



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.06.1998

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97/0148 (SYN)

Amended proposal for a

COUNCIL REGULATION (EC)

**AMENDING COUNCIL REGULATION (EEC) N° 2299/89 ON A CODE OF
CONDUCT FOR COMPUTERISED RESERVATION SYSTEMS (CRSs)**

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

Explanatory memorandum

During the plenary session on 15 May 1998 the European parliament approved the proposal for a Council Regulation presented by the Commission on amending Council regulation (EEC) N° 2299/89 on a code of conduct for Computerised Reservation Systems (CRSs)¹. It also adopted a certain number of amendments to the text put forward.

The Commission accepted amendment 2 to article 1(1) of the proposal since it clarifies the inclusion of rail products in the principal display.

It also accepted amendment 4 to article 1(2)(c) of the proposal since it gives a wider definition of the rail operator.

It accepted amendment 6 to article 1(3a)(new) of the proposal, since the inclusion of rail services in the scope of the code will require that the data protection envisaged in this provision also applies to rail services included in the principal display.

It accepted amendment 7 to article 1(4a)(new) of the proposal since it reinforces the protection of personal data while giving the opportunity for subscribers or medium and small sized airlines to purchase information, which so far they cannot afford.

It also accepted amendment 9 to article 1(9) of the proposal which strengthens the principle that if the consumer contacts the air carrier directly either at its offices or through Internet, he/she should not be misled and the identity of the carrier(s) in question should be clearly identified at all time.

It accepted amendment 10 to article 1(11) of the proposal since it clarifies the context in which a rail operator can be considered as a participating carrier.

Likewise it adopts amendment 12 to Annex II of the proposal since it aims at avoiding unnecessary passive bookings.

The Commission accepted amendment 13 to Annex I(9) of the proposal since it would allow having separate coupons for all sectors.

The Commission also accepted amendment 14 to Annex I(10) of the proposal concerning the display of code-share flights since it requires that CRS designate the carriers on a non-discriminatory basis.

¹ COM (97) 246 final

The Commission also partially accepted the following:

- The second part of amendment 8 to article 1(7) of the proposal which deals with charging policy. By proposing that incentives awarded to subscribers are based on ticketed segments rather than on bookings, the amendment reduces the risks of passive and fictitious bookings.
- Amendment 11 to Annex I(1) of the proposal in so far as it gives the non-stop direct services definition for rail services. Indeed, rail services are shorter than air ones and when intermediate stops do not exceed a total of ten minutes they should be considered as non stop services.

The Commission accepted in principle subject to some redrafting the following:

- Amendment 1 concerning recital 15 of the proposal. Indeed, what is necessary for the protection of consumers is to identify the carrier's counter, check-in, web-site and not the arrangement as such.
- Amendment 3 to article 1(2)(a) of the proposal in so far as it fine-tunes the definition of subscriber compared with the one of consumer and takes into account the inclusion of rail services within the scope of the code.
- Amendment 5 to article 1(3) of the proposal since it spells out clearly the limits the booking fee should not exceed.

The Commission did not accept:

- The first part of amendment 8 to article 1(7) of the proposal. Indeed, billing information on magnetic data should not be treated differently from other billing supports. The carrier should be entitled to be informed on whatever support it chooses to. Likewise the fee to be charged should follow the same pattern than for other supports. Finally it is superfluous to specify that participating carriers will not be charged for the booking they have refused.
- The first part of amendment 11 to Annex I(1) of the proposal concerning the ranking of flights. The proposal by the European Parliament does not take account of the recent developments in the aviation sector such as hub and spoke networks.

