

Air transport services: Code of Conduct for computerised reservation systems

2007/0243(COD) - 15/11/2007 - Legislative proposal

PURPOSE: to simplify the Code of Conduct for Computerised Reservation Systems.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: in 1989 the Community adopted Regulation (EEC) No 2299/89 on the Code of Conduct for Computerised Reservation Systems (CRS) at a time when the vast majority of airline bookings were made through CRS and most of the CRS's were owned and controlled by airlines. The Code was establishing in order to improve transparency and to prevent discriminatory behaviour both by the system vendors themselves and by airlines – especially parent carriers of CRSs. At the time the Code of Conduct proved successful in preventing abuses of market power. Since 1989, however, significant market developments have taken place including the rise of alternative booking channels. Many airlines have now divested their CRS ownership. Three of the four CRSs no longer have any airline ownership, while three airliners hold minority shareholdings in the fourth one. Further, consumers now have access to a multiplicity of information and booking channels for airport services (internet/call centres). Indeed, around 40% of all airline tickets in the EU are now booked via alternative channels and about 60% via travel agents and CRSs. These developments have rendered the 1989 Code of Conduct increasingly ill-adapted to market conditions. It is hindering competition and contributing to higher than necessary costs.

CONTENT: the purpose of this proposal, therefore, is to significantly simplify the Code of Conduct and to reinforce competition between CRS providers while maintaining basic safeguards against potential competitive abuses – especially in the case of close links between CRSs and airlines and to ensure the provision of neutral information to consumers. Under the terms of the proposal, this new Regulation would repeal and replace Regulation (EEC) 2299/89. The main provisions being proposed, in summary, are as follows:

Partial de-regulation of the CRS market: the Code of Conduct will be amended in order to adapt it to today's market context and the development of alternative distribution channels in particular. It will also seek to reinforce competition between the CRS providers by giving more flexibility to CRS's and airlines. This will allow CRSs to compete more effectively with the alternative distribution channels – both in terms of privacy and in terms of services offered. Simplifying the Code will increase the negotiating freedom of market participants. Thus, airlines and CRS system vendors will be free to negotiate over the booking fees charged by the CRS and the fare content delivered by the airlines. Current restriction regarding fare content, access to the distribution facilities and booking fees will be lifted. Some safeguards will still, nevertheless, remain.

Safeguards: these have been designed to protect against possible competitive abuses, especially in the case of the close links between CRSs and transport services providers. The following provisions will be maintained to protect against competitive abuses:

- Safeguards that protect the neutral advice of travel agents and that prohibit system vendors to attach exclusivity conditions to their contracts with the travel agents. Further, system vendors will be prohibited from identifying travel agents in the Marketing Information Data Tapes (MIDT). This will ensure that airlines do use the data to pressure travel agents into reducing their bookings on rival airlines.

- System vendors will be obliged to separate clearly the CRS system from any airline's internal reservation system to avoid a parent carrier from having privileged access to the CRS system.
- System vendors will be prohibited from reserving any distribution facility to their parent carriers in order to avoid competitive advantages of partner carriers over the other participating carriers.
- System vendors will be obliged to provide neutral and non-discriminatory displays in order to ensure neutral information for consumers and in order to avoid any screen bias in favour of specific airlines.
- System vendors will be obliged to provide Marketing Information Data Tapes (MIDT) on a non-discriminatory basis.
- Parent carriers will be obliged to provide a CRS, other than its own, with the same information on its transport services or to accept bookings from a CRS other than its own.
- Parent carriers will be prohibited from linking incentives or disincentives to the use of a specific CRS in order to avoid systematic preference of the “own” CRS.
- The Commission will be allowed to take measures that guarantee the equal treatment of EU airlines with regard to the CRS system in third countries.
- Personal data provisions will complement those of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Rail services:

The Code of Conduct will also apply to rail services that have been integrated into an air transport CRS. It will not, however, apply to “rail only” systems. The Code will ensure that rail services are non-discriminated against in the CRS. By establishing pricing freedom with regard to booking fees, the proposal allows rail companies to negotiate booking fees which are better adapted to the value of third tickets and hence create an incentive for rail companies to offer their services on the CRS systems too. Provisions concerning parent carriers will continue to apply to rail services.