

Tourism Law and Legislation
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In the tourism sector, the concepts of illicit competition and unfair competition, while related, refer to distinct categories of anti-competitive market behavior with different legal foundations and implications.

Illicit competition, often synonymous with *illegal competition*, encompasses business practices that are expressly prohibited by criminal or public law. These activities violate clear statutory prohibitions and often involve an element of fraud, deception, or the infringement of public safety regulations. In tourism, illicit competition typically involves operating without the required licenses (e.g., for a hotel, tour guide service, or transportation), serious tax evasion, offering services that blatantly violate health and safety codes (e.g., unregistered accommodation posing severe fire hazards), or engaging in fraudulent misrepresentation that constitutes criminal fraud. The key characteristic is that the activity is *unlawful per se*; it is prohibited regardless of its impact on competitors. Enforcement is often carried out by public authorities, and sanctions can include fines, license revocations, or criminal prosecution (UNWTO, 2019).

Unfair competition, in contrast, is governed primarily by private commercial law, specifically tort or civil law principles that prohibit acts contrary to honest market practices. These practices are not necessarily illegal in a criminal sense but are deemed wrongful because they distort competition by creating an unjust advantage or harming other businesses. The focus is on the relationship between competitors and the integrity of the marketplace. Common unfair competition practices in tourism include: misleading advertising (e.g., falsely advertising a hotel's proximity to a major attraction), slavish imitation of a competitor's distinctive branding or website design to create confusion, denigration (making false statements to discredit a rival's services), and parasitic commercial behavior such as systematically poaching a competitor's

clients through deceptive means (Mickiewicz, 2021). The aggrieved party, typically a competitor, must initiate civil action to seek remedies like injunctions or damages, proving that the practice caused harm and violated the principles of good faith.

In summary, the core distinction lies in the nature of the violation and the legal recourse. Illicit competition violates public law, is an offence against the state, and involves activities that are outright illegal. Unfair competition violates private/commercial law, is an offence against other market participants, and involves unethical but not necessarily criminal business tactics that undermine fair play (Botezatu, 2020). A single act could potentially constitute both if it is both illegal and causes direct harm to competitors under commercial law.

References

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