**AMENDED PROPOSAL FOR A COUNCIL (EC) REGULATION AMENDING
COUNCIL REGULATION (EEC) N° 2299/89 ON A CODE OF CONDUCT FOR
COMPUTERISED RESERVATION SYSTEMS (CRSs)**

Original Proposal

Amended Proposal

15. Whereas information or distribution facilities offered by carriers having joint venture or other contractual arrangements should not be subject to the code provisions;

15. Whereas information or distribution facilities offered by one carrier or carriers having joint venture or other contractual arrangements should not be subject to the code provisions on condition that the counter, check-in or web-site of such a carrier or of carriers with such arrangements can be clearly identified by the public;

Article 1(1), Article 1 is replaced by the following

"This Regulation shall apply to computerised reservation systems to the extent that they contain air transport products with or without the incorporation of rail products, when offered for use and/or used in the territory of the Community, irrespective of:

- the status of nationality of the system vendor;
- the source of the information used or the location of the relevant central data processing unit,
- the geographical location of the airports between which air carriage takes place.

"This Regulation shall apply to computerised reservation systems to the extent that they contain air transport products, and to the extent that rail products are incorporated in the principal display, when offered for use and/or used in the territory of the Community, irrespective of:

- the status of nationality of the system vendor;
- the source of the information used or the location of the relevant central data processing unit,
- the geographical location of the airports between which air carriage takes place.

Article 1(2)a: Article 2, paragraph (l) is replaced by the following:

(l) "subscriber" means a person, other than a consumer, or an undertaking, other than a participating carrier, using a CRS under contract or other financial arrangement with a system vendor;

l) "subscriber" means a person, other than a consumer, or an undertaking, other than a participating carrier, using the information and/or distribution facilities for air, with or without rail, transport products of a CRS under contract or other financial arrangement with a system vendor;

Article 1(2)c: Article 2, paragraph (q) is added:

(q) "rail transport operator" means any private or public undertaking whose main business is to provide rail transport services to passengers.

(q) "rail transport operator" means any private or public undertaking which provides rail transport services to passengers

Article 1(3): Subparagraph 1(b) of article 3a is amended as follows:

The parent carrier shall not be obliged to accept any costs in this connection except for reproduction of the information to be provided and for accepted bookings. The booking fee payable to a CRS for an accepted booking made in accordance with this Article should not exceed the fee charged by the same CRS for the nearest equivalent transaction.

The parent carrier shall not be obliged to accept any costs in this connection except for reproduction of the information to be provided and for accepted bookings. The booking fee payable to a CRS for an accepted booking made in accordance with this Article should not exceed the fee charged by the same CRS to participating carriers for an equivalent service.

New article 1(3)a: A new article 4(1)a is added

1. Participating carriers and other providers of air transport products shall ensure that the data which they decide to submit to a CRS are accurate, non-misleading, transparent and no less comprehensive than for any other CRS. The data shall, *inter alia*, enable a system vendor to meet the requirements of the ranking criteria as set out in the Annex. Data submitted via intermediaries shall not be manipulated by them in a manner which would lead to inaccurate, misleading or discriminatory information.
2. A system vendor shall not manipulate the material referred to in paragraph 1 in a manner which would lead to the provision of inaccurate, misleading or discriminatory information.
3. A system vendor shall load and process data provided by participating carriers with equal care and timeliness, subject only to the constraints of the loading method selected by individual participating carriers and to the standard formats used by the said vendor.

1. Participating carriers and other providers of air transport products shall ensure that the data which they decide to submit to a CRS are accurate, non-misleading, transparent and no less comprehensive than for any other CRS. The data shall, *inter alia*, enable a system vendor to meet the requirements of the ranking criteria as set out in the Annex. Data submitted via intermediaries shall not be manipulated by them in a manner which would lead to inaccurate, misleading or discriminatory information.
 - 1a. Such principles shall apply for rail services in respect of data provided for inclusion in the principle display.
2. A system vendor shall not manipulate the material referred to in paragraph 1 in a manner which would lead to the provision of inaccurate, misleading or discriminatory information.
3. A system vendor shall load and process data provided by participating carriers with equal care and timeliness, subject only to the constraints of the loading method selected by individual participating carriers and to the standard formats used by the said vendor.

