COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.07.1997
COM(97) 246 final

97/0148 (SYN)

REPORT ON THE APPLICATION OF COUNCIL REGULATION (EEC) NO.2299/89 ON A CODE OF CONDUCT FOR COMPUTERISED RESERVATION SYSTEMS (CRSs)

PROPOSAL FOR A COUNCIL REGULATION (EC) AMENDING COUNCIL REGULATION (EEC) NO.2299/89 ON A CODE OF CONDUCT FOR COMPUTERISED RESERVATION SYSTEMS (CRSs)

(presented by the Commission)

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Contents

I. Introduction

CRSs are an important means of distributing air transport services, and therefore can play a key role in increasing competition between air carriers. They provide customers with immediate access to a wide range of information on carriers' schedules and fares and offer the possibility to make instantaneous confirmed bookings. However, CRSs can be used to prevent or inhibit competition. Firstly, through discriminatory behaviour in preventing or limiting access to the CRS facilities and secondly, through architectural bias, whereby the CRS is designed to provide more accurate and reliable information on the flights of the carriers owning the CRS than for their competitors. In addition, in the EU, the CRS market is highly concentrated to the extent that in most Member States a single CRS has a market share exceeding 80%. Codes of conduct for CRSs have been developed in many regions of the world to regulate the operation of this particularly sensitive sector.

The first EU code of conduct for CRSs ("code") was adopted by the Council on 24 July 1989, and addressed the main problem areas affecting the CRS market that had been identified at that time. The code was subsequently amended by Regulation 3089/93 which was adopted by the Council on 29 October 1993. The amendments were necessary to clarify existing provisions and to reflect developments in the industry that had occurred since the original regulation was adopted. A more detailed description of the amendments adopted in 1993 and of their implementation is given in the next section.

This present document has been prepared pursuant to Article 23 of the amended code which states that "The Council shall decide on the revision of this Regulation by 31 December 1997 on the basis of a Commission proposal to be submitted by 31 March 1997, accompanied by a report on the application of this Regulation". The report on the application of the amended code is set out in Section II of this document. In addition, in the light of the experience gained since the adoption of the amended code in 1993, and in order that the code will be able to respond to developments in the sector in the coming years, proposals to make additional amendments to the code are set out in Sections III and IV.

The need for the Code to reflect the extensive discussions that have taken place between the Commission and the CRS industry, air carriers and subscribers, concerning the basis on which CRSs charge for their services together with the rapid developments taking place in distribution methods e.g. electronic ticketing and the Internet, have resulted in the Commission bringing forward the proposal for an amendment to the code.

II. Application of the code of conduct

The amendments made to the code in 1993 were necessary to respond to a range of specific problems that had been encountered since the adoption of the original code in 1989. The principal amendments included, firstly, the need to ensure that CRSs make equal functionality available to all participating carriers, and, in particular, by those CRSs which share common systems with their parent carriers. In this respect, the code requires that a system vendor's distribution facilities are clearly separated from the internal reservation system of its parent carriers. The effectiveness of the arrangements put in place to achieve the separation of the two functions is subject to verification by independent external audit. Associated with the technical requirements for the separation of the distribution facilities of a system vendor from the internal systems of its parent carriers, was a requirement for a system vendor to be established as a separate entity from its parent carrier for legal purposes.

Secondly, the code was extended to include non-scheduled services following the removal of the distinction between scheduled and non-scheduled services as a result of the third liberalisation package. Thirdly, the amended code requires parent carriers and their subsidiaries to provide other CRSs, with equal timeliness, the same information and booking possibilities as they provide to their own CRS. This modification was aimed principally at improving competition between CRSs by enabling each of them to provide fully comprehensive information on schedules and availability. Fourthly, rules were introduced to limit the display of code share or other jointly marketed flights to a maximum of two options in the principal display. Fifthly, access to personal and marketing data contained in a CRS was also made subject to external audit. Finally, a number of amendments to the rules on charging were made to improve the transparency of the billing procedures.

The principal activities carried out by the Commission concerning the application of the code provisions, and related activities, are set out below.

II.1 Waivers granted

Article 2 of the amending Regulation 3089/93 provides for a period of grace of six months following the entry into force of the regulation before the provision (Article 3(1)) requiring the establishment of separate entities for the system vendor and its parent carrier(s) applies. Furthermore, it provides that the Commission may grant an additional 12 months' waiver for objective reasons.

The creation of separate entities for the system vendor and the parent carrier raised special difficulties for one parent carrier and its CRS, which was an operational division of the airline itself. The Commission accepted that the airline should be granted a waiver of 12 months in order to allow it to establish separate legal entities to be responsible for CRS's contractual relations with, on the one hand, participating carriers and, on the other hand, subscribers. The waiver expired on 11 June 1995, by which date the various legal entities had been established.

II.2 Complaints received

The procedure for making complaints to the Commission in respect of alleged infringements of the code and the Commission's duties to initiate procedures to terminate any infringements, are set out in Article 11 of the code. Since the entry into force of the amended code on 11 December 1993, some twenty two complaints from air carriers and CRSs concerning alleged infringements of the code have been received.

Of the complaints, six referred to alleged discrimination by CRSs in favour of their parent carriers. Of these, three concerned CRSs which made certain functionalities available to their parent carriers which were refused to other participating carriers, and three concerned favourable treatment given to the parent carriers of a CRS during the migration phase of that CRS from the former multi-access type of system to the present neutral global core system. All the complaints have been satisfactorily resolved following discussions with the parties concerned

The next most frequent cause of complaint (four cases grouping some twenty one airlines) concerned the alleged incompatibility of CRSs charging policies with Article 10.1 of the code. Article 10.1 states that "Any fee charged 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 main thrust of the complaints was that the combined effects of the incentives granted to subscribers by CRSs and the inadequacy of controls on the validity of bookings exercised by CRSs, led to an unequal distribution of CRS costs between carriers and subscribers contrary to the requirements of Article 10.1. Given the dominant role played by CRSs in the distribution of air transport products and the statutory obligation placed on most major carriers (as owners of CRSs) which effectively requires them to participate in CRSs, a dissatisfied carrier cannot refuse to deal with their CRS partners.

