

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(88) 447 final

Brussels, 14 October 1988

Proposal for a
COUNCIL REGULATION (EEC)

on a code of conduct for computerised
reservation systems

(presented by the Commission)

Annex 2

PROPOSAL FOR A COUNCIL REGULATION ON COMPUTERISED
RESERVATION SYSTEMS

EXPLANATORY MEMORANDUM

Introduction

1. It has been estimated that about 80 % (1) of all European airline bookings are made through travel agents and some 80 % (2) of all bookings made by travel agents are made through airline-owned computerised reservation systems (CRSs). US experience suggests that between 70 % and 90 % of all airline bookings on CRSs are made from the first display screen.

2. These figures give some measure of the importance to airlines of being able to participate in and, if possible, control CRSs. They also give an indication of the temptation for airlines which control CRSs to build into the systems a bias in their own favour, either in terms of screen presentation, comprehensiveness or reliability of information, or to deny access to the system to other airlines or to charge prohibitive or unreasonable fees for participation in the system. It will be clear that the ultimate user of a CRS - the consumer - can be seriously disadvantaged by a biased CRS while a travel agent can be the willing or unwilling instrument of promoting the products of a biased CRS.

Problem

3. Abuses in the way CRSs are operated have occurred. These were first felt in the USA because of the earlier development there of these systems. Complaints about screen bias and market domination finally resulted in the implementation in 1984 by the US authorities of legislation governing the operation of CRSs.

4. Although these regulations were generally considered effective, the ingenuity of system vendors found ways around these regulations so that complaints, including complaints from European carriers, have again been voiced.

5. In Europe CRSs are, by and large, owned by the national flag carriers. Bias in these systems has been tempered by reciprocal arrangements between these carriers. However a number of air carriers do not benefit from such reciprocity and are therefore disadvantaged.

There have been complaints of small airlines being denied access to systems and US airlines being refused the right to issue tickets in respect of certain European airlines.

6. In 1986 the Association of European Airlines (AEA) carried out a study of the feasibility of establishing a European CRS owned by AEA carriers and able to compete with US systems on equal terms. The results of the study were positive but the practical result was the grouping of certain AEA airlines in 1987 into two separate companies - Amadeus and Galileo - with the aim of developing and operating two large European CRSs.

(1) AEA figures

(2) Commission survey carried out with the help of ECTAA

Controls in Europe

7. The Council of Ministers, as part of the December 1987 Aviation Package, gave the Commission delegated powers to make regulations, subject to certain conditions, giving block exemptions from the competition rules inter alia to airlines which jointly develop, purchase or operate airline computerised reservation systems. This action was designed to meet the specific case of Amadeus and Galileo which were seen by the Council as an appropriate response to the challenge of the major US system vendors -Apollo and Sabre - which were and still are gaining ground in the European market. These regulations were adopted by the Commission in July 1988.

8. The European Civil Aviation Conference (ECAC) drew up principles for a code of conduct on CRSSs which were adopted at its triennial meeting in June 1988. Member States of the Community and the Commission participated in the formulation of these principles and supported their approval. At the ECAC meeting it was indicated that the EC in a matter of months would enact these principles.

9. The Commission block exemption regulation on CRSSs is by definition limited in scope and application (see para 7 above). It will only apply to jointly-owned systems, viz. currently only to Amadeus and Galileo and article 86 applies only to dominant positions. However, other systems of a different nature exist as well in the Community e.g. systems owned by single companies, several of them with their head office in non-Member States. From a transport policy point of view this is not a satisfactory situation. Air Carriers, Travel Agents, Freight forwarders and Users must have the certainty of e.g. access and neutrality of display. It is important, especially so that Community airlines can compete on fair and equal terms, that a code of conduct be established which would apply to these systems as well. For these reasons the Commission has decided to bring forward proposals for a general and detailed mandatory code of conduct to apply to all CRSSs offered for use and/or used in the Community for the distribution and sale of air transport products irrespective of the status or nationality of the system vendor, the source of information used or the location of the relevant central data processing unit. The Commission has taken account of particular Community needs and representations from interested parties. The concern, voiced by Member States, the Economic and Social Committee and by Amadeus and Galileo, that the two sets of Community Regulations should not be in conflict, has been taken fully into account in the drafting of these two sets of Regulations.

