WORKING GROUP ON SHORT-TERM RENTALS



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EXECUTIVE SUMMARY

Innovative technologies are enabling new ways to share and procure services around the world. Services such as ride sharing, house renting, and money lending via non-traditional platforms allow new economic entrants into traditional sectors.

This phenomenon is known as the sharing economy (or peer-to-peer economy, or collaborative economy) and it is manifested in companies such as Uber, Airbnb, VRBO, and LendingClub.

The Minister's Working Group on Short-term Rentals was established to provide input on the policy environment given the growth in the market and use of digital platforms for booking private accommodations, and to assess how these innovative technologies affect Nova Scotia's tourism sector.

For industry participants, the Minister's Working Group created a forum to explore the concept of an equitable playing field and an opportunity to look at the role of these online platforms for increasing tourism in Nova Scotia. For municipalities, it presented a chance to reflect on a growing conversation in their communities. For government, it provided an opportunity to reflect on how existing legislation serves the public interest and to consider future public policy needs.

The working group relied on the following principles to guide their discussions:

- The collective goal to reach the OneNS target to grow tourism revenues to \$4 billion by 2024
- · A culture of innovation and fair competition
- An equitable playing field
- · Broader public interest
- Fiscal responsibility
- The Premiers' Charter of Governing Principles for Regulation

Over the course of four sessions, four themes emerged: taxation, regulation, communities, and opportunities for tourism sector growth. Participants posed important questions and then discussed issues related to short-term rental (STR) platforms, the hosts and travellers who use them, and their impact on Nova Scotia.

These thematic discussions are explored in more detail later in this report.

From these sessions, the working group asked the minister to consider the following input:

Government should work with online booking platforms to encourage hosts to understand and comply with current regulatory and taxation responsibilities.

Ensure private homes and cottages are not reclassified as commercial property if homeowners choose to advertise or rent on short-term rental platforms.

Explore opportunities to modify the seasonal component of the Assessment Act to encourage growth in the tourism sector.

Government should repeal the Tourist Accommodations Act.

Government should work with the Nova Scotia Federation of Municipalities and municipalities to better understand the issues related to the growing market for short-term rentals.

Government should assist municipalities in the identification and development of tools and mechanisms related to shortterm rentals (for example, an information package on the shortterm rental accommodation market, including bylaw models adopted or considered by municipalities in Canada).

Explore the feasibility of an online platform tourist levy, with money to flow toward a program or fund that supports provincial tourism objectives (for example, quality enhancement programs or innovations in the tourism program).

Tourism operators, the Tourism Industry Association of Nova Scotia (TIANS), Tourism Nova Scotia, and online booking platforms should work together to grow Nova Scotia's tourism sector to increase overall revenue to move toward the OneNS target of \$4 billion by 2024.

As technology advances, the province needs to continue assessing the sharing economy, especially as it relates to Nova Scotia's tourism sector, and develop appropriate policies in the public interest so benefits are shared by Nova Scotians.

INTRODUCTION

Online/digital booking platforms, which began primarily for private accommodations (such as Airbnb, VBRO, HomeAway, etc.), and online travel agencies (such as Expedia) have become popular with consumers worldwide, and this has made it easier for people to rent accommodations. Worldwide, there are more than 50 online booking platforms, with 15 to 20 active in Canada.

The Minister's Working Group on Short-term Rentals (working group) was announced in late November 2017 and established in January 2018. In part, the working group was established to address concerns by some members of the Tourism Industry Association of Nova Scotia (TIANS) that there is not a level playing field related to regulations, taxation, and overall policy environment for short-term accommodations that are primarily rented through online platforms.

The first meeting was held February 13, 2018, with a mandate to provide the Minister of Business, who is Minister responsible for Tourism Nova Scotia, with input on the policy environment given the growth in the market and use of digital platforms for booking private accommodations.

The working group examined short-term rentals in the context of traveller accommodations rented through digital booking platforms, specifically home-stay networks like Airbnb. These peer-to-peer online marketplaces allow owners to list for rent short-term lodging in residential properties, with cost set by the property owner. The online booking platform collects a fee for marketing and administration. As online short-term rental platforms become more popular, licensed accommodations operators have begun using this type of marketing platform to reach travellers. In this report, we will use the term short-term rentals (STRs) to describe this type of traveller accommodations.