The issues raised in the complaints were both varied and complex, and had important commercial consequences for carriers, CRSs and subscribers. With a view to allowing a full and informed discussion of the issues to take place, the Commission set up a working group to examine the present charging arrangements and to consider possible alternative arrangements. The group was assisted in its work by an external firm of consultants (SH&E). The results of a study carried out by SH&E were distributed in August 1995, and formed the basis for further, more informed, discussions of the working group. In order to clarify the manner in which Article 10.1 is to be applied some amendments to the existing code provisions are being proposed to the Council.

With one exception, the remaining complaints concerned specific problems relating to: the security of individual passenger data (two cases), display of flights (five cases), market access (two cases), unfair contract terms, and the conformity of ticketing arrangements. In the case of the security of data, it has been demonstrated that no breach of the rules occurred. Concerning the display of flights, in two cases the display has been modified satisfactorily, and in the three remaining cases no infringement of the code was found to have taken place. The problems of market access for an EU CRS in a third country, and of a third country CRS in the EU, have been resolved. In the final two cases discussions are continuing with the CRSs concerned.

The final complaint concerned the refusal of US based CRSs to provide non-US carriers with marketing data relating to US domestic traffic. In accordance with the US rules for CRSs in force at the time, marketing information on US domestic traffic could only be provided to US carriers. The US provision contrasted strongly with the EU code where no such discriminatory provision exists, and therefore in the EU, system vendors are required to make marketing information available to all participating carriers regardless of nationality. However, Article 7 of the EU code provides that certain obligations of the code applicable to system vendors do not apply where reciprocal rights are not granted in third countries. The CRS Amadeus notified the Commission of its intention to invoke the reciprocity provision of the code in order to terminate the sale of its marketing information to US air carriers.

Given the gravity of the discrimination the Commission intervened directly with the US Department of Transport (DOT) with a view to persuading it to modify the US code to eliminate the discriminatory treatment. As a result of the discussions that subsequently took place between the Directorate General for Transport, ESA[1], and the US DOT, an exemption was granted to US CRSs to enable them to sell marketing data on US domestic traffic to EU carriers.

The Commission has not so far been required to take formal decisions in respect of the complaints it has received. It has been possible to resolve complaints within a limited time through direct contact with the parties.

II.3 Other enforcement activities

The Commission is also required to carry out assessments of the adequacy of each CRS's compliance with specific code requirements concerning security of data and the non-discriminatory operation of a CRS's distribution facilities. These assessments are foreseen in Article 6.5 (adequacy of the safeguards on the availability of booking, marketing and sales data) and Article 21.a (annual technical audit)

II.3.a Data Security (Article 6.5)

Article 6.3 of the code states that "a system vendor shall ensure that the provisions in paragraphs 1 and 2 [of Article 6] 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". Paragraphs 1 and 2 set out the detailed rules concerning the security of access to individual passenger booking data and the availability of marketing data. The system vendor is required to make a description of the technical and administrative measures ("security package") it has adopted available on request to all participating carriers and the Commission. Finally, the Commission is required to assess the adequacy of the security

[1] ESA - EFTA Surveillance Authority

packages and to decide whether the measures are sufficient to provide the safeguards required by Article 6.

The security packages submitted by the system vendors contained a considerable volume of complex technical information on the data security access policies implemented by each CRS. The Commission's assessment concentrated on the following aspects of the packages - the system structure/architecture including data bases and the main records therein, security policy governing access to data including the policy governing authorisation of access to users, levels of access, awareness of safeguards obligations under Code of Conduct, technical measures concerning access by parent carriers, participating carriers and subscribers. Finally, the assessment examined the conditions applicable to the provision of marketing, booking and sales data.

As part of its on-going monitoring activities, the Commission visited a number of CRS installations and, amongst other matters, verified the accuracy of the information contained in the security packages.

On the basis of the paper based description of the system supplemented by the visits to CRSs, the Commission was satisfied with the adequacy of the information provided by the system vendors. However, prior to taking a formal decision on the security packages as required by Article 6.5 of the code, it cross-checked the written description provided by the system vendor with the audit reports described in section II.3.b below.

Formal decisions approving the adequacy of the safeguards were adopted by the Commission in September 1995 (four CRSs) and January 1996 (one CRS).

II.3.b Annual technical audit (Article 21.a)

Article 21.a.1 of the code requires a system vendor to ensure that "the technical compliance of its CRS with Articles 4a and 6 is monitored by an independent auditor". It also requires a system vendor to submit a copy of the auditor's report on his inspection and findings to the Commission once a year. This provision of the code introduced in the review of 1993 represents the first time that the technical compliance of a CRS with any code of conduct in force throughout the world has been subject to statutory audit.

In order to provide guidance to the system vendors' auditors on the nature and extent of the audit checks to be carried out, the Commission appointed a specialist consultant in the field of computer auditing and established a working group, to jointly develop a set of CRS audit guidelines. The audit guidelines defined the nature and scope of the audit checks to be carried out based on a series of defined control objectives. The guidelines were published in October 1994 and copies were also sent to all Member States directly. The guidelines were also used by the Commission's services as a standard against which the adequacy of the audit reports were to be judged. Although the use of the guidelines is not mandatory, the CRSs' auditors have generally used them as the basis for the audits they have carried out.

The 1994 audit reports of the five CRSs operating in the European Union (Amadeus, Galileo International, GETS, SABRE and Worldspan) were submitted to the Commission by the end of March 1995. They were subsequently examined by the Commission, and for two of the five CRSs further clarification of control weaknesses identified by the auditors was required.