There is a core area where the two sets of Regulations overlap and here every effort has been made to impose the same obligations and to use the same language. Where, however, the purpose or scope of the Regulations are different, the texts diverge.

COMMENTS ON INDIVIDUAL ARTICLES

Article 1

This article sets out the scope of the Regulation. The Regulation will apply to the terms on which or the way in which all CRSs are offered and/or used in the Community. The fact that a system vendor might not be a Community citizen or that the information might come from outside the Community or that the air transport service concerned might be outside the Community, is irrelevant.

Article 2

This sets out a series of definitions.

- a) "Air transport product" has been defined to include non-scheduled as well as scheduled passenger and freight services or a combination thereof.
- b) The definition of CRS is limited by the phrase "and which makes some or all of these services available to subscribers". If, for example, an airline does not make some or all of the services in its CRS available to subscribers (usually travel agents) it will not be bound by this Regulation.
- c) self-explanatory.
- d) The definition of "distribution facilities" is important as it further limits the obligations of a system vendor, e.g. in Articles 3 and 9.
A system vendor is therefore only required to allow participation by air carriers in its distribution facilities and to make these facilities available to subscribers but it is not required to allow access to or make available its in-house facilities.
- e) self-explanatory.
- f) self-explanatory.
- g) self-explanatory.
- h) This definition uses the term "city pairs" to cover all airports serving the same city.
- i) The purpose behind this definition is to treat scheduled passenger services and "seat only" charter services (where allowed) in the same way and to treat block bookings on scheduled flights which are sold as part of a package deal in the same way as charter services.
- j) This is intended to cover any improvement, in terms of service or equipment offered to subscribers by a system vendor, other than the display of information on schedules, fares, etc. e.g. book-keeping facilities.

k) This definition covers travel agents, freight forwarders, companies or individuals which make a written contract or other arrangement with a system vendor to use its CRS.

l) self-explanatory.

Article 3

This requires a system vendor which offers distribution facilities in a particular sector, viz. scheduled passenger, to allow any air carrier the opportunity to participate in the appropriate segment of its distribution facilities. It does not require a system vendor to provide all these facilities, it merely requires a system vendor which provides some or all of the facilities to allow access to these facilities, subject to the conditions which follow relating to the level of fees, the conditions to be applied and non-discrimination. The article also allows a system vendor to refuse access if capacity limits of the system have been reached or if there are technical constraints outside the system vendor's control.

Article 3.3(d) bans exclusive contracts so that air carriers would be free to participate in several CRSs if they wished.

Article 3.3(c) guarantees a participating carrier the right to terminate his contract with a system vendor without penalty provided he has abided by the contract for at least a year and has given notice which need not exceed six months. The provision requiring a system vendor to stay in the system for at least a year is designed to compensate a system vendor for any adaptation/start up costs that might be involved in admitting a new carrier to the system.

Article 3.4. is designed to ensure that a system vendor does not confer a first class status on some participating carriers to the detriment of others. All should be given equal opportunity to acquire any enhancements offered. However, if there are technical limitations - either within or without the system vendor's control - he is not required to offer any further enhancements.

Article 3.5. is designed to ensure transparency.

Article 3.6. is also aimed at transparency and non-discrimination.

Article 4

Article 4.1. puts the onus on participating air carriers to ensure the accuracy, comprehensiveness etc. of data provided for inclusion in a CRS and article 4.2. imposes obligations on system vendors as to how such data will be used.

Article 4.3. requires system vendors to load and process all data equally carefully and quickly but it allows them to prescribe how the data shall be provided and it recognises that participating carriers may choose different loading methods which may result in different treatment.

Article 4.4. is intended to ensure that no airline - whether a parent carrier or merely a participant in a system - can put its competitor at a market disadvantage by withholding information from a competing CRS or refusing to allow a competing CRS to make bookings on its flights. This provision should be read in conjunction with Article 8.3. which deals with the question of ticketing.

