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## **REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on a Code of Conduct for computerised reservation systems  
(COM(2007)0709 – C6-0418/2007 – 2007/0243(COD))

Committee on Transport and Tourism

Rapporteur: Timothy Kirkhope

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems (COM(2007)0709 – C6-0418/2007 – 2007/0243(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0709),
  - having regard to Articles 251(2), 71 and 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0418/2007),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Internal Market and Consumer Protection (A6-0248/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

### **Amendment 1**

#### **Proposal for a regulation**

#### **Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) Whereas it is necessary to establish effective competition between participating carriers and parent carriers and ensure respect for the principle of non-discrimination among air carriers irrespective of their participation in the CRS;***

*Justification*

*The Code should be designed to foster competition whilst preventing discrimination of airlines by CRSs.*

## Amendment 2

### Proposal for a regulation Recital 5 b (new)

*Text proposed by the Commission*

*Amendment*

***(5b) In order to ensure transparent and comparable terms of competition in the market, parent carriers should be subject to specific rules when they participate as capital investors in a CRS;***

*Justification*

*It should be made clear that parent carriers should comply with additional rules, such as those in Article 10, in order to prevent market distortion.*

## Amendment 3

### Proposal for a regulation Recital 5 c (new)

*Text proposed by the Commission*

*Amendment*

***(5c) Recourse to EC competition rules and procedures should be provided in order to prevent any abuse of a dominant position by one or more parent carriers;***

*Justification*

*Reference to general competition rules should be strengthened. The Code of Conduct complements them, it does not substitute them.*

## Amendment 4

### Proposal for a regulation Recital 6

*Text proposed by the Commission*

*Amendment*

(6) System vendors should clearly separate the CRS systems from any airline's internal reservation system and should refrain from reserving distribution facilities to their parent carriers, in order to avoid that a parent carrier could have a privileged

(6) System vendors should clearly separate the CRS systems from any airline's internal ***or any other kind of*** reservation system and should refrain from reserving distribution facilities to their parent carriers, in order to avoid that a parent

access to the CRS system.

carrier could have a privileged access to the CRS system.

## **Amendment 5**

### **Proposal for a regulation**

#### **Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***(7a) The use of an unbiased display increases the transparency of transport products and services offered by participating carriers and enhances consumer confidence;***

*Justification*

*Ranking criteria must be fair and must aim to help the travel agent give the consumer the clearest choice of travel options.*

## **Amendment 6**

### **Proposal for a regulation**

#### **Recital 8**

*Text proposed by the Commission*

*Amendment*

(8) System vendors should ensure that CRS marketing data is available to all participating carriers without discrimination, and transport providers should not be able to use such data in order to unduly influence the choice of the travel agent.

(8) System vendors should ensure that CRS marketing data is available to all participating carriers without discrimination, and transport providers should not be able to use such data in order to unduly influence the choice of the travel agent ***nor the choice of the consumer.***

## **Amendment 7**

### **Proposal for a regulation**

#### **Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***9a. Information on bus services for air transport products or rail transport products incorporated alongside air***

*transport products should be featured in future in the principal display of CRS.*

## **Amendment 8**

### **Proposal for a regulation Recital 9 b (new)**

*Text proposed by the Commission*

*Amendment*

***9b. CRS should in future contain easily understandable information about the CO<sub>2</sub> emissions and fuel consumption of the flight. This could be shown via average fuel consumption data per person/litre/100km and average CO<sub>2</sub> emissions per person/g/km, and could be compared with data of the best alternative train/bus connection for journeys of less than five hours.***

## **Amendment 9**

### **Proposal for a regulation Article 1 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

This Regulation shall apply to any computerised reservation system (hereinafter 'CRS'), insofar as it contains air-transport products, when offered for use or used in ***the territory of*** the Community.

This Regulation shall apply to any computerised reservation system (hereinafter 'CRS'), insofar as it contains air-transport products, when offered for use or used in the Community.