The first case concerned the security of passenger information where the CRS was using two of its parent carriers' internal ticketing systems for issuing tickets on behalf of all carriers. The CRS does not have its own ticketing system at the present time, and therefore has to rely on third parties for ticketing functions. The system vendor's auditor was not able to verify whether the parent carriers were excluded from having access to the data transmitted to their ticketing systems by the CRS for the purpose of issuing tickets. Although the terms of the contractual arrangements between the parties generally prohibited such access, there did not appear to be any specific technical safeguards in force to prevent it. As a result of discussions between the Commission and the system vendor, it was agreed that special audits of the two carriers' ticketing functionalities would be carried out. The results of these audits have demonstrated that the safeguards in place in each of the carriers is adequate to ensure that no access to confidential passenger data is possible by the carriers.

In the other case, it appeared from a pre-audit check carried out by the system vendor itself that employees of hosted carriers (carriers whose internal reservation systems share common facilities with the CRS) had the possibility to access passenger details where the carrier was not involved in the journey and, therefore, had no legitimate interest in accessing the information. The system vendor immediately undertook the necessary steps to correct the programming logic that controlled access to passenger data. The system is now in full compliance with the provisions of Article 6 in this respect.

The Commission is satisfied that the exhaustive nature of the checks carried out during the course of the audit of all CRSs would have led to the discovery of any deficiencies in the technical safeguards in place to meet the requirements of Articles 4a and 6(3). With the exception of the second case cited above, which has now been corrected, no preferential access to confidential passenger data and no operational advantages accrue to parent carriers of the CRSs present in the EU.

The reports on the 1995 audits have not identified any material issues which require intervention by the Commission.

In line with an undertaking given to CRSs when the guidelines were first adopted, the Commission has reviewed the audit guidelines in the light of the experience gained in the first year of their use. A revised version of the guidelines was issued in September 1996.

II.4 Requests for guidance

Over the period since the adoption of the amended code, the Commission's services have given guidance on the application of a particular provision of the code on three points - advertising in the principal display, display of code share flights and the treatment of passive bookings. The

background to the request for clarification and the Commission's services response is set out below.

The Commission's services gave their guidance on interpretation without prejudice to any other future positions of the Commission; it is for the Court of Justice to give binding interpretations of Community law pursuant to Article 177 of the Treaty.

II.4.a Advertising in the principal display

As part of the development of their commercial activities, CRSs wanted to offer carriers and others the possibility to place advertisements in the displays provided to subscribers. A number of CRSs sought to persuade the Commission that its concerns over the possible discriminatory effects of advertising in the principal display were not justified. In particular, they underlined the fact that their proposals envisaged the clear separation of the advertisement from the information contained in the principal display itself. In addition, they would ensure that the content of the advertisements displayed would be subject to the appropriate safeguards to prevent the neutrality and transparency of the display from being influenced.

It was accepted that CRSs could include advertising in the principal display on condition that they would apply strict guidelines on the content of the advertisements and the number of advertising slots that any carrier can take. The latter restriction is required to prevent a large carrier buying up all available advertising slots. The CRSs also have to ensure that any advertising is separated in a clear manner from the principal display. Finally, the advertising should not be used as a functionality through which bookings could be made.

II.4.b Display of code share flights

Paragraphs 9 and 10 of the Annex to the code require system vendors to ensure that no flight option shall be displayed more than once unless there is a joint venture or other contractual arrangement (such as a code share) requiring two or more carriers to assume separate responsibility for the offer and sale of air transport products, in which case each carrier, up to a maximum of two can have a separate display. From a technical standpoint, the selection of the two flights to be displayed is complex, and cannot be carried out by the CRS in isolation. In the absence of an agreement amongst carriers for an industry wide standard to be used for communicating the necessary information to enable the CRS to carry out the selection procedure, CRSs were continuing to display more than two flight options.

The Commission's services have indicated that a proposed set of procedures providing a solution to this problem drawn up jointly by the Association of European Airlines and the Reed Travel Group, were in conformity with the code. Any air carrier following these procedures would therefore have discharged its obligations under the code by providing sufficient data. Conversely, any code-sharing air carrier not following the AEA/Reed procedure will have to provide the required data in another way. However, if a CRS is not using these procedures, it will have to indicate which data code-sharing air carriers will have to provide. At the same time, the Commission's services indicated their willingness to consider alternative solutions to this problem.

II.4.c Passive bookings

Meetings were held with system vendors and carriers in early 1994 to find a mechanism for implementing the provisions of Article 10.1 concerning the notification of, and the possibility for a carrier to reject, a passive booking. As a result of the meetings, a coding structure for the notification and cancellation of passive bookings has been agreed and has now been implemented industry wide.

III. Need for an amendment to the code of conduct

1. An analysis of the complaints submitted under the existing code of conduct demonstrates that the present code is generally able to provide a satisfactory mechanism for resolving the majority of the problems identified by carriers, CRSs and subscribers, and hence makes a major contribution to securing fair competition in the CRS and related markets. However, there are a number of specific areas where the provisions of the code may need to be adapted to address issues that have been identified since the present code was adopted and, in particular, as a result of discussions that have taken place during the course of the charging principles review. In addition, important developments are taking place in the airline distribution sector and their effects, although they may not be significant today, will have to be taken into account in the code review in order that the code remains relevant for the foreseeable future.

2. In the following section the Commission has set out the motivation for a number of suggested amendments to the code. The amendments reflect discussions held with the industry partners and national experts.

a) Subscriber obligations

3. Air transport user organisations have indicated their concern to the Commission about a possible shortcoming of the present code which is the absence of any direct obligation on subscribers concerning the use of a CRS similar to those placed on carriers and system vendors. The rules placed on system vendors concerning the provision of accurate and comprehensive information in their CRS displays are rendered ineffective if the same information is not passed on to the customer. This should not be seen as implying that the subscriber deliberately seeks to mislead a customer or to misuse the system. Rather that in the face of large volumes of information contained in the displays, the subscriber must be selective in the information it passes on to the customer. In order to ensure that all stages in the process of distributing information on air transport services are subject to a consistent level of safeguards to guarantee the integrity of the final product, it is proposed that the missing link in that chain, i.e. the subscriber, is brought within the scope of the code.