New article 1(4)a: Article 6.1(b) is amended as follows:

1. The following provisions shall govern the availability of information, statistical or otherwise, by a system vendor from its CRS:
 - (a) information concerning individual bookings shall be provided on an equal basis and only to the air carrier(s) participating in the service covered by and to the subscriber(s) involved in the booking;
 - (b) any marketing, booking and sales data made available shall be on the basis that:
 - (i) such data are offered with equal timeliness and on a non-discriminatory basis to all participating carriers, including parent carriers;
 - (ii) such data may, and, on request, shall cover all participating carriers and/or subscribers, but shall include no identification of or personal information on a passenger or a corporate user;
 - (iii) all requests for such data are treated with equal care and timeliness, subject to the transmission method selected by the individual carrier.
2. A system vendor shall not make personal information concerning a passenger available to others not involved in the transaction without the consent of the passenger.
3. A system vendor shall ensure that the provisions in paragraphs 1 and 2 above are complied with, by

1. The following provisions shall govern the availability of information, statistical or otherwise, by a system vendor from its CRS:
 - (a) information concerning individual bookings shall be provided on an equal basis and only to the air carrier(s) participating in the service covered by and to the subscriber(s) involved in the booking;
 - (b) any marketing, booking and sales data made available shall be on the basis that:
 - (i) such data are offered with equal timeliness and on a non-discriminatory basis to all participating carriers, including parent carriers;
 - (ii) such data may, and, on request, shall cover all participating carriers and/or subscribers; but shall include no identification, either directly or indirectly, of, or, personal information on, a passenger or a corporate user;
 - (iii) all requests for such data are treated with equal care and timeliness, subject to the transmission method selected by the individual carrier.
 - (iv) information shall on request be available to participating carriers and/or subscribers both globally and selectively with regard to the market in which they operate;
 - (v) a group of airlines and/or subscribers shall be

technical means and/or appropriate safeguards regarding at least software, in such a way that information provided by or created for air carriers can in no way be accessed by one or more of the parent carriers except as permitted by this Article. 4. and 5: Deleted

entitled to purchase data for common processing.

2. A system vendor shall not make personal information concerning a passenger available to others not involved in the transaction without the consent of the passenger. 3. A system vendor shall ensure that the provisions in paragraphs 1 and 2 above are complied with, by technical means and/or appropriate safeguards regarding at least software, in such a way that information provided by or created for air carriers can in no way be accessed by one or more of the parent carriers except as permitted by this Article. 4 and 5: Deleted

Article 1(7): Article 10.1 is replaced by the following:

1.(a) Any fee charged to a participating carrier by a system vendor shall be non-discriminatory, reasonably structured and reasonably related to the cost of the service provided and used and shall, in particular, be the same for the same level of service.

The billing for the services of a CRS shall be sufficiently detailed to allow the participating carriers and subscribers to see exactly which services have been used and the fees therefor; as a minimum, booking fee bills must include the following information for each segment:

- type of CRS booking,
- passenger name,
- country,
- IATA/ARC agency identification code,
- city-code,
- city pair of segment,
- booking date (transaction date),
- flight date,
- flight number,
- status code (booking status),
- service type (class of service),
- PNR record locator,
- booking/cancellation indicator.

The billing information shall be offered on magnetic media. The fee to be charged for the billing information provided on magnetic media shall not exceed the cost of the media itself together with transportation costs thereof.

A participating air carrier shall be offered the facility of being informed at the time that any booking/transaction is made for which a booking fee will be charged. Where a carrier elects to be so informed, it shall be offered the option to disallow such booking/transaction, unless the latter has already been accepted.

(b) Any fee for equipment rental or other service charged to a subscriber by a system vendor shall be non-discriminatory, reasonably structured and reasonably related to the cost of the service provided

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(b) Any fee for equipment rental or other service charged to a subscriber by a system vendor shall be non-discriminatory, reasonably structured and reasonably related to the cost of the service provided

and used and shall, in particular, be the same for the same level of service. Productivity based benefits awarded to subscribers by system vendors in the form of discounts on rental charges or commission payments, are considered as distribution costs of the system vendor.

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and used and shall, in particular, be the same for the same level of service. Productivity based benefits awarded to subscribers by system vendors in the form of discounts on rental charges or commission payments, are considered as distribution costs of the system vendor and shall be based on ticketed segments. When, subject to Annex II (5), the system vendor is unaware of whether a ticket has been issued or not, then the system vendor shall be entitled to rely upon notification of the ticket number from the subscriber.