### *Justification*

*Rail transport services should be treated in the same way as air transport services.*

## **Amendment 10**

### **Proposal for a regulation Article 1 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

This Regulation shall also apply to rail-

This Regulation shall also apply to rail-



transport products, which are incorporated alongside air-transport products into the principal display of a CRS.

transport products, which are incorporated alongside air-transport products into the principal display of a CRS, ***when offered for use or used in the territory of the Community.***

*Justification*

*Rail transport services should be treated in the same way as air transport services.*

**Amendment 11**

**Proposal for a regulation  
Article 2 – point d**

*Text proposed by the Commission*

(d) 'computerised reservation system' means a computerised system containing information about, inter alia, schedules, availability, fares, ***and related services***, of more than one air carrier, with or without facilities ***through which reservations may be made, or tickets may be issued***, to the extent that some or all of these services are made available to subscribers;

*Amendment*

(d) 'computerised reservation system' means a computerised system containing information about, inter alia, schedules, availability ***and*** fares, of more than one air carrier, with or without facilities ***to make reservations or issue tickets***, to the extent that some or all of these services are made available to subscribers;

*Justification*

*The current wording creates confusion with respect to the definition of a CRS and to the related services made available to subscribers.*

**Amendment 12**

**Proposal for a regulation  
Article 2 - point g**

*Text proposed by the Commission*

(g) 'parent carrier' means any air carrier or rail-transport operator which directly or indirectly, alone or jointly with others, ***owns or effectively*** controls a system vendor, as well as any air carrier or rail-transport operator which it owns or ***effectively*** controls;

*Amendment*

(g) 'parent carrier' means any air carrier or rail-transport operator which directly or indirectly, alone or jointly with others controls, ***or participates in the capital, or has legal rights and representation on the board of directors, supervisory board or any other governing body of*** a system vendor, as well as any air carrier or rail-transport operator which it owns or

controls;

### *Justification*

*The definition should be clarified and extended to ensure the influence of carriers as a consequence of capital holdings in system vendors is duly taken into account. It is legitimate to conclude that the benefits airlines expect from owning CRSs have more to do with "competition" gains rather than with costs. The risk of abuse is particularly high when a dominant airline participates in a dominant CRS. It would be hard to indicate a threshold over which the risk of discrimination may be presumed. Parent carriers should not have undue influence on the CRS provider. Therefore stricter rules in regards to parent carriers are required to ensure fairness and transparency.*

## **Amendment 13**

### **Proposal for a regulation Article 2 - point g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) participation in the capital of a system vendor shall mean the combination of the purely economic value of an investment of an airline or rail operator in a system vendor coupled with the value of ownership rights of that airline or rail operator in the system vendor.***

### *Justification*

*A simple economic investment in a CRS should not define an airline or rail operator as a "parent carrier". Only if such an investment is coupled with the acquisition of ownership rights shall an airline or rail operator be considered a "parent carrier", thus leading to compliance with Article 10. This means that instances of accidental investment which do not confer the possibility of influence over the running of the system vendor, are taken into account.*

## **Amendment 14**

### **Proposal for a regulation Article 2 - point h**

*Text proposed by the Commission*

*Amendment*

(h) '**effective** control' means a relationship constituted by rights, contracts or any other

(h) 'control' means a relationship constituted by rights, contracts or any other

means which, either separately or **jointly** and having regard to the considerations of fact or law involved, confer the possibility of **directly or indirectly** exercising **a** decisive influence on an undertaking, in particular by:

- (i) the right to use all or part of the assets of an undertaking;
- (ii) rights or contracts which confer a decisive influence on the composition, voting or decisions of the organs of an undertaking **or otherwise confer a decisive influence on the running of the business of the undertaking**;

means which, either separately or **in combination** and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

- (i) **ownership or** the right to use all or part of the assets of an undertaking;
- (ii) rights or contracts which confer a decisive influence on the composition, voting or decisions of the organs of an undertaking;