4. At the present time, the only manner in which a subscriber is subject to any constraint in the use of a CRS is found in Article 9.5, which states that "A system vendor shall provide in each subscriber contract for (a) the principal display, conforming to Article 5, to be accessed for each individual transaction, except where a consumer requests information for only one air carrier or where the consumer requests information for bundled air transport products alone; (b) the subscriber not to manipulate material supplied by CRSs in a manner which would lead to inaccurate, misleading or discriminatory presentation of information to consumers." During the charging principles review, system vendors expressed their difficulty in ensuring that their subscribers fully respected these provisions. By bringing subscribers directly within the scope of the code, any complaint concerning a subscriber's behaviour can be investigated in a more objective and transparent manner.

5. The first objective of the amendment is to ensure certain minimum levels of confidence in the non-discriminatory nature of the information provided to the customer.

6. To meet the first objective, it is proposed that in the absence of a specific request from a customer, a subscriber will be required to use a neutral display. Furthermore, the subscriber should not manipulate the information provided by a CRS in a manner that would lead to inaccurate, misleading or discriminatory presentation of information to the customer. This provision will also apply to the use of third party software that subscribers may use as an interface between the CRS and themselves.

7. In addition, the consumer should also be provided with full information on a number of key features of the flight, including any en-route changes of equipment, the number of scheduled en-route stops, the identity of the air carrier actually operating the flight, and of any changes of airport required in any itinerary provided, to the extent that this information is shown by the CRS. Finally, to assist consumers in their choice of flight, they shall be entitled at any time on request to be provided with a print out of the CRS display or with access to a parallel CRS display reflecting the same image being viewed by the subscriber. Commercially sensitive data, such as "net fares", would be excluded from this provision.

8. The second objective of the amendment is to protect the carrier from the effects of abusive bookings that lead to unnecessary booking fees and reduced reliability of inventory control systems.

9. In respect of the second objective, the code must also ensure that the subscriber uses the CRS in manner which is in the best interests of all the parties involved in a transaction. Therefore, it is necessary that the subscriber is required to use the system only to make valid transactions and hence avoid the risk that a carrier is billed for unnecessary bookings. Subject to any derogation from this principle granted to the subscriber by the carrier concerned.

10. To meet this objective, the subscriber will be required to make reservations and issue tickets in conformity with the information contained in the CRS used, and, where possible, carry out reservation and ticketing operations in the same CRS. A subscriber shall not make reservations for the same passenger which are physically impossible to carry out, such as duplicate bookings on a number of flights to guarantee a customer a seat on a flight at whatever time he may eventually arrive at the airport.

(Reference: proposed Article 9.a and Annex II)

b) Extension of scope of code to include rail options

11. With the rapid expansion of the high speed rail network in the EU, the consumer now has a competitive alternative to air transport for journeys between 300 and 800 kms. However, in order to take full advantage of this new choice of transport modes, or combination of modes, the prospective passenger needs to be able to compare the different characteristics of the services

on offer, and to be provided with a continuity of information in the case of a combination of modes. At the present time, rail and air services are, for the most part, distributed through separate channels which renders the comparison of options by the potential traveller difficult. There are isolated examples where rail services are currently integrated into an air transport CRS display; for the most part they are identified by air carrier designator codes.

12. The Commission is aware of the importance of distribution arrangements in the overall objective of encouraging interoperability. It is also aware of the possible benefits in terms of the improved quality of information available to the consumer and of the reduced distribution costs arising from the elimination of wasteful duplication of reservation systems. It is therefore proposing to introduce, under certain circumstances, the possibility for rail to be integrated into the CRS display of air transport services.

13. It would appear that the most satisfactory method of fixing the conditions under which a rail transport operator could distribute its services alongside those of air carriers would be to apply the same obligations on the rail operator as those applicable to a participating carrier. Therefore, in order to avoid discrimination, it is proposed that a rail transport operator would be considered as an air carrier for the purposes of the code and could distribute its services in an integrated display if it meets the obligations placed on a participating carrier as set out in Article 4 of the code.

14. The question has been raised as to whether a rail operator, who also provides computer reservation services (for rail transport) should also be treated as a system vendor/parent carrier and thus be required to respect the obligations contained in Articles 3, 3a, 4, 4a, 5, 6, 7, 8, 9, 10 and 21a of the code. It would appear, however, that since such reservation systems are designed to cater primarily for the rail operator's own services and that the participation of other rail operators is very limited indeed, then the rail operator's system should not be considered as a CRS for code purposes.

15. The basis on which rail services will be integrated into the principal display are complex and must be subject to careful consideration. In particular, the possible screen padding effects that may be caused by the display of all rail services. It should be considered which rail services should be included e.g. High speed, Inter City, etc but excluding local services. However, it is not proposed at this stage to fix different criteria for the inclusion of rail services in the display algorithm. More general technical problems may arise from the substantial increase in the number of IATA location identifier codes required to cover all the railway stations likely to be included in CRS displays. It is not clear whether the existing stock of three digit codes will be inadequate to meet the likely demand for new codes.

(Reference: proposed Articles 2(r), 2(s), 2(t) and 21.b)

c) Charging policy

16. An extensive debate has taken place between the Commission, CRSs, carriers and subscribers concerning the basis on which CRSs calculate the level of fees to be charged for the services they provide. Several carriers have complained to the Commission that CRSs have not

respected the requirement under Article 10.1 that "Any fee charged 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". They base their complaints on the fact that subscribers using a CRS receive discounts or incentives based on usage (productivity pricing or incentive schemes). They claim that a consequence of such schemes is that the part of the cost burden no longer borne by the subscriber is therefore transferred to the fee charged to the carrier. They suggest that as a result of the incentive payments, many large subscribers are effectively paid for the use of the CRS facilities.

17. With the help of external consultants, the Commission carried out a detailed examination of CRSs' charging policies. However, the results of this examination were inconclusive on the issue of incentive payments to subscribers. The report suggested that the present trend in incentive schemes was leading to a competing spiral between CRSs in their bids for subscriber business which did not result in any added value for the carrier who has to foot the bill through increased booking fees.