Article 5

Article 5.1. and 5.2. imposes an obligation on a system vendor to have a principal display and sets out what shall be included in such a display. If information is provided on charter and freight services this can be shown in separate principal displays.

Article 5.3. requires the ranking of flight options in the principal display to be in accordance with the criteria set out in the Annex. However, it allows a customer to request a different display (but see Article 9.5. which requires the system vendor to ensure either through technical means or through the contract with the subscriber that the principal display is provided for each individual transaction).

Provision is also made for the criteria to be changed by a management committee, as provided in Article 5.4. This procedure is used so as to allow the ranking criteria to be changed rapidly in the light of experience of the market and technical development.

Article 6

This article is concerned with the protection of the confidentiality of data and the circumstances in which data generated by a CRS can be divulged. Existing legislation dealing with data protection would supplement these provisions.

Article 7

This is the reciprocity provision exempting a system vendor from the obligations of the Regulation in respect of a third-country parent carrier of another CRS to the extent that that CRS does not conform with the Regulation or provide equivalent treatment. However, any system vendor wishing to avail of this provision must notify the Commission 14 days in advance. This then allows the Commission under Article 11 to decide whether or not to allow the exemption.

This provision does not apply to Community carriers since they are required to comply with the provisions of this Regulation and their compliance could be assured under the provisions of Articles 10 to 20 inclusive of this Regulation.

Article 8

Article 8.1. prohibits a parent or participating carrier from making the payment of commission etc. to a subscriber dependent on that subscriber using a specific CRS.

Article 8.2. prohibits a parent or participating air carrier from insisting that its products are sold or tickets for them are issued by a specific CRS.

Article 8.3. makes it clear that an air carrier's basic right to decide under which conditions it will allow a travel agent or freight forwarder to sell and issue tickets for its products is not affected.

Article 9

This article sets out the terms of the relationship between a system vendor and a subscriber. To a large extent it echoes the principles contained into Article 3. A subscriber is allowed terminate his contract with a system vendor without penalty after completing one year provided he has given notice which need not exceed 3 months. This coincides with the minimum period of such contracts known to the Commission.

Article 9.5 allows a subscriber to re-order data or use alternative displays in order to meet a preference specifically expressed by a consumer. However, a system vendor must make the principal display available for each transaction so that the subscriber must enter a request specific to that transaction for a display other than the principal one to be made available.

Articles 10 to 20

These articles give authority to the Commission to investigate complaints of non-compliance with the Regulation and set out a complaints procedure and a system of fines for infringements. It also allows the Commission to grant exemptions in accordance with Article 7 (reciprocity provision).

It is in accordance with the procedure already approved by the Council in EEC Regulation n° 11 of 1960 on the elimination of discrimination in respect of prices and conditions of transport.

Article 21

This article applies the Regulation in all Member States from 1 January 1989 to systems offered and/or used for the first time after that date but allows a longer transition period (i.e. up to 1 April 1989) for existing systems.

Annex - Ranking Criteria

This Annex applies a set of general criteria to all principal displays in all sectors - scheduled and non scheduled passenger services, scheduled and non-scheduled freight services or a combination thereof. It also sets out more precise criteria for scheduled air services. It should be noted in this context that paragraph 2 does not require code-sharing flights to involve a guarantee that the connecting flight will be held; it merely provides that unless there is such a guarantee, then code-sharing flights shall be treated as connecting flights for ranking purposes. It would be open to the committee provided for in Article 5.4 to prescribe specific criteria for the ranking of services other than scheduled passenger services.

Proposal for a Council Regulation (EEC) on a code of conduct for computerized reservation systems

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(Submitted by the Commission on 31 October 1988)

(88/C 294/08)

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the bulk of airline reservations are made through computerized reservation systems (CRSs);

Whereas such systems can, if properly used, provide an important and useful service to air carriers, travel agents and the travelling public by providing easy access to up-to-date and accurate information on flights, fares and seat availability, making reservations and in some cases issuing tickets and boarding passes;

Whereas abuses in the form of denial of access to the systems, or discrimination in the provision, loading or display of data or unreasonable conditions imposed on participants or subscribers can seriously disadvantage air carriers, travel agents and ultimately consumers;