### *Justification*

*The amendment underlines the parallelism between the Code of Conduct and competition policy. And by using the same definitions as in the merger regulation, the same criteria for the assessment of control can be used.*

*As these are largely tested and experienced in merger control, their application to CRSs is straightforward, especially as there are recognized guidelines for the assessment of control structures in competition policy.*

*Minority ownerships, even with very small ownership shares, may provide the status of "parent carrier" if they provide a say in the strategic decisions of the CRS. This will be the case if the air carrier has the possibility of exercising decisive influence over the CRS, in the sense of having the power to block actions which determine the strategic commercial behaviour of the CRS.*

## **Amendment 15**

### **Proposal for a regulation**

#### **Article 3 - paragraph 1 - point a**

##### *Text proposed by the Commission*

(a) attach **unreasonable** conditions to any contract with a participating carrier or require the acceptance of supplementary conditions which, by their nature or according to commercial usage, have no connection with participation in its CRS;

##### *Amendment*

(a) attach **discriminatory** conditions to any contract with a participating carrier or require the acceptance of supplementary conditions which, by their nature or according to commercial usage, have no connection with participation in its CRS;

### *Justification*

*The amendment aims to avoid confusion regarding the term 'unreasonable'.*

## **Amendment 16**

### **Proposal for a regulation**

#### **Article 3 - paragraph 1 - point b**

##### *Text proposed by the Commission*

(b) 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.

##### *Amendment*

(b) 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 ***or that a participating carrier may not freely use alternative reservation systems such as its own Internet booking system and call centres.***

### *Justification*

*The amendment aims to avoid that a CRS may circumvent the airline's negotiation freedom by refusing altogether the participation of an airline in its system if it does not limit the use of other booking channels.*

## **Amendment 17**

### **Proposal for a regulation**

#### **Article 3 - paragraph 2 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***2a. The existence and extent of a direct or indirect capital holding and the control that such participation confers, on an air carrier or rail-transport operator in a system vendor, or on a system vendor in an air carrier or rail-transport operator, shall be publicly disclosed.***

### *Justification*

*For the purposes of the application of the provisions contained within Articles 3 and 10 and for reasons of transparency of relationships between system vendors and air carriers, such information should be made publicly disclosed.*

## **Amendment 18**

**Proposal for a regulation**  
**Article 4 - paragraph 1**

*Text proposed by the Commission*

1. A system vendor shall not reserve any specific loading and/or processing procedure, any other distribution facility, or any **improvements** to these, for one or more **of** its parent carrier(s).

*Amendment*

1. A system vendor shall not reserve any specific loading and/or processing procedure, any other distribution facility, or any **changes** to these, for one or more **participating carriers, including** its parent carrier(s). **The system vendor shall provide information about any changes to its distribution systems and loading/processing procedures to all participating carriers.**

*Justification*

*The amendment re-enforces the non-discrimination principle between air carriers with regard to the distribution facilities. All air carriers should have access to the latest technical improvements. In order to ensure transparency about available systems, the CRSs should provide information on them to all carriers.*

**Amendment 19**

**Proposal for a regulation**  
**Article 5 – paragraph 1**

*Text proposed by the Commission*

1. A system vendor shall provide a principal display or displays for each individual transaction through its CRS and shall include therein the data provided by participating carriers in a neutral and comprehensive manner and without discrimination or bias. Criteria to be used for ranking 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. The principal display(s) shall respect the rules set out in Annex 1.

*Amendment*

1. A system vendor shall provide a principal display or displays for each individual transaction through its CRS and shall include therein the data provided by participating carriers in a neutral and comprehensive manner and without discrimination, bias **or favouritism**. Criteria to be used for ranking 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. The principal display(s) shall **not deliberately mislead the consumer, should be easily accessible and** respect the rules set out in Annex 1.