PRINCIPLES

The following principles were adopted by the working group members to guide their efforts and to act as foundational elements of the conversation around STRs:

- The collective goal to reach the OneNS target to grow tourism revenues to \$4 billion by 2024
- A culture of innovation and fair competition
- An equitable playing field
- Broader public interest
- Fiscal responsibility
- The Premiers' Charter of Governing Principles for Regulation

PROCESS

(INCLUDING MEMBERSHIP AND RESEARCH)

The working group membership reflected several departments and stakeholders with an interest in short-term traveller accommodations.

For stakeholders, the list included TIANS¹, Destination Cape Breton, Nova Scotia Federation of Municipalities, Airbnb, Airbnb host, Volta Labs (an information and communications technology incubator), and an academic and social enterprise leader. For government, membership included the following departments, Crown corporations, and agencies: Business, Finance and Treasury Board, Municipal Affairs, Service Nova Scotia, Justice, and Tourism Nova Scotia.

Department of Business staff compiled existing research and reports from around the world and made these documents available to working group members. These reports and policy documents included studies from academics and think tanks, industry reports from the Hotel Association of Canada and Airbnb, research from Tourism Nova Scotia, existing legislation and regulation in Nova Scotia, and a comprehensive legislative report from New South Wales in Australia.

Additionally, a jurisdictional scan in January/February 2018 identified existing and proposed online short-term rental bylaws and legislation in multiple jurisdictions, including North America, Europe, and Australia. A short media scan was compiled and shared.

¹ The Tourism Industry Association of Nova Scotia (TIANS) working group members attended two meetings and then withdrew from subsequent meetings offering to provide industry perspective to the Minister once the working group completed its analysis. TIANS did not feed into the input presented in the report prior to its completion.

CONTEXT

The emergence of the sharing economy is dramatically changing the way consumers interact with each other and is just as dramatically altering traditional economic models and markets. In tourism, these changes are illustrated in the popularity of online accommodation platforms such as Airbnb, Homestay, and VRBO.

These booking platforms typically offer travellers easy-to-use technology and in-home experiences and amenities, often at a price lower than urban hotels. In some cases, especially in rural areas and especially in peak or high-demand seasons, short-term rentals often offer the only available choice for travellers seeking accommodation.

The popularity of online short-term rental platforms, Airbnb in particular, has generated concern in the hotel industry. In 2017, the Hotel Association of Canada released a report into Airbnb and its rapid growth. Titled "An Overview of Airbnb and the Hotel Sector in Canada: A Focus on Hosts with Multiple Units," the report argues Airbnb does not provide the same benefits in terms of jobs created and income generated as hotels and motels. As a result, the Hotel Association of Canada and others have been requesting provincial and municipal governments across Canada, including Nova Scotia, provide for the regulation of short-term rentals.

Over the past few years, the number of visitors to Nova Scotia has been rising, but there has been a reduction in licensed accommodations provincewide. In 2016, Nova Scotia had 821 licensed roofed accommodations, representing 19,600 units throughout the province. Universities/hostels provided about 5,000 of these units. The number of licensed accommodations has declined over time. The number of properties is down 16 per cent from 2011 and, excluding universities, the number of units has decreased by approximately 600.

This downward trend limits the province's ability to meet its OneNS goal of \$4 billion in tourism revenue by 2024. A recent study titled the "Tourism Accommodations Needs Assessment" found Nova Scotia requires an additional 5,500 to 7,000 units by 2024, a number which includes the 1,000 units planned or under construction in Halifax.

Like many in the tourism sector, hotels and motels have been experiencing growth in demand in recent years. Hotel and motel occupancy rates and room nights sold rose between 2014 and 2017; several companies have announced plans to build or create new hotels in Halifax.

In the online short-term rental market in Canada and Nova Scotia, Airbnb is the leader. In Nova Scotia in 2017, there were about 2,000 Airbnb hosts. A typical listing is available between 40 and 50 nights a year; the median income from short-term rentals for Nova Scotia's hosts is \$6,000 a year according to Airbnb. Around 12 per cent of the total Nova Scotia hosts have multiple listings, such as a home and cottage, two or more rooms in a bed and breakfast, or two or more homes, apartments, or condos.