Whereas this Regulation is without prejudice to the application of Articles 85 and 86 of the Treaty;

Whereas Commission Regulation (EEC) No 2672/88 (1) exempts from the provisions of Article 85 (1) agreements for the common purchase, development and operation of computerized reservation systems;

Whereas a mandatory code of conduct applicable to all CRSs and/or distribution facilities offered for use and/or used in the Community could ensure that CRSs are used in a non-discriminatory and transparent way, subject to certain safeguards, so avoiding their misuse while reinforcing undistorted competition between air carriers and between CRSs and thereby protecting the interests of consumers;

Whereas it would not be appropriate to impose obligations on a CRS vendor in respect of an air carrier of a third country which alone or jointly with others owns and/or controls another CRS which does not conform with this code or offer equivalent treatment;

Whereas a complaints, investigation and enforcement procedure for non-compliance with such a code is desirable,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to computerized reservation systems (CRSs) offered for use and/or used in the territory of the European Communities for the distribution and sale of air transport products irrespective of:

- the status or 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 air transport service concerned.

Article 2

For the purposes of this Regulation:

- (a) 'air transport product' means a scheduled or non-scheduled passenger air service or air freight service or a combination of passenger and freight services, including any related ancillary services and additional benefits offered for sale and/or sold as an integral part of the air service;

(1) OJ No L 239, 30. 8. 1988, p. 13.

- (b) 'CRS' means a computerized reservation system containing information about, *inter alia*, air carriers':
- schedules,
 - availability,
 - fares,
 - rates, and
 - related services with or without facilities through which reservations can be made or tickets and airwaybills may be issued, or both
- and which makes some or all of these services available to subscribers;
- (c) 'consumer' means any person seeking information about and/or intending to purchase an air transport product;
- (d) 'distribution facilities' means facilities provided by a system vendor to a subscriber or consumer for the provision of information about air carriers' schedules, availability, fares, rates and related services and for making reservations and/or issuing tickets, airwaybills and for any other related services;
- (e) 'elapsed journey time' means the time difference between normal departure and arrival time;
- (f) 'parent carrier' means an air carrier which is a system vendor or which directly or indirectly alone or jointly with others owns or controls a system vendor;
- (g) 'participating carrier' means an air carrier which has an agreement with a system vendor for the distribution of its air transport products through a CRS. To the extent that a parent carrier uses the distribution facilities of its own CRS, it shall be considered a participating carrier;
- (h) 'principal display' means a comprehensive neutral display of data concerning services between city pairs, within a specified time period, containing *inter alia* all point-to-point air services;
- (i) 'scheduled air service' means a series of flights each possessing all the following characteristics:
- it is performed by aircraft for the transport of passengers or passengers and cargo and/or mail for remuneration, in such a manner that on each flight seats are available for individual purchase by members of the public (either directly from the air carrier or from its authorized agents);
 - it is operated so as to serve traffic between the same two or more points, either:
 - (1) according to a published timetable, or
 - (2) with flights so regular or frequent that they constitute a recognizably systematic series.
- To the extent that non-scheduled services provide 'seat only' fares, which are sold directly by the carrier or its authorized agent, they shall be included in the definition of scheduled air service;
- (j) 'service enhancement' means any product or service offered by a system vendor on its own behalf to subscribers or consumers in conjunction with a CRS other than distribution facilities;
- (k) 'subscriber' means an undertaking, other than a participating carrier, using under contract or other arrangement with a system vendor a CRS for the sale of air transport products;
- (l) 'system vendor' means any entity and its affiliates which are responsible for the operation or marketing of a CRS.

Article 3

1. A system vendor offering distribution facilities in one of the following sectors, namely, scheduled passenger air services, non-scheduled passenger air services, scheduled air freight services or non-scheduled air freight services, shall allow any air carrier the opportunity to participate in the appropriate sectoral distribution facilities within the available capacity of the system and within technical limits outside the control of the system vendor.

2. Any fee charged by a system vendor to participating carriers shall be non-discriminatory and reasonably related to the cost of the service provided, and shall, in particular be the same for the same level of service.