### *Justification*

*It is necessary to cover favouritism also, which is not included in the Commission's initial version. The original wording is imprecise and could be open to interpretation.*

## **Amendment 20**

### **Proposal for a regulation Article 5 - paragraph 2**

#### *Text proposed by the Commission*

2. In the case of information provided by a CRS, a subscriber shall use a neutral display in accordance with paragraph 1 unless another display is required to meet a preference indicated by the consumer.

#### *Amendment*

2. In the case of information provided by a CRS **to the consumer**, a subscriber shall use a neutral display in accordance with paragraph 1 unless another display is required to meet a preference indicated by the consumer.

### *Justification*

*Clarification is needed of the Rapporteur's original amendment. The new wording prevents the misinterpretation that the subscriber may not use information from any other source than the CRS display.*

## **Amendment 21**

### **Proposal for a regulation Article 5 - paragraph 2 a (new)**

#### *Text proposed by the Commission*

#### *Amendment*

**2a. Flights operated by air carriers subject to an operating ban pursuant to Regulation (EC) No 2111/2005 must be clearly and specifically identified in the display.**

### *Justification*

*This will facilitate the operation of Regulation 2111/2005 and best secure its objectives.*

## **Amendment 22**

**Proposal for a regulation**  
**Article 5 - paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

**2b. The system vendor shall introduce a specific symbol in the CRS display which shall be identifiable by the users for the information on the identity of the operating air carrier provided for under Article 11 of Regulation 2111/2005.**

*Justification*

*It is important that those using a computerised reservation system (travel agents or the general public) are made aware of flights operated by carriers on the EU Black List, under Regulation 211/2005.*

**Amendment 23**

**Proposal for a regulation**  
**Article 5 - paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. This Article shall not apply to a CRS used by an air carrier, or rail-transport operator, or a group of air carriers, or of rail-transport operators, in its or their own office or offices **and** sales counters clearly identified as such.

3. This Article shall not apply to a CRS used by an air carrier, or rail-transport operator, or a group of air carriers, or of rail-transport operators, in its or their own office or offices, sales counters **or on their own websites** clearly identified as such.

*Justification*

*This is not the appropriate framework to address issues relating to carriers' own websites.*

**Amendment 24**

**Proposal for a regulation**  
**Article 6 - paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. A system vendor shall not attach **unreasonable** conditions to a contract with a subscriber, such as preventing a subscriber from subscribing to or using any

1. A system vendor shall not attach **discriminatory** conditions to a contract with a subscriber, such as preventing a subscriber from subscribing to or using any

other system or systems, requiring the acceptance of supplementary conditions which have no connection with subscription in its CRS, or imposing an obligation to accept an offer of technical equipment or software.

other system or systems, requiring the acceptance of supplementary conditions which have no connection with subscription in its CRS, or imposing an obligation to accept an offer of technical equipment or software.

#### *Justification*

*The amendment aims to eliminate confusion regarding the term 'unreasonable'.*

## **Amendment 25**

### **Proposal for a regulation Article 7**

#### *Text proposed by the Commission*

Any marketing, booking and sales data may be made available by system vendors provided that:

*(a)* such data are offered with equal timeliness and on a non-discriminatory basis to all participating carriers, including parent carriers. Data may and, on request, shall cover all participating carriers and/or subscribers;

*(b)* when such data result from the use of the distribution facilities of a CRS by a subscriber established in the ***territory of the European Union***, it shall include no identification either directly nor indirectly of that subscriber.

#### *Amendment*

***1.*** Any marketing, booking and sales data may be made available by system vendors provided that such data are offered with equal timeliness and on a non-discriminatory basis to all participating carriers, including parent carriers. Data may and, on request, shall cover all participating carriers and/or subscribers.

