Terrace  
WEST PERTH WA 6005

Via email: [laeisc@parliament.wa.gov.au](mailto:laeisc@parliament.wa.gov.au)

Dear Chair

Thank you for the opportunity to provide the WA Parliamentary Economics and Industry Standing Committee with further information in support of our appearance on the 13 March 2019.

The Australian Hotels Association WA (AHA) seeks to tender the following responses to questions taken on notice and additional information in support of the Inquiry into Short Stay Accommodation.

In addition, the AHA has provided the attached supplementary submission which responds to the options outlined in the Department of Planning Heritage and Lands Draft Options Paper for regulating short-term accommodation in WA.

Please find below responses to questions taken on notice.

**1. The Chair requested that statistics referred to in my opening statement around percentages of different property types be sourced.**

The statistics around the percentage of different property types were sourced from the Inside Airbnb submission to the Committee (Submission 187) and the 2017 Bankwest Curtin Economics Centre report 6/17 'The Impact of Airbnb on WA's Tourism Industry.'

**2. The Chair asked "are you aware of any jurisdiction that has actually made the decision to prevent the short-stay platform apply to that type of residence ['unhosted stays in vacant**

properties that are not a primary residence’]? Has that happened anywhere in the world?” on page 12 of the draft transcript.

In a number of international jurisdictions, short-stay platforms have been prevented from facilitating short-stay accommodation in unhosted residences. This is typically due to ‘one host, one home’ being introduced through State legislation as enforced by the City, which ensures residents are only allowed to list their primary residence.<sup>1</sup> In New York, Santa Monica, Las Vegas, San Francisco City and Los Angeles, residents are only allowed to list their primary place of residence.<sup>23</sup>

Under the Multiple Dwellings law of New York State, Class A multiple dwellings may only be used for primary residence purposes.<sup>4</sup> It is illegal to advertise unhosted residences in Class A multiple dwellings,<sup>5</sup> as enforced by The New York City Department of Buildings. Fines on landlords who advertise illegal properties start at \$1,000 and go up to \$7,500.<sup>6</sup>

In San Francisco, unhosted residences are prevented through chapter 41A.5(g) of the San Francisco Administrative Code: Residential Unit and Demolition, where only a primary residence can be used for short-stay purposes. Penalties are imposed on platforms under S41A.5(g)(4)(C), which prevents hosting platforms from collecting fees from unregistered Residential Units.<sup>7</sup> Parties found in violation of s41A.5 attract a civil penalty of \$1,000 per day for the period of unlawful activity. Online platforms Airbnb and HomeAway sought to challenge this law with the City, however in a settlement occurring in 2018, the online platforms agreed to give the city a monthly list of all short-term rentals in San Francisco so the city can verify the hosts’ registration numbers, and the companies would remove any listings and cancel future stays at unregistered rentals.<sup>8</sup> Airbnb also agreed to create a pathway to registration on their website to ensure compliance.<sup>9</sup>

In Barcelona, Law 13/2002 of 21 June on tourism in Catalonia enforces mandatory registration of tourist accommodation; penalties range from €3,000 to €600,000 for non-compliance.<sup>10</sup> The Barcelona City Council has agreements with collaborative short-term rental platforms including Rentalia, HomeAway, Niumba, TripAdvisor and Booking.com for

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<sup>1</sup> New York State Multiple Dwelling Law; The New York City Administrative Code

<sup>2</sup> Airbnb Citizen, ‘One Host, One Home: San Francisco,’ October 24 2016.

<sup>3</sup> Eman Hamed. ‘5 Cities Where Airbnb Is Illegal In 2019’ Mashvisor.

<sup>4</sup> S.4 New York State, Multiple Dwelling Law

<sup>5</sup> S. 121, New York State Multiple Dwelling Law

<sup>6</sup> S. 121 New York State Multiple Dwelling Law

<sup>7</sup> San Francisco Administrative Code, Chapter 41A.5: Residential Unit Conversion And Demolition

<sup>8</sup> Maria Dinzeo, ‘San Francisco, Airbnb Settle Dispute Over Short-Term Rental Law,’ May 2017, Courthouse News Service.