3. (a) A system vendor shall not:

- attach unreasonable conditions to any contract with a participating carrier,

— require the acceptance of supplementary conditions which, by their nature or according to commercial usage, have no connection with participation in its CRS and shall apply the same conditions for the same level of service.

(b) A system vendor shall not make it a condition of participation in its CRS that a participating carrier may not at the same time be a participant in another system.

(c) A participating carrier shall have the right to terminate his contract with a system vendor without penalty on giving notice which need not exceed six months to expire no earlier than the end of the first year.

4. If the system vendor adds any improvement to the distribution facilities provided or the equipment used in the provision of the facilities, it shall offer these improvements to all participating carriers on the same terms and conditions subject to current technical limitations.

5. A system vendor shall, on request, provide to interested parties details of current procedures, fees, systems facilities, editing and display criteria used. However, this provision does not oblige a system vendor to disclose proprietary information such as software programmes.

6. Any proposed changes to fee levels, conditions or facilities offered and the basis therefor shall be communicated to all participating carriers on a non-discriminatory basis.

Article 4

1. An air carrier providing material for inclusion in a CRS shall ensure that the data submitted are comprehensive, accurate, non-misleading and transparent.

2. A system vendor shall not manipulate material supplied by an air carrier, either directly or indirectly in a manner that would lead to inaccurate, misleading or discriminatory information being provided.

3. A system vendor shall load and process data provided by participating carriers with equal care and timeliness subject to the constraints of the loading method selected by individual participating carriers and to the standard formats used by the system vendor.

4. Subject to Article 7, a parent or participating carrier may not refuse, except for an objective and legitimate reason of a technical or commercial nature, to provide to a competing CRS the same information on schedules, fares, rates and availability relating to its own services as it provides to the CRS in which it is a participating carrier, nor shall it refuse to accept a reservation made through a competing CRS unless the fee(s) charged are higher than in the CRS of which it is a participating carrier.

Article 5

1. A system vendor shall provide a principal display and shall include therein data provided by participating carriers on schedules, fares, rates, seat and capacity availability in a clear and comprehensive manner and without discrimination or bias, in particular as regards the order in which information is presented. There may be separate principal displays for scheduled, charter and freight air services.

2. A system vendor shall not intentionally or negligently display inaccurate or misleading information, and in particular:

— the criteria to be used for ranking information shall not be based on any factor directly or indirectly relating to carrier identity and shall be applied on a non-discriminatory basis to all participating carriers,

— no discrimination on the basis of different airports serving the same city shall be exercised in constructing and selecting city-pairs.

3. (a) Ranking of flight options in the principal display, for the day or days requested, shall be as set out in the Annex unless requested in a different way by a consumer for an individual transaction.

(b) The Annex may be amended in accordance with the procedure set out in paragraph 4.

4. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter.

The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of Decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

Article 6

A system vendor shall provide information, statistical or otherwise, generated by its CRS, other than that offered as an integral part of the distribution facilities, only as follows:

- (a) information concerning individual bookings shall be made available on an equal basis to the air carrier or air carriers participating in the service covered by the booking;
- (b) information in aggregate or anonymous form when made available on request to any air carrier shall be offered to all participating air carriers on a non-discriminatory basis;
- (c) other information generated by the CRS shall be made available with the consent of the air carrier concerned and subject to any agreement between a system vendor and participating airlines.

Article 7

1. Subject to Article 11, the obligations of a system vendor under Articles 3 to 6 shall not apply in respect of a parent carrier of a third country to the extent that its CRS does not conform with this Regulation or does not offer Community air carriers equivalent treatment to that provided under this Regulation.

2. A system vendor proposing to avail itself of the provisions of paragraph 1 must notify the Commission of its intentions and the reasons therefor at least 14 days in advance of such action.

Article 8

1. A parent or participating carrier shall not link the use of any specific CRS by a subscriber with the receipt of any commission or other incentive for the sale of or issuance of tickets or airwaybills for any of its air transport products.

2. A parent or participating carrier shall not require use of any specific CRS by a subscriber for any sale or issuance of tickets or airwaybills for any air transport products provided either directly or indirectly by itself.