***2. Participating carriers shall not use such data in order to unduly influence the choice of the subscriber.***

***3.*** When such data result from the use of the distribution facilities of a CRS by a subscriber established in the ***Community***, it shall include no identification either directly nor indirectly of that subscriber ***unless the subscriber and the system vendor agree the conditions for the appropriate use of such data.***

***4. Any agreement(s) between subscriber(s) and system vendor(s) on the MIDT shall be publicly disclosed.***

#### *Justification*

*Travel agents should be allowed to negotiate freely whether their identities are included in*



*MIDT. Article 7(b) does not exist in the current Regulation. As drafted, Article 7(b) will reduce market transparency by limiting the market information that CRSs may distribute. In addition, the restricted market data will still be distributed by IATA, not subject to the Regulation. Article 7(b) will thus create a monopoly for IATA, and the increased costs of market data will result in higher prices for consumers. This amendment will protect travel agencies from airline abuses, while preserving competition for market data – which will benefit consumers who will enjoy lower prices.*

## **Amendment 26**

### **Proposal for a regulation**

#### **Article 7 - paragraph 1 - point (ba) (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) Agreement(s) between subscribers and the system vendor on the MIDT may include a compensation scheme in favour of the subscribers.***

*Justification*

*Agreements between travel agents and CRS on the MIDT should provide the possibility of compensation, including remuneration.*

## **Amendment 27**

### **Proposal for a regulation**

#### **Article 8 - paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall monitor the application of the discriminatory or non-equivalent treatment of Community air carriers by system vendors in third countries.***

***At the request of a Member State or on its own initiative, the Commission shall investigate potential cases of discrimination against EU carriers in CRSs of third countries. Where such discrimination is found, before taking a decision, the Commission shall inform the Member States and interested parties and seek their comments, including by holding a meeting of relevant experts from the***

***Member States.***

*Justification*

*The issue of the investigation of discriminatory or non-equivalent treatment of Community air carriers by system vendors outside the EU should be monitored by the Commission.*

**Amendment 28**

**Proposal for a regulation  
Article 10 – paragraph 1**

*Text proposed by the Commission*

1. A parent carrier may not discriminate against a competing CRS by refusing to provide the latter, on request and with equal timeliness, with the same data on schedules, fares and availability relating to its own transport products as that which it provides to its own CRS or to distribute its transport products through another CRS, or by refusing to accept or to confirm with equal timeliness a reservation made through a competing CRS for any of its transport products which are distributed through its own CRS. The parent carrier shall be obliged to accept and to confirm only those bookings which are in conformity with its fares and conditions.

*Amendment*

1. A parent carrier may not, ***subject to reciprocity***, discriminate against a competing CRS by refusing to provide the latter, on request and with equal timeliness, with the same data on schedules, fares and availability relating to its own transport products as that which it provides to its own CRS or to distribute its transport products through another CRS, or by refusing to accept or to confirm with equal timeliness a reservation made through a competing CRS for any of its transport products which are distributed through its own CRS. The parent carrier shall be obliged to accept and to confirm only those bookings which are in conformity with its fares and conditions.

*Justification*

*It is desirable to introduce a reciprocity clause in relations between CRSs.*

**Amendment 29**

**Proposal for a regulation  
Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. On the other hand, a competing CRS may not refuse to store data concerning timetables, fares and available seats in respect of transport services offered by a***

***carrier associated with other CRSs under the same conditions as those accorded to its other customers and subscribers on any of the markets.***

*Justification*

*This amendment seeks to clarify relations between competing CRSs.*

**Amendment 30**

**Proposal for a regulation  
Article 10 – paragraph 2**

*Text proposed by the Commission*

2. The parent carrier shall not be obliged to accept any costs in this connection except for reproduction of the data to be provided and for accepted bookings. The booking fee payable to a CRS for an accepted booking made in accordance with paragraph 1 shall ***not exceed*** the fee charged by the same CRS ***or by its own CRS*** to other participating carriers for ***an*** equivalent ***transaction***.