18. On the other hand, it was also recognised that the present system of incentive payments to subscribers is an important marketing tool for the CRSs in gaining access to new markets or of increasing market share in their existing markets. The CRSs consider that their charging policy with respect to subscribers is composed of two distinct elements, firstly a fee for the provision of equipment and other services, and secondly a fee payable to the subscriber for the provision of distribution services to the CRS. The level of the distribution fee varies according to the competition in the market for such services. The consultant's report demonstrated that the higher the degree of competition, the higher the level of the distribution fee. Where competition is the most intense, the result can be that the CRS is required to pay a higher fee to subscribers for the distribution of its services than the fee it charges the same subscribers for the rental of equipment and other services.

19. The Commission accepts that it is not in the CRSs' interest for the fees payable to subscribers for the distribution service to continue to increase, and that therefore CRSs have not deliberately set about increasing payments to subscribers in order to raise booking fee levels. Given the close correlation between the level of incentive payments and the extent of competition between CRS in a particular market, the Commission is persuaded by the CRSs' assertion that incentives awarded to subscribers are distribution costs. As such they can be included in the booking fee calculation.

20. The Commission does not seek to prevent competition between CRSs by imposing restrictions on a CRSs ability to attract new business. Therefore, the obligation of a system vendor with respect to its charging policy to subscribers needs to be clarified. Accordingly, it is proposed that the existing Article 10.1 (renumbered as Article 10.1.a) should apply only to fees charged to participating carriers, and a new Article 10.1.b would be introduced requiring that fees charged to a subscriber for equipment, etc, should 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 level of distribution fees payable to

subscribers, which, for the reasons set out above, are considered as distribution costs for the system vendor, and would be dealt with as described in paragraph 19.

21. Article 3.a.1.(b) of the code sets down the cost to be charged to a parent carrier when it is required to accept a booking in accordance with Article 3.a.1.(a). However, the present text is ambiguous and could lead to CRSs charging excessive fees for such bookings. To ensure that the provision defines more precisely the charge to be paid, it is suggested a parent carrier, in respect of another CRS, should not be obliged to pay more than the same CRS charges for the nearest equivalent transaction.

(Reference: Articles 3.a and 10.1)

d) Display of code-share flights

22. In the amendment to the code adopted in 1993, participating carriers with code-share type arrangements were each allowed, up to a maximum of two, to have a separate display using their own carrier designator codes. The reasons motivating the Council's decision concerning code-share flights remain valid today. Essentially, they are that code-sharing can provide benefits to the consumer through, for example, improved connecting flights, streamlined check-in procedures, special fare deals, and joint frequent flyer programmes.

23. However, it has been suggested that the limit of two on the number of flight options to be displayed is both arbitrary, and, more importantly, difficult to implement. So far, only one CRS has put in place a satisfactory procedure to enable carriers to comply with this provision ("the AEA/Reeds solution"). The other three CRSs operating in the EU have announced their intention to implement the rule, but have identified a number of practical problems. They stem for the most part from the absence of sufficient information from the carriers to enable the CRS to identify the two options to be displayed.

24. In these circumstances, consideration must be given to whether the present rule should be amended. If the rule is to be amended, there appear to be only two possible alternatives. The first alternative is that all code-share flights (both operational and marketing) can be shown in the CRS display. The second alternative is that only the operational flight itself can be shown.

25. There is a convincing argument that the possibility to include all flight options in a CRS display results in an unacceptable level of "screen padding" (the CRS display shows several flights which appear to be operating on a route but which are all, in fact, marketing versions of a single operational flight). The consequence is that "genuine" operating flights are relegated to the second or third display screens and stand little chance of being selected by the subscriber. As the majority of all bookings are made from the first screen, the practice can have severe discriminatory effects in favour of carriers having code-sharing arrangements. The result is also very confusing for the consumer.

26. In these circumstances, the Commission considers that the balance of the arguments tends to suggest that the distortive effects of the display of multiple flight options of the same flight outweighs the benefits to the consumer of code-share arrangements described above.

27. The proposal contained in the second alternative to the existing arrangements - only the operating flight to be displayed - has met with a generally negative reaction from all sides of the industry. The recognised benefits of the code-share arrangements would be undermined if carriers were unable to market the flights of their code-share partners in their own names.

28. In the light of the above, it is proposed that the present arrangements be maintained in force, but clarified so that a CRS, in the absence of adequate information to apply the two option rule, will be allowed to select, on a non-discriminatory basis, the options to be displayed.

(Reference: Annex, paragraph 10)

e) Scope of audit

29. The present text of Article 21a concerning the audit of the technical compliance of a CRS requires clarification as to the period covered by the audit, the activities of the CRS that are subject to audit, and the deadline for the submission of the audit report.

30. Currently a system vendor is required to ensure that the technical compliance of its CRS is monitored by an independent auditor. The code does not specify whether monitoring is to be continuous throughout the year or limited to a specific point in time (e.g. the date on which the auditor carried out the audit).

31. In order to guarantee that the controls required by the code are in place at all times, it is necessary for the monitoring to refer to the entire year. However, this does not necessarily require that the auditor is present 24 hours per day. He may rely on internal controls applied by management to achieve the objectives required by the code.

32. The technical compliance of the CRS subject to monitoring by the independent auditor includes not only the software and hardware of the system but also the internal controls applied by management referred to in the previous paragraph.

33. Finally, in the interests of the efficient organisation of the monitoring process, it is proposed that the audit report should cover a calendar year and be submitted within four months after the end of the year in question.

(Reference: Article 21.a)

f) Ticketing arrangements for flights carrying the same flight number operated by the same carrier

34. The text of the provision concerning ticketing arrangements for flights carrying the same flight number operated by the same carrier (paragraph 9 of the annex to the code) requires clarification to ensure that the objectives intended by the Council are fully met. The code currently states that "Nevertheless, only one reservation shall be necessary where the flights are

operated by the same air carrier, with the same flight number, and where the air carrier requires only one flight coupon." It has been observed that the requirement of the air carrier to have only one flight coupon does not impose a corresponding obligation on the CRSs to issue such a coupon.