3. Paragraphs 1 and 2 shall be without prejudice to any condition which an air carrier may require of a travel agent or freight forwarder when authorizing them to sell and issue tickets or airwaybills for its air transport products.

Article 9

1. A system vendor shall make any of the distribution facilities of a CRS available to any subscriber on a non-discriminatory basis. Any fee charged shall be non-discriminatory and reasonably related to the cost of the service provided, and shall, in particular, be the same for the same level of service.

2. A system vendor shall not require a subscriber to sign an exclusive contract, or directly or indirectly prevent a subscriber from subscribing to or using any other system or systems.

3. A service enhancement offered to any one subscriber shall be offered by the system vendor to all subscribers on a non-discriminatory basis.

4. A system vendor shall not attach unreasonable conditions to any contract with a subscriber and in particular a subscriber may terminate his contract with a system vendor, without penalty, on giving notice which need not exceed three months to expire no earlier than the end of the first year.

5. A system vendor shall ensure either through technical means or through the contract with the subscriber that the principal display is provided for each individual transaction. However, for any one transaction a subscriber may re-order data or use alternative displays to meet a preference expressed by a consumer.

Article 10

1. Complaints regarding non-observance of this Regulation shall be addressed to the Commission.
2. Complaints may be submitted by:
 - (a) Member States;
 - (b) natural or legal persons who claim a legitimate interest.
3. The Commission shall immediately forward to the Member States copies of the complaints and applications and of the most important documents sent to it or which it sends out in the course of such procedures.

Article 11

Upon receipt of a notification pursuant to Article 7 the Commission shall without delay determine whether discrimination within the meaning of Article 7 exists. If this is found to be the case the Commission shall decide that the obligations under this Regulation do not apply to the air carrier concerned and shall so inform all system vendors in the Community and Member States. If discrimination within the meaning of Article 7 does not exist the Commission shall so inform the system vendor concerned.

Article 12

1. In carrying out the duties assigned to it by this Regulation, the Commission may obtain all necessary information from the Member States and from undertakings and associations of undertakings.
2. The Commission may fix a time limit of not less than one month for the communication of the requested information.
3. When sending a request for information to an undertaking or association of undertakings, the Commission shall forward a copy of the request at the same time to the Member State in whose territory the head office of the undertaking or association of undertakings is situated.
4. In its request, the Commission shall state the legal basis and purpose of the request and also the penalties for supplying incorrect information provided for in Article 16 (1) (a).
5. The owners of the undertakings or their representatives and, in the case of legal persons or of companies, firms or associations not having legal personality, the person authorized to represent them by law or by their rules shall be bound to supply the information requested.

6. All standard contracts between system vendors and participating carriers or subscribers shall be communicated by the system vendor to the Commission.

Article 13

1. In carrying out the duties assigned to it by this Regulation, the Commission may undertake all necessary investigations into undertakings and associations of undertakings. To this end, officials authorized by the Commission shall be empowered:

- (a) to examine the books and other business records;
- (b) to take copies of, or extracts from, the books and business records;
- (c) to ask for oral explanations on the spot;
- (d) to enter any premises, land and vehicles used by undertakings or associations of undertakings.

2. The authorized officials of the Commission shall exercise their powers upon production of an authorization in writing specifying the subject matter and purpose of the investigation and the penalties provided for in Article 16 (1) (b) in cases where production of the required books or other business records is incomplete. In good time, before the investigation, the Commission shall inform the Member State, in whose territory the same is to be made, of the investigation and the identity of the authorized officials.

3. Officials of the Member State in whose territory the investigation is to be made may assist the Commission officials in carrying out their duties, at the request of the Member State or of the Commission.

4. Where an undertaking opposes an investigation ordered pursuant to this Article, the Member State concerned shall afford the necessary assistance to the officials authorized by the Commission to enable them to make their investigation. To this end, Member States shall take the necessary measures by 31 July 1989, after consulting the Commission.

Article 14

1. Information acquired as a result of the application of Articles 12 and 13 shall be used only for the purposes of the relevant request or investigation.

2. Without prejudice to the provisions of Articles 10 and 20, the Commission and the competent authorities of the Member States, their officials and other servants shall not disclose information of a kind covered by the obligation of professional secrecy which has been acquired by them as a result of the application of this Regulation.