THEMES

While there is no firm count of unlicensed units in Nova Scotia, Tourism Nova Scotia estimates there are between 2,500 to 3,000 short-term rental units being offered in the province.

Nova Scotia is not the only jurisdiction that has studied the issue of short-term rentals and/or digital booking platforms. Multiple jurisdictions, mostly large, urban municipalities, have reviewed short-term rentals. Many expressed concern about affordable and available housing being taken over by short-term rentals. Municipalities like Toronto and Vancouver have put restrictions on the offering of short-term rentals. Some municipal jurisdictions require registration, limit stays, and, in some cases, apply special fees. In some Nova Scotia municipalities, the impact of short-term rentals and their relation to affordable housing and housing availability is becoming a topic of concern.

An important priority of government is to provide the environment for business to grow and innovate. Working group members discussed the role of short-term rentals in boosting tourism, enabling innovation, and providing economic support to microentrepreneurs, often women, as well as the importance of new, first-time visitors to Nova Scotia. Working group members understand a mix of accommodation types in Nova Scotia—including hotels, motels, inns, bed and breakfasts, and short-term rentals such as Airbnbs—is needed to attract all types of visitors.

Working group discussions focused on four key themes:

- 1. Taxation
- 2. Regulations
- 3. Communities
- 4. Opportunities for tourism sector growth

1. TAXATION

Taxes

Taxes and fees cover a wide variety of charges, but this section will examine those touched by provincial pieces of legislation: income taxes, harmonized sales tax (HST), and property classification for municipal property taxes.

Income Taxes

Like every other sector, people and businesses in the accommodations sector who earn income -including those who operate short-term rentals-are expected to report income to Canada Revenue Agency (CRA) and pay taxes on that income whether through personal or corporate taxes.

Enforcement and administration of the income tax system is a responsibility of CRA. Hosts who do not report income (tax evasion) fall under CRA's responsibility.

While some argue short-term rental hosts are not paying a fair share of taxes, the working group believes that since administration and enforcement of the Income Tax Act rests with the federal government, this matter is outside the scope of provincial jurisdiction. There is opportunity for the province to work with participants, including industry, to highlight opportunities to make short-term rental hosts aware of their responsibilities.

Some short-term rental platform companies proactively make their hosts aware of their rental revenue. For example, Airbnb provides its hosts with information about their rental earnings from bookings on its platform, along with a reminder of their tax obligations, on an annual basis. Working group members felt this is a good practice for online platforms to follow.

Harmonized Sales Tax (HST)

Payment of sales taxes is an area of industry concern. Some working group members wanted Nova Scotia to follow British Columbia's example and ask Airbnb to collect and remit provincial sales tax directly to the province. However, unlike British Columbia,

Nova Scotia has a harmonized sales tax, a system that combines the provincial sales tax (PST) and federal goods and services tax (GST) into one value-added tax. The federal government administers the HST system in Nova Scotia, including collection, compliance, and audit, as it does for all provinces with HST.

The tax base is the same for all HST jurisdictions and any changes must be agreed upon by the federal government and the harmonizing provinces (Ontario and the Atlantic provinces). Under the HST, only companies or individuals who have more than \$30,000 in revenue are obligated to register and collect sales tax. Many of the hosts on shortterm rental platforms, as well as some of the licensed bed and breakfast operators, are below the \$30,000 limit.

As with any other activity that provides revenue, the onus is on the individual or company to follow the law. However, some individuals may be unaware of their taxation obligations.

Airbnb currently advises its hosts about their taxation responsibilities. Working group members felt there are opportunities for other online booking platforms to replicate this model.

Therefore, the working group offers the following input to the minister:

Government should work with online booking platforms to encourage hosts to understand and comply with current regulatory and taxation responsibilities.

Property Classification for Municipal Property Taxes

Property taxes are collected by the municipality, but they are governed in part by the Nova Scotia Assessment Act, which establishes the category of the property assessment. The municipality determines the tax rate (amount of tax per \$100 of assessed value) on the category of property assessment. The Property Valuation Services Corporation (PVSC), a municipally funded, independent, statutory, not-for-profit corporation, provides the assessment service to the municipalities for the purposes of property taxation.