The billing for the services of a CRS shall be sufficiently detailed to allow subscribers to see exactly which services have been used and the fees therefor;

Article 1(9): Article 21 is replaced by the following:

The provisions in Article 5, Article 9(5) and the Annex to this Regulation shall not apply to a CRS used by an air carrier or a group of air carriers, which have a joint venture or other contractual arrangement, but excluding interline agreement, in its (their) own office(s) and sales counters clearly identified as such.

The provisions in Article 5, Article 9(5) and the Annexes to this Regulation shall not apply to a CRS used by an air carrier or a group of air carriers, which have a joint venture or other contractual arrangement, but excluding interline agreement, a) in its (their) own office(s) and sales counters clearly identified as such; b) to provide information and/or distribution facilities accessible through a public telecommunications network, clearly and continuously identifying the information provider(s) as such.

Article 1(11): The following articles 21b and 21c are added:

Article 21b

A rail transport operator will be considered as a participating carrier for the purposes of the code on condition that it has an agreement with a system vendor for the distribution of its products through a CRS. Its services shall be treated in the same manner as air transport products and be incorporated into the principal display in accordance with the criteria set out in Annex I. to the code. All references to "flights" in this Regulation shall be deemed also to include references to "rail travel".

A rail transport operator will be considered as a air carrier for the purposes of the code to the extent that it has an agreement with a system vendor for the distribution of its products through the principal display of a CRS, or its own reservation system is a CRS. Those products shall be treated in the same manner as air transport products and be incorporated into the principal display in accordance with the criteria set out in Annex I. to the code. In this context, all references to "flights" in this Regulation shall be deemed also to include references to "rail travel".

Article 21c

Where two or more carriers have a joint venture or other contractual arrangement, but excluding interline agreement, to provide information and/or distribution facilities accessible through a public telecommunications network, clearly identifying the arrangement as such, the information/distribution facilities will not be subject to the provisions of the code. Delete

Annex I

Principal display ranking criteria for flights offering unbundled air transport products.

1. Ranking of flight options in a principal display, for the day or days requested, shall be in the following order unless requested in a different way by a consumer for an individual transaction:

- (i) all non-stop direct flights between the city-pairs concerned,
- (ii) all other flights.

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- (ii) all other flights.

Rail services will be considered non-stop direct services between the city pairs concerned when its intermediate stops are not longer than 3 minutes and the total stopping time does not exceed 10 minutes.

2 to 8 Unchanged

9. Except as provided for in paragraph 10, the following shall apply:

- (a) for direct services, no flights shall be featured more than once in a principal display;
- (b) for multi-sector services involving a change of aircraft, no combination of flights shall be featured more than once in a principal display;
- (c) flights involving a change of aircraft shall be treated and displayed as connecting flights, with one line per aircraft segment.

Nevertheless, where the flights are operated by the same carrier with the same flight number and where a carrier only requires only one flight coupon and one reservation, a CRS should only issue one coupon and charge for one reservation

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- (b) for multi-sector services involving a change of aircraft, no combination of flights shall be featured more than once in a principal display;
- (c) flights involving a change of aircraft shall be treated and displayed as connecting flights, with one line per aircraft segment.

Delete

10.1 Unchanged

10.2. Where more than two carriers are involved, designation of the two carriers entitled to avail themselves of the exception provided for in subparagraph 1 shall be a matter for the carrier actually operating the flight. In the absence of sufficient information from the operating carrier to identify the

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two carriers to be designated, a system vendor may designate the carriers on a non-discriminatory basis.

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Annex II, point 2:

2. A subscriber shall not make duplicate reservations for the same passenger. In cases where confirmed space is not available on the customer's choice, the passenger may be waitlisted on that flight (if wait-list is available) and confirmed on an alternate flight

2. A subscriber shall not deliberately make duplicate reservations for the same passenger. In cases where confirmed space is not available on the customer's choice, the passenger may be waitlisted on that flight (if wait-list is available) and confirmed on an alternate flight.

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