*Amendment*

2. The parent carrier shall not be obliged to accept any costs in this connection except for reproduction of the data to be provided and for accepted bookings. The booking fee payable to a CRS for an accepted booking made in accordance with paragraph 1 ***of this Article*** shall ***be in line with*** the fee charged by the same CRS to other participating carriers for equivalent ***transactions***.

***The Commission may at any time ask a system vendor to provide any information judged necessary to ensure compliance by it with this paragraph.***

*Justification*

*The text must clarify the fact that fees paid by a parent carrier must not exceed those paid by other participating carriers to the same CRS (for equivalent transactions). Parent carriers and CRSs must have the necessary flexibility to negotiate in the interest of consumers; this freedom of negotiation must not give any systematic competitive advantage to the parent carrier or to competitors.*

**Amendment 31**

**Proposal for a regulation  
Article 10 – paragraph 3**

*Text proposed by the Commission*

3. A parent carrier shall neither directly nor

*Amendment*

3. A parent carrier shall neither directly nor

indirectly **link** the use of any specific CRS by a subscriber with the receipt of any commission or other incentive or disincentive for the sale of its transport products.

indirectly **discriminate in favour of its own CRS by linking** the use of any specific CRS by a subscriber with the receipt of any commission or other incentive or disincentive for the sale of its transport products.

#### *Justification*

*A parent carrier must not be banned from negotiating with CRSs with which it is not associated; parent carriers are, as far as the CRSs are concerned, on a par with other carriers. However, this must not lead to discrimination in favour of its own CRS.*

### **Amendment 32**

#### **Proposal for a regulation Article 10 – paragraph 4**

##### *Text proposed by the Commission*

4. A parent carrier shall neither directly nor indirectly **require** use of any specific CRS by a subscriber for sale or issue of tickets for any transport products provided either directly or indirectly by itself.

##### *Amendment*

4. A parent carrier shall neither directly nor indirectly **discriminate in favour of its own CRS by requiring** use of any specific CRS by a subscriber for sale or issue of tickets for any transport products provided either directly or indirectly by itself.

#### *Justification*

*A parent carrier must not be prohibited from negotiating with CRSs with which it is not associated; parent carriers are, as far as CRSs are concerned, on a par with other carriers. However, this must not lead to discrimination in favour of its own CRS.*

### **Amendment 33**

#### **Proposal for a regulation Article 11 - paragraph 1**

##### *Text proposed by the Commission*

1. Personal data **shall be processed** in the course of the activities of a CRS **exclusively** for the purpose of making reservations or issuing tickets for transport products. With regard to the processing of such data, a **CRS** shall be considered as a data controller in accordance with Article

##### *Amendment*

1. Personal data **collected** in the course of the activities of a CRS for the purpose of making reservations or issuing tickets for transport products **shall only be processed in a way compatible with these purposes**. With regard to the processing of such data, a **system vendor** shall be considered as a

2(d) of Directive 95/46/EC.

data controller in accordance with Article 2(d) of Directive 95/46/EC. ***The CRS shall separate personal data required for PNR or for commercial use as defined in the 'mixed data notion' from any other information about passengers available in the system. Such personal data must not be made available to other entities unless the person or organisation concerned agrees explicitly in written form.***

*Justification*

*This enhances legal clarity by using the correct definition (system vendor) instead of CRS, which is not a legal term.*

**Amendment 34**

**Proposal for a regulation  
Article 11 - paragraph 3**

*Text proposed by the Commission*

3. Where special categories of data referred to under Article 8 of Directive 95/46/EC are involved, such data shall only be processed where the data subject has given his explicit consent to the processing of those data.

*Amendment*

3. Where special categories of data referred to under Article 8 of Directive 95/46/EC are involved, such data shall only be processed where the data subject has given his explicit consent to the processing of those data ***on an informed basis.***

*Justification*

*Consent must be based on adequate information.*

**Amendment 35**

**Proposal for a regulation  
Article 11 - paragraph 5**

*Text proposed by the Commission*

5. Marketing, booking and sales data made available by a **CRS** shall include no identification, either directly or indirectly, of natural persons or, where applicable, of the organisations or companies on whose behalf they are acting.