<sup>9</sup> Ibid.

<sup>10</sup> Article 94, Infringement grading, Law 13/2002 of 21 June on tourism in Catalonia.

them not to publish listings if they do not display the tourism licence, and are therefore illegal.<sup>11</sup>

In 2018, France passed a law which makes online sharing platforms such as Airbnb punishable by fines of €12,500 per illegal posting.<sup>12</sup>

3. On page 12 of the draft transcript, Mr. S.K. L'Estrange asked "have you got any examples of where there has been a prosecution of that illegal activity occurring?" ['unhosted stays in vacant properties that are not a primary residence']

#### Fines on landlords

A landlord and realtor in New York City were fined for advertising apartments and the landlord was required to pay \$27, 000 in fines.<sup>13</sup> The individuals are fined rather than the site provider.<sup>14</sup> The NYC Department of Buildings monthly enforcement bulletin January 2019 stated there were "\$23,500 in total penalties issued to 321-3 West 47th Street Assoc., L.P., owner of 321 West 47th Street, Manhattan, for the illegal transient use of three apartment units occupied as illegal Airbnbs."<sup>15</sup>

In Paris, by August 15 2018, there were fines totaling €1.38 million issued to landlords for illegal holiday rentals in Paris.<sup>16</sup>

#### Fines on platforms

In 2016, Barcelona fined Airbnb and HomeAway fines of €600,000 for advertising unlicensed flats on its platform.<sup>17</sup> In 2018, Paris fined online sharing platform Airbnb \$14 million for 1,000 illegal listings.<sup>18</sup>

Further to my appearance before the Committee on 13 March 2019, it has since been brought to my attention that during the committee's public consultation process, a number of

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<sup>11</sup> M. Chaves, P. Ypma, P. McNally, M. Dominguez Gaitan, K. Kazmierska, 'Study on the assessment of the regulatory aspects affecting the collaborative economy in the tourism accommodation sector in the 28 Member States (580/PP/GRO/15/15111J) – Market Case Study Barcelona, *European Commission* ET-04-18-356-EN-N, p.15 doi 10.2873/78753.s

<sup>12</sup> Michel Rose, 'Paris seeks 14 million from Airbnb for illegal adverts', Reuters.

<sup>13</sup> Ameena Walker, 'Airbnb advertising law results in steep fines for Manhattan landlord,' Curbed New York.

<sup>14</sup> Ibid.

<sup>15</sup> The Department of Buildings, NYC Buildings, *Monthly Enforcement Bulletin*, January 2019.

<sup>16</sup> France 24, 'over €1.3 million in fines issued in Paris in 2018 over illegal holiday rentals,' Reuters.

<sup>17</sup> Gulliver, 'Clampdown in Catalonia. Barcelona hits Airbnb with a hefty fine,' *The Economist*; Law 13/2002 of 21 June on tourism in Catalonia; Decree 159/2012 of December 2012.

<sup>18</sup> Michel Rose, 'Paris seeks 14 million from Airbnb for illegal adverts', Reuters.

remarkably similar public submissions from individuals supporting an unregulated market have been uploaded to the inquiry's homepage.<sup>19</sup>

Over 130 near identical pro-forma submissions have been uploaded and many of these have originated from the same or similar addresses in Texas and Canada. This is of great concern that foreign interests are attempting to astroturf the democratic processes of the Parliament of Western Australia.

The Parliamentary inquiry has heard from a variety of small business owners, industry groups, local government bodies and individuals who have taken the time to provide considered and comprehensive submissions about the impact of unregulated short stay accommodation in WA.

It is deeply disappointing that the committee has been swamped by structured, cut and paste submissions that appear to have been orchestrated overseas in order to maintain an uneven and distorted playing field in the WA short stay accommodation industry.

Thank you for the opportunity to appear before the Committee. Should you have any questions, please do not hesitate to contact me on 08 9321 7701.

Yours sincerely



**Bradley Woods**  
CEO

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<sup>19</sup>Inquiry into Short-Stay Accommodation WA, Economics and Industry Standing Committee