Assessments are divided into residential, commercial, resources, or partly one and partly another. Hotels, motels, inns, and similar businesses, such as formal cottage and cabin rentals, are defined as commercial taxable property in Nova Scotia. In 1998, there was a section added that established private homes operated as bed and breakfast establishments (four rooms and under) be classified as a residential property. As well, amendments to the original act allow a seasonal tourism business to receive a 25 per cent discount on the commercial rate if it was closed for at least four months during the taxation year and met certain other conditions (for example, if the business was operated by the owner or family). A seasonal tourism business is a restaurant, roofed accommodation (licensed under the Tourist Accommodations Act), or a camping establishment. The seasonal tourist accommodation must be applied for annually with a September deadline.

The working group feels if most short-term rental operators earn modest amounts of income (median income of \$6,000/year), a commercial property classification could drive these operators out of business and take needed accommodation units out of the marketplace. The working group feels owners of private homes and cottages should not have their residential assessment reclassified if they elect to offer accommodations in their private homes and cottages.

Stakeholders around the table also noted that the seasonal tourism designation in the act served as an incentive for property owners/operators to close their operation for four months a year. Tourism stakeholders and elected municipal officials believe this seasonal designation limits tourism growth. They encouraged government to find a solution that encourages operators to remain open.

The working group makes the following suggestions to the minister:

Ensure private homes and cottages are not reclassified as commercial property if homeowners choose to advertise or rent on short-term rental platforms.

Explore opportunities to modify the seasonal components of the Assessment Act to encourage growth in the tourism sector.

2. REGULATIONS

In Nova Scotia, the Tourist Accommodations Act currently provides a framework for licensing of tourist accommodations. There are also legislative acts that pertain to business registration. The working group was also guided in its work by the Premiers' Charter of Governing Principles of Regulations and government policy, which aims to reduce regulatory burden.

Tourist Accommodations Act 1994-95 (TAA)

Nova Scotia is one of three provinces (all in Atlantic Canada) that requires comprehensive licensing of accommodations. The implied objective of the act is to ensure visitors have access to quality accommodations. The initial licensing involves an application and a site visit before approval. Yearly licence renewals are granted after an online form is completed and fees are paid.

To achieve quality, the regulations outline in detail the size of rooms, beds, windows, bathrooms, and common areas. There are minimum clearances around beds, minimum sizes of windows, and minimum wattages of lightbulbs.

These regulations extend to renovations of hotels and motels and new construction: "Before constructing, altering, renovating, or reconstructing an accommodation, a manager must submit the construction plans and specifications for the work to be performed to the minister for approval."2

Tourism Nova Scotia does not have the capacity to undertake annual inspections of all licensed accommodation. It resolves the typical 20 to 30 complaints a year under the TAA, usually by contacting the owner. Investigation and enforcement under the Act would be time-consuming and costly in terms of personnel and other resources. Further, most online platforms do not require their hosts to be a licensed operator. Preliminary estimates indicate that if Tourism Nova Scotia enforced the existing legislation and regulations with respect to all accommodation units in the province (licensed and unlicensed), the cost to taxpayers would be in the millions of dollars, and there would be an increased regulatory burden on operators.

The working group heard that one of the primary reasons for accommodations legislation being enacted in the first place was to enforce quality. However, according to research and industry professionals, the rise of peer-to-peer reviews in the online marketplace has taken over the role of quality assurance. TripAdvisor, Yelp, Google, and other similar sites help assess and rate the quality of where travellers stay.

² Tourist Accommodations Act, Section 27(1)

For those concerned about the public interest, a survey of existing legislation found that with one exception-recreational campgrounds-the TAA duplicated existing provincial legislation. Issues such as food safety, fire safety, liquor control, and noise violations were covered by existing provincial legislation or municipal bylaws.

Given the costs versus benefit of regulating the tourist accommodations sector, the working group members provide the following input to the minister:

Government should repeal the Tourist Accommodations Act.

Business Registration

Nova Scotia law requires all businesses operating in Nova Scotia to register with the Registry of Joint Stock Companies. There are exemptions related to New Brunswick businesses and farming and fishing partnerships, and individuals or partners using only their personal names without any descriptive element or attachment of other words or phrases (such as "and Associates"). When a business is registered, consumers are able to identify the people behind the enterprise through a free online search of the public companies registry.