*Amendment*

5. Marketing, booking and sales data made available by a **system vendor** shall include no identification, either directly or indirectly, of natural persons or, where applicable, of the organisations or companies on whose behalf they are acting.

### *Justification*

*This enhances legal clarity by using the correct definition (system vendor) instead of CRS, which is not a legal term.*

### **Amendment 36**

#### **Proposal for a regulation Article 11 - paragraph 7**

##### *Text proposed by the Commission*

7. A data subject shall be entitled to have access free of charge to data relating to him regardless of whether the data is stored by the **CRS** or by the subscriber.

##### *Amendment*

7. A data subject shall be entitled to have access free of charge to data relating to him regardless of whether the data is stored by the **system vendor** or by the subscriber.

### *Justification*

*This enhances legal clarity by using the correct definition (system vendor) instead of CRS, which is not a legal term.*

### **Amendment 37**

#### **Proposal for a regulation Article 11 - paragraph 8**

##### *Text proposed by the Commission*

8. The rights recognized in this article are complementary to and shall exist in addition to the data subject rights laid down by Directive 95/46/EC and by the national provisions adopted pursuant thereto.

##### *Amendment*

8. The rights recognized in this article are complementary to and shall exist in addition to the data subject rights laid down by Directive 95/46/EC, by the national provisions adopted pursuant thereto **and by the provisions of international agreements which the European Union is party to.**

### **Amendment 38**

#### **Proposal for a regulation Article 11 - paragraph 9**

##### *Text proposed by the Commission*

9. The provisions of this Regulation particularise and complement Directive

##### *Amendment*

9. The provisions of this Regulation particularise and complement Directive

95/46/EC for the purposes mentioned in Article 1. Save as otherwise provided the definitions in that Directive shall apply. Where the specific provisions with regard to the processing of personal data in the context of the activities of a CRS laid down in this Article do not apply, this Regulation shall be without prejudice to the provisions of the said Directive and the national provisions adopted by the Member States pursuant thereto.

95/46/EC for the purposes mentioned in Article 1. Save as otherwise provided the definitions in that Directive shall apply. Where the specific provisions with regard to the processing of personal data in the context of the activities of a CRS laid down in this Article do not apply, this Regulation shall be without prejudice to the provisions of the said Directive, the national provisions adopted by the Member States pursuant thereto ***and the international agreements which the European Union is party to.***

## **Amendment 39**

### **Proposal for a regulation Article 11 - paragraph 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***9a. Where a system vendor operates databases in different capacities such as a CRS or a host for airlines, technical and organisational measures must be taken to prevent interconnection between the databases, and to ensure that personal data are only accessible for the specific purpose for which they were collected.***

*Justification*

*The Amendment reinforces the Chinese wall between CRS and hosting activities.*

## **Amendment 40**

### **Proposal for a regulation Article 11 a new**

*Text proposed by the Commission*

*Amendment*

#### ***Audit***

***1. Any system vendor in which an air carrier or a rail-transport operator participates in its capital shall, on a three-yearly basis and, in addition, upon request from the Commission, submit an***

*independently audited report detailing its ownership structure and governance model. Costs related to the audited report shall be borne by the system vendor.*

*2. The system vendor shall ensure that the technical compliance of its CRS with Articles 4, 7, 11, and where applicable 10, is monitored by an independent auditor on an annual basis. Each system vendor shall submit its auditor's report to the Commission on a three-yearly basis and in addition upon request from the Commission. Costs related to the audited report shall be borne by the system vendor.*

*3. Any air carrier or rail-transport operator with a direct ownership stake in a system vendor shall on a three-yearly basis and, in addition, upon request from the Commission, submit an independently audited report detailing its involvement with the system vendor and its governance model. Costs related to the audited report shall be borne by the air carrier or rail transport operator.*