35. It is therefore proposed to amend the text of the provision to read "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 ".

(Reference: Annex, paragraph 9)

g) Security package

36. Article 6.4 of the code requires a system vendor to make available, within three months of the entry into force of the regulation, a description of the technical and administrative measures ("security package") which it has adopted to conform with the security of personal and marketing data requirements of the code (Articles 6.1 and 6.2). The Commission is required to decide on the adequacy of these measures to provide the safeguards required (Article 6.5).

37. Given that the Commission has recently completed this assessment of the security packages in respect of all CRSs operating in the EU, and that the audit foreseen under Article 21a requires the security provisions of Articles 6.1 and 6.2 to be monitored in any case, the requirement to submit a description of the measures taken, and for their review by the Commission, is no longer required. Therefore, in order that the eventual consolidated version of the three code regulations properly reflects the obligations on system vendors, it is proposed that Articles 6.4 and 6.5 are deleted.

38. The deletion of Article 6.5 requires that the text of Article 3.a.2 should be reviewed. Article 3.a.2 states that " The obligation imposed by the Article shall not apply in favour of a competing CRS when, in accordance with the procedures of Article 6(5) or Article 7 (3) or (4), it has been decided that the CRS is in breach of Article 4a or that a system vendor cannot give sufficient guarantees that obligations under Article 6 concerning unauthorised access of parent carriers to information are complied with." Since it is proposed that Article 6.5 be deleted, and since Articles 7(3) and 7(4) (the reciprocity provisions) already provide through Article 7.2 for the withdrawal of the obligation on parent carriers under Article 3.a directly, then Article 3.a.2 should be linked to the general enforcement powers of Article 11.

(Reference: Articles 3.a and 6)

h) Right of a defendant to be heard

39. Under the enforcement powers given to the Commission by the Council in Article 11 of the code, it is empowered to initiate procedures to terminate infringements of the provisions of

the code. In the case that the Commission intends to impose a fine on an undertaking or association of undertakings, it must give the parties concerned the right to be heard on the matters to which the Commission takes objection (Article 19). It is possible however that the Commission could take a decision which, without involving the imposition of a fine, could nevertheless have important commercial consequences for the undertaking concerned (e.g. the Commission may require a system vendor to remove what it considers are unfair terms in a participating carrier agreement). The absence of the possibility for the defendant to be heard in such circumstances may infringe his rights of defence. It is therefore proposed that the right to a hearing should be expressly granted to all defendants in cases where the Commission intends taking a decision.

(Reference: Article 19)

i) Inclusion of information systems within the scope of the code

40. At the present time it is difficult to assess with any accuracy the developments that will take place in the methods of electronic distribution of air transport products. Already bookings can be made through the Internet on several airlines and CRSs. The question is frequently asked whether such systems fall within the scope of the code of conduct. The definition of a CRS according to the present code states that a "computerised reservation system means a computerised system containing information about, inter alia, schedules, availability, fares and related services, with or without facilities through which reservations can be made or tickets may be issued, to the extent that some or all of these services are made available to subscribers".

41. However, as the Internet or similar systems only act as sophisticated communications links between information providers (e.g. an airline or CRS) and their subscribers and do not contain any information on air transport services per se, they do not appear to fall within the definition of a system vendor or CRS. Such systems are considered analogous to communication networks which do not fall directly within the scope of the code (e.g. the SITA network), but should come under the responsibility of a system vendor to ensure that any third party providing services on its behalf respects the relevant code provisions.

42. In these circumstances, for services distributed through systems such as Internet, it is the information provider (i.e. CRS or carrier) that must ensure compliance with the code provisions. Special attention should be paid in this respect to the fact that the code definition of a CRS refers to air carriers in the plural, therefore a carrier using the Internet or a similar service to display information about its own services alone would not be considered as a CRS. However, as soon as it chose to display other carriers' services, then it may risk being considered as a CRS, and expected to comply with the code accordingly.

43. Article 21 of the code presently exempts a CRS used by an air carrier or group of air carriers in its/their own offices from the rules concerning the neutrality of the principal display. The consumer would not reasonably expect to receive unbiased information from the offices or sales counters of an air carrier. The application of the same principle to services provided through systems such as the Internet should permit a group of carriers - those with code share or

other similar agreements but not simply interline agreements (since this could severely limit the number of CRSs falling within the scope of the code) - to offer information on their air transport products without being subject to the provisions of Article 5 and 9(5). It is proposed that Article 21 also be amended to ensure consistency.

44. To ensure that CRS services that are provided in an electronic means directly to the user are also covered by the code, it is proposed that the definition of a subscriber be amended to refer to the "user of a CRS" by deleting reference to the distribution facilities. This would also have the effect of clarifying that information systems are covered by the code.

(Reference: Article 2.1 and proposed Articles 21 and 21.c)

j) Obligations of third parties

45. In order to clarify the manner in which information systems, as with any other third party providing services on behalf of a system vendor, fall within the scope of the code, it is proposed that an obligation be placed on a system vendor to specifically ensure in its relations with third parties the duty to respect the relevant code provisions.

(Reference: Article 4.a)

k) Ranking of flights

46. With the increase in the use of hub and spoke arrangements by carriers, the service provided by indirect flights can now be of an equivalent level to that offered on other direct flights involving stops at intermediate points.

47. The ranking criteria contained in paragraph 1 of the Annex to the code should be amended such that the ordering of the display of flights is firstly all non stop flights between the city pair concerned, and secondly all other flights.

(Reference: Annex, paragraph 1)

l) Billing information on magnetic media

48. Amongst other matters, Article 10.1 of the code requires that a system vendor offers billing information on magnetic media. This provision recognises the fact that the audit of CRS bills can only be satisfactorily carried out by electronic means. The volume of booking data involved is so great that alternative billing media such as microfiche or paper are inadequate.