Some members of the working group advanced the idea that all unlicensed short-term rental hosts should register as a business, believing registration would provide greater control over hosts who rent accommodations as short-term rentals.

However, the vast majority of currently unlicensed short-term rental hosts are individuals who are exempt from registration as they are operating under their personal name and not an operating name and, therefore, would not be able to register with the Registry of Joint Stock Companies. The working group members felt there was no need for additional provincial measures in this area.

3 COMMUNITIES

The rapid growth of residential short-term rentals has led to varied reactions across North America. Some communities that face severe affordable housing shortages, like San Francisco and Toronto, have placed restrictions on short-term rentals. Actions pursued included permitting, restrictions to principal residence only, or limits on the number of nights a short-term rental (separate from established hotels, inns, etc.) could be rented. Others have introduced or extended taxation-style levies so they can collect fees from travellers.

In Nova Scotia, community reactions vary. Some communities are concerned about the impact of short-term rentals on housing availability, while others worry about negative impacts on residents from increased parking, noise, and nuisance complaints. Others welcome short-term rentals for the benefit to tourism growth and income opportunities for residents.

During the course of the working group's operation, there was increased public concern about the role short-term rentals could be playing in the issues of housing availability and affordability. The factors underlying these issues are complex and may vary among communities.

There is a provincial statement of interest regarding housing that applies to the municipalities³. The underlying goal is to provide housing opportunities to meet the needs of all Nova Scotians and municipal planning documents must include housing policies addressing affordable housing, special-needs housing, and rental accommodation. It is municipal planning and zoning that govern where residential/ rental properties can be situated and operate. All levels of government have a role to play in affordable housing and availability issues. Therefore, the working group provides the following input to the minister:

Government should work with the Nova Scotia Federation of Municipalities and municipalities to better understand the issues related to the growing market for short-term rentals.

Government should assist municipalities in the identification and development of tools and mechanisms related to short-term rentals (for example, an information package on the short-term rental accommodation market, including bylaw models adopted or considered by municipalities in Canada).

4. OPPORTUNITIES FOR TOURISM SECTOR GROWTH

Growing tourism in Nova Scotia and the potential contribution of the market for short-term rentals in that growth was a constant theme at working group meetings. Members understand the OneNS Commission challenged Nova Scotians to meet a target of \$4 billion in tourism revenue by 2024. While revenues have increased in each of the last three years, the current pace of growth will not result in reaching the target without a change in available accommodations, particularly in rural areas.

Research is positive about the impact of short-term rentals on tourism growth, citing statistics that show Airbnb has increased the length of stay in destinations due to its affordability. The Secret under the sheet: the truth behind your next booking with Airbnb report says guests travel more due to lower accommodation costs, allowing travellers to spend more on other aspects of the tourism industry, such as food, experiences, and entertainment.

Working group members also understand that accommodations, especially in rural Nova Scotia, are vital to enticing new visitors and repeat visitors to our province. However, the availability of accommodations is a concern. The current supply of licensed accommodations is shrinking (down 3 per cent from 2011 to 2016); the number of properties has declined, and once universities/hostels units are excluded, the room/unit numbers are down (down 4 per cent from 2011 to 2016), mostly in rural areas. The Needs Assessment Report identified that there are five rural "destination communities" at or near their potential capacity at peak season. Although there are a number of new hotels being constructed in Halifax, construction is limited outside urban areas. Short-term rental hosts are seen as providing a partial solution to capacity issues in the peak period as well as filling a gap in the long term.

The working group noted there are a number of opportunities or areas that could be pursued to help achieve the tourism goal of more visitors. More events, more quality accommodations, more shoulder-season activities are all goals working group members believe will help generate more revenue in the tourism sector.

Among the online booking platforms, Airbnb has been actively involved in signing memorandums of understanding (MOUs) with various jurisdictions. In India, for instance, Airbnb signed an MOU to train 50,000 micro-entrepreneurs in hospitality skills. Airbnb is also working with the Italian government to support tourism in small villages. They have signed an agreement with a state government in Australia to assist people in emergencies and inked strategic partnership MOUs with Jamaica and Bermuda.

Tourism Nova Scotia is exploring a partnership with Airbnb that would allow the province to market itself in key areas and explore areas of innovation and partnership. Working group members encouraged Tourism Nova Scotia to continue discussions if there is the potential for long-term benefit to the province.