3. The provisions of paragraphs 1 and 2 shall not prevent publication of general information or of surveys which do not contain information relating to particular undertakings or associations of undertakings.

Article 15

1. When an undertaking or association of undertakings does not supply the information requested within the time limit fixed by the Commission, or supplies incomplete information the Commission shall by decision require the information to be supplied. The decision shall specify what information is required, fix an appropriate time limit within which it is to be supplied and indicate the penalties provided for in Article 16 (1) (a) as well as the right to have the decision reviewed by the Court of Justice.

2. At the same time the Commission shall send a copy of its decision to the competent authority of the Member State in whose territory the head office of the undertaking or association of undertakings is situated.

Article 16

1. The Commission may, by decision, impose fines on undertakings or associations of undertakings of from 1 000 to 100 000 ECU where, intentionally or negligently:

- (a) they supply incorrect information in response to a request made pursuant to Article 12 or do not supply information within the time limit fixed:
- (b) they produce the required books or other business records in incomplete form during investigations or refuse to submit to an investigation pursuant to Article 13 (1).

2. The Commission may, by decision, impose fines on system vendors, parent carriers, participating carriers and/or subscribers for infringements of this Regulation up to a maximum of 10 % of the annual turnover for the relevant activity of the undertaking concerned.

In fixing the amount of the fine, regard shall be had both to the gravity and to the duration of the infringement.

3. Decisions taken pursuant to paragraphs 1 and 2 shall not be of a penal nature.

Article 17

The Court of Justice shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty to review decisions whereby the Commission has imposed a fine; it may cancel, reduce or increase the fine.

Article 18

For the purposes of applying Article 16, the ECU shall be that adopted in drawing up the budget of the Communities in accordance with Articles 207 and 209 of the Treaty.

Article 19

1. Before taking decisions as provided for in Article 16, the Commission shall give the undertakings or associations of undertakings concerned the opportunity of being heard on the matters to which the Commission takes, or has taken, objection.

2. If the Commission or the competent authorities of the Member States consider it necessary, they may also hear other natural or legal persons. Applications by such persons to be heard shall be granted when they show a sufficient interest.

Article 20

1. The Commission shall publish the decisions which it adopts pursuant to Article 16.

2. The publication shall state the names of the parties and the main content of the decision; it shall have regard to the legitimate interest of undertakings in the protection of their business secrets.

Article 21

1. This Regulation shall apply from 1 January 1989 to all CRSs offered for use and/or used in the Community for the first time after that date. It shall apply to other CRSs from 1 April 1989.

2. This Regulation shall be binding in its entirety and directly applicable in all Member States.

ANNEX

RANKING CRITERIA

General criteria

1. The principal displays shall provide a reasonable number of travel options from among existing services for any city-pair requested including indirect services. A participating carrier may request the inclusion of an indirect service unless the routing is in excess of 130 % of the great circle distance between the two airports.
2. A system vendor shall not use the screen space in its principal displays in a manner which gives excessive exposure to one particular travel option or which displays unrealistic travel options.
3. Where a system vendor chooses to display information in relation to the schedules or fares of non-participating carriers such information shall be displayed in an accurate, non-misleading and non-discriminatory manner as between those carriers displayed.
4. If information as to the number and identity of and services/fares/rates offered by air carriers on a point-to-point air service is not comprehensive this shall be clearly stated on the relevant display.

Criteria for scheduled air services

1. Ranking of flight options in the principal display for scheduled air services, 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 flights between the city-pairs concerned in order of departure time or arrival time;
 - (ii) other direct flights, between the city-pairs concerned, in order of departure or arrival time and/or elapsed journey time;
 - (iii) connecting flights in order of departure or arrival time and/or elapsed journey time.Ranking criteria once chosen, shall be applied consistently in any given display.
 2. Scheduled flights involving stops *en route*, change of aircraft, change of airport and/or code-sharing shall be clearly identified. Code-sharing flights shall be treated as connecting flights unless the code-sharing arrangement guarantees embarkation on the connecting flight, in which instance code-sharing flights may be displayed in preference to normal connecting flights.
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