49. System vendors normally charge a fee for providing billing information on magnetic media (BIDT - billing information data tapes) but not for the provision of information on other media. The fee is considerably higher than the cost of the tape itself. To ensure that the objective of the provision is not impaired by the charge made for the BIDT by the system vendor, it is proposed that the fee to be charged for billing information on magnetic media should not exceed the cost of the media itself together with transportation costs thereof.

(Reference: Article 10.1)

m) Other

50. Article 23.2 of Reg 2299/89 has ceased to be required following the passage of time and can therefore be deleted.

(Article 23.2 of Reg 2299/89)

Proposal for a

Council Regulation (EC)

amending Council Regulation (EEC) No 2299/89

on a Code of Conduct for computer reservation systems (CRSs)

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Articles 75 and 84(2) thereof,

Having regard to the proposal from the Commission[1] ,

Having regard to the opinion of the Economic and Social Committee [2]

Acting in accordance with the procedure referred to in Article 189c of the Treaty in co-operation with the European Parliament [3],

Whereas Council Regulation No 2299/89[4] as amended by Regulation No 3089/93[5] has made a major contribution to ensuring fair and unbiased conditions for air carriers in computer reservation systems, thereby protecting the interests of consumers;

Whereas it is necessary to extend the scope of Regulation No 2299/89 and to clarify its provisions and it is appropriate to take these measures at Community level to ensure that the objectives of the Regulation are met in all Member States;

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

Whereas this Regulation is without prejudice to the application of the Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and of the free movement of such data;

Whereas Commission Regulation (EEC) No 3652/93[6] as amended by the Act of Accession of Austria, Finland and Sweden, exempts from the provisions of Article 85(1) of the Treaty agreements for the common purchase, development and operation of computer reservation systems;

1

2

3

4 OJ No L 220, 29.7.1989, p1

5 OJ No L 278, 11.11.1993, p1

6

Whereas systems providing information directly to the consumer by electronic means through public telecommunications networks should be brought within the scope of the code;

Whereas it is desirable to clarify the basis on which parent carriers should be charged for bookings they are required to accept from competing CRSs;

Whereas it is necessary to clarify the basis on which CRSs charge for the services they provide to participating carriers and subscribers to improve transparency;

Whereas it is necessary to ensure that third parties carrying out services on behalf of a CRS are subject to the same obligations the code imposes on that CRS;

Whereas the effectiveness of the code's CRS audit requirements has rendered unnecessary the separate assessment by the Commission of a CRS's data security arrangements ;

Whereas it is necessary to include subscribers directly within the scope of the code so that the reservation services they provide to their customers are not inaccurate, misleading or discriminatory;

Whereas the right of a defendant to be heard on matters to which the Commission takes objection need to be expressly foreseen;

Whereas the integration of rail services into the CRS display of air transport services can improve the quality of information available to consumers and eliminate the wasteful duplication of distribution services;

Whereas rail operators distributing services through integrated air and rail CRSs should be subject to the same conditions as air carriers;

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

Whereas the ranking criteria for the display of flights should provide consumers with the best options for their air travel arrangements,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation No 2299/89 is hereby amended as follows:

1. Article 1 is replaced by the following:

"**Article 1**

This Regulation shall apply to computerised reservation systems to the extent that they contain air transport products, with or without the incorporation of rail transport products, when offered for use and/or used in the territory of the Community, 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 airports between which air carriage takes place. "

2. Article 2 is amended as follows:

a) 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;"

b) Paragraph (m) is replaced by the following:

" **(m)**

"consumer" means any person seeking information about and/or intending to purchase an air transport product; where a system vendor has a financial arrangement with a consumer, the principles of neutrality of this Regulation shall apply;

c) 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."

d) Paragraphs (r), (s) and (t) are added

"(r) "unbundled rail transport product" means the carriage by rail of a passenger between two stations, including any related ancillary services and additional benefits offered for sale and/or sold as an integral part of that product;

(s) "bundled rail transport product" means a pre-arranged combination of an unbundled rail transport product with other services not ancillary to rail transport, offered for sale and/or sold at an inclusive price;

(t) "rail transport product" means both unbundled and bundled rail transport products;"

3. Article 3a. is amended as follows:

a) Subparagraph 1.(b) is replaced by the following:

"(b)

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. "

b) Paragraph 2 is replaced by the following:

"2

The obligation imposed by the Article shall not apply in favour of a competing CRS when, in accordance with the procedures of Article 11, it has been decided that the CRS is in breach of Article 4a or Article 6 concerning unauthorised access of parent carriers to information."

4. Article 4a.4 is added:

"4

The system vendor shall ensure that any third parties providing in whole or in part CRS services on its behalf respect the relevant provisions of this regulation."

5. Articles 6.4 and 6.5 are deleted

6. The following Article 9.a is inserted:

"Article 9a

1. (a) As regards information provided by a CRS, a subscriber shall use a neutral display in conformity with Article 5.2.(a) and (b) unless another display is required to meet a preference indicated by a consumer.

(b) A subscriber shall not manipulate information provided by a CRS in a manner that will lead to inaccurate, misleading or discriminatory presentation of such information to the consumer.

(c) A subscriber shall make reservations and issue tickets in conformity with the information contained in the CRS used or as authorised by the carrier concerned.

(d) A subscriber shall inform the consumer of any en-route changes of equipment, the number of scheduled en-route stops, the identity of the air carrier actually operating the flight, and of any changes of airport required in any itinerary provided, to the extent that this information is present in the CRS.

(e) A consumer shall be entitled at any time to have a print out of the CRS display or be provided with access to a parallel CRS display reflecting the same image being displayed to the subscriber.

2 A subscriber shall use the distribution facilities of a CRS as described in Annex II of this code"

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 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 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.

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;"

8. Article 19.1 is replaced by the following:

" 1

Before taking decisions pursuant to Articles 11 or 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. "

9 Article 21 is replaced by the following:

"Article 21

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.