Members also understand that quality experiences will help drive tourism growth. Today, the digital economy allows immediate peer-to-peer reviews. Expectations of quality are high, a point reinforced by the Needs Assessment Report.

Working group members are supportive of finding new ways to support quality programming in Nova Scotia. They believe a levy applied to online transactions for short-term rental platforms, such as Airbnb and others, is an appropriate method of supporting quality or innovation programming in the tourism sector. The fee may be a small amount—perhaps a percentage of the total transaction—applied to travellers. Working group members do not want to replace the existing tourism marketing levies, which exist in Cape Breton, Halifax Regional Municipality, and Yarmouth, and apply to larger-scale larger operators, specifically 10 units in Cape Breton and 20-unit buildings in Yarmouth and Halifax. The working group believes these online marketing platforms represent an opportunity to grow the tourism sector in Nova Scotia. Airbnb, however, indicated such a fee or levy should be applied to all traveller bookings, online and in-person transactions.

Therefore, the working group makes the following suggestions to the minister:

Explore the feasibility of an online platform tourist levy, with money to flow toward a program or fund that supports provincial tourism objectives (for example, quality enhancement programs or innovations).

Tourism operators, TIANS, Tourism Nova Scotia, and online booking platforms should work together to grow Nova Scotia's tourism sector to increase overall revenue to move toward the OneNS target of \$4 billion by 2024.

THE SHARING ECONOMY

The convergence of the sharing economy and technology has meant changes in many industries. Often, government policy frameworks (laws, regulations, programming) have not kept pace with the changes that have occurred. The situation as it currently exists continues to evolve. As the sharing economy expands worldwide, visitors to Nova Scotia often expect to see the same elements of that economy here. This not only applies to short-term rentals but also to services in other elements of the economy, such as ride sharing. To keep pace, the working group suggests government continue to review its policies and procedures as they relate to the sharing economy to maximize opportunity and protect the public interest. Therefore, working group members offer the following input:

As technology advances, the province needs to continue assessing the sharing economy, especially as it relates to Nova Scotia's tourism sector, and develop appropriate policies in the public interest so benefits are shared by Nova Scotians.

NEXT STEPS

Working group members are pleased to submit this report to the minister and request the government continue to explore and act on the input provided in this report. The working group discussions occurred over a four-month period in the winter and spring of 2018. Working group members recognize awareness is growing related to short-term rentals and understanding of issues related to this topic continue to evolve. With that understanding, government is encouraged to continue to consult with stakeholders as it considers next steps related to this topic. The working group encourages government to continue to be guided by the principles outlined at the beginning of this report.

APPENDIX A

MEMBERSHIP OF WORKING GROUP

Non-government members

David Clark, Tourism Industry Association of Nova Scotia¹ Darlene Grant Fiander, Tourism Association of Nova Scotia¹ Todd Hofley, Airbnb (to April 2018) Jane Humphreys, Airbnb (from April 20, 2018) Mike Kennedy, academic, social enterprise sector Perla Macleod, Nova Scotia Federation of Municipalities Betty MacDonald, Nova Scotia Federation of Municipalities Bill MacDonald, Nova Scotia Federation of Municipalities Donna Lee Parker, Airbnb operator Jesse Rodgers, Volta Labs Judy Saunders, Tourism Industry Association of Nova Scotia¹ Gordon Townsend, Tourism Industry Association of Nova Scotia¹ Scott Travis, Tourism Industry Association of Nova Scotia¹ Mary Tulle, Destination Cape Breton

Government members/support

Pamela Branton, Department of Justice Shirley Hazen, Department of Business Lana Henderson Department of Finance and Treasury Board Greg Landry, Department of Municipal Affairs Michelle MacFarlane, Service Nova Scotia Ross McLaren, Department of Business Fred Morley, Tourism Nova Scotia Meredith Naylor, Department of Business Blake Robichaud, Department of Business Michele Saran, Tourism Nova Scotia Michelle Waye, Service Nova Scotia

¹ The Tourism Industry Association of Nova Scotia (TIANS) working group members attended two meetings and then withdrew from subsequent meetings offering to provide industry perspective to the Minister once the working group completed its analysis. TIANS did not feed into the input presented in the report prior to its completion.

APPENDIX B

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