10. Article 21a.1 is replaced by the following:

" 1

The system vendor shall ensure that the technical compliance of its CRS with Articles 4a and 6 is monitored by an independent auditor on a calendar year basis. For this purpose, the auditor shall be granted access at any time to any programs, procedures, operations and safeguards used on the computers or computer systems through which the system vendor is providing its distribution facilities. Each system vendor shall submit its auditor's report on his inspection and findings to the Commission within four months of the end of the calendar year under review. This report shall be examined by the Commission with a view to any necessary action in accordance with Article 11 (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".

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."

12. Article 22.1 is replaced by the following:

"Article 22.1

This Regulation shall be without prejudice to national legislation on security, public order and data protection measures taken in application of Directive 95/46/CE. ".

13. Article 23 is replaced by the following:

"Article 23

The Council shall decide on the revision of this Regulation by 31 December 2002 at the latest, on the basis of a Commission proposal to be submitted by 31 March 2002, accompanied by a report on the application of this Regulation."

14. The Annex is replaced by Annex I and Annex II set out in the Annex.

Article 2

This Regulation shall enter into force on the 30th day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels,

For the Council
The President

ANNEX

"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.

2. A consumer shall at least be afforded the possibility of having, on request, a principal display ranked by departure or arrival time and/or elapsed journey time. Unless otherwise requested by a consumer, a principal display shall be ranked by departure time for group (i) and elapsed journey time for group (ii).

3. Where a system vendor chooses to display information for any city-pair in relation to the schedules or fares of non-participating carriers, but not necessarily all such carriers, such information shall be displayed in an accurate, non-misleading and non-discriminatory manner between carriers displayed.

4. If, to the system vendor's knowledge, information on the number of direct scheduled air services and the identity of the air carriers concerned is not comprehensive, this shall be clearly stated on the relevant display.

5. Flights other than scheduled air services shall be clearly identified.

6. Flights involving stops en route shall be clearly identified.

7. Where flights are operated by an air carrier which is not the air carrier identified by the carrier designator code, the actual operator of the flight shall be clearly identified. This requirement shall apply in all cases, except for short-term *ad hoc* arrangements.

8. A system vendor shall not use the screen space in a principal display in a manner which gives excessive exposure to one particular travel option or which displays unrealistic travel options.

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

10. 1. Where participating carriers have joint venture or other contractual arrangements requiring two or more of them to assume separate responsibility for the offer and sale of air transport products on a flight or combination of flights, the terms 'flight' (for direct services) and 'combination of flights' (for multi-sector services) in paragraph 9 shall be interpreted as allowing each of the carriers concerned - up to a maximum of two - to have a separate display using its individual carrier designator code.

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

11. A principal display shall, wherever practicable, include connecting flights on scheduled services which are operated by participating carriers and are constructed by using a minimum number of nine connecting points. A system vendor shall accept a request by a participating carrier, to include an indirect service, unless the routing is in excess of 130% of the great circle distance between the two airports or except where this would lead to the exclusion of services with a shorter elapsed journey time. Connecting points with routings in excess of 130% need not be used.

Annex II

Use of distribution facilities by subscribers

1. A subscriber shall keep accurate records covering all CRS reservation transactions. These shall include flight numbers, reservations booking designators, date of travel, departure and arrival times, status of segments, names and initials of passengers with their contact address and/or telephone number and ticketing status. When booking or cancelling space, the subscriber must ensure that the reservation designator being used corresponds to the fare paid by the passenger.

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.

3. Whenever a passenger cancels a reservation, the subscriber must immediately release such space.

4. When a passenger changes an itinerary, the subscriber shall ensure that all space and supplementary services are cancelled at the time the new reservations are made.

5. A subscriber shall, where practicable, request or process all reservations for a specific itinerary, and all subsequent changes, through one CRS.

6. A subscriber shall only request or sell airline space when requested to do so by a consumer.

7. A subscriber shall ensure that a ticket is issued in accordance with the reservation status of each segment and in accordance with the applicable time limit. A subscriber shall not issue a ticket indicating a definite reservation and a particular flight unless confirmation of such reservation has been received."

Impact Assessment Form

The Impact of the Proposal on Business
with special reference to small and medium sized enterprises

Proposal for an amendment of the Code of Conduct for Computerised Reservation Systems (Council Regulation 2299/89 as amended by Regulation 3089/93).

The proposal

1. Why is Community legislation necessary in this area and what are its main aims?

The proposal contains a number of amendments to an existing Regulation to reflect developments in the sector since 1993. The Community has competence to regulate the activities of CRSs.

The Impact on business

2. Who will be affected by the proposal?

The principal businesses affected by the proposal are the CRS companies, of which there are five (Amadeus, Galileo, Gets, SABRE and Worldspan) operating in the EU. They do not fall into the definition of SMEs.

Part of the amendment proposes that subscribers (mainly travel agents) must use the computerised reservation systems (CRSs) in a neutral and non-discriminatory manner and provide customers with adequate information on the principal characteristics of the flight selected. However, this proposal already applies to the majority of travel agents in the EU, who are IATA agents, since it already exists as the IATA Code of Reservation Ethics.

3. What will businesses have to do to comply with the proposal?

Generally, the amendments to the code require system owners and subscribers to use the CRSs in a non-discriminatory manner.

4. What economic effects is the proposal likely to have?

Part of the amendment proposes that rail operators should be allowed to distribute their services through the CRSs in an integrated display with air transport services. This should lead to a greater demand for rail services and facilitate the development of interoperability between rail and air services.

5. Does the proposal contain measure to take account of the specific situation of SMEs?
No.

Consultation

6. List the organisations consulted.

Association of European Airlines (AEA)
Orient Airlines Association (OAA)
European Communities Travel Agents Association (ECTAA)
Guild of Business Travel Agents (GEBTA)
CRSs (Amadeus, Galileo, Gets, SABRE and Worldspan)
CER (Community of European Railways)
IATA
European Regional Airlines Association (ERA)
Air Transport Users Council (AUC)

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ISSN 0254-1475

COM(97) 246 final

DOCUMENTS

EN 07 15

Catalogue number : CB-CO-97-237-EN-C

ISBN 92-78-20131-6

Office for Official Publications of the European Communities

L-2985 Luxembourg