*4. The system vendor shall inform participating carriers and the Commission of the identity of the auditor at least three months before confirmation of an appointment. The Commission shall attest to the competence of the auditor unless if, within one month of notification, any of the participating carriers object to the capability of the auditor to carry out the tasks as required under this Article. In this case, the Commission shall, within a further two months and after consultation with the auditor, the system vendor and any other party claiming a legitimate interest, decide whether or not the auditor is to be replaced.*

*5. The auditor shall be granted access at all times to any programmes, procedures, operations and safeguards used on the computers or computer systems through which the system vendor provides its distribution facilities.*



**6. The Commission shall examine the reports referred to paragraphs 1, 2 and 3 with a view to taking any action necessary in accordance with Article 12.**

*Justification*

*Where close links between airlines and CRSs still exist there is a need to ensure transparency regarding these entities' ownership structure and governance model with a view to assisting the Commission in its monitoring of fair competition.*

*The auditor should be allowed full access in order to carry out a fair assessment. The wording reinstates provisions referring to audit from the previous Code which are necessary to achieve transparency in the sector.*

**Amendment 41**

**Proposal for a regulation**

**Article 11 a new - paragraph 7 (new)**

*Text proposed by the Commission*

*Amendment*

**7. In consultation with interested parties the Commission shall establish guidelines for the auditor's report referred to in paragraphs 1, 2 and 3.**

*Justification*

*Where close links between airlines and CRSs still exist there is a need to ensure transparency regarding these entities' ownership structure and governance model with a view to assisting the Commission in its monitoring of fair competition.*

**Amendment 42**

**Proposal for a regulation**

**Article 11a new - paragraph 8 (new)**

*Text proposed by the Commission*

*Amendment*

**8. The Commission shall attest the competence of the auditor referred to in paragraphs 1, 2 and 3.**

*Justification*

*The responsibility of approving the auditor should lie with the Commission.*

## Amendment 43

### Proposal for a regulation Article 12

#### *Text proposed by the Commission*

Where the Commission, acting on a complaint or on its own initiative, finds that there is an infringement of this Regulation it may by decision require the undertakings or associations of undertakings concerned to bring such infringement to an end.

#### *Amendment*

Where the Commission, acting on a complaint or on its own initiative, finds that there is an infringement of this Regulation it may by decision require the undertakings or associations of undertakings concerned to bring such infringement to an end. ***Investigations regarding possible infringements of this Regulation shall fully take into account the results of any inquiry under Articles 81 and 82 of the EC Treaty.***

#### *Justification*

*The CRS code of conduct does not replace but complements existing competition rules, which remains fully applicable.*

## Amendment 44

### Proposal for a regulation Article 13

#### *Text proposed by the Commission*

In order to carry out the duties assigned to it by this Regulation the Commission may, by simple request or decision, require undertakings or associations of undertakings to provide all necessary information.

#### *Amendment*

In order to carry out the duties assigned to it by this Regulation the Commission may, by simple request or decision, require undertakings or associations of undertakings to provide all necessary information, ***notably on issues covered by Articles 4, 7 and 11 but subject to the strictest data protection requirements applicable in the relevant Member State(s).***

## Amendment 45

**Proposal for a regulation**  
**Article 17**

*Text proposed by the Commission*

Within **five** years of the entry into force of this Regulation, the Commission shall draw up a report on the application of this Regulation which shall assess the need to maintain, amend or abolish the present Regulation.

*Amendment*

Within **three** years of the entry into force of this Regulation, the Commission shall draw up a report on the application of this Regulation which shall assess the need to maintain, amend or abolish the present Regulation.

*Justification*

*Given the rapid advance of computer systems, new technologies and new distribution channels may appear on the scene. This will make it necessary to carry out a periodic review every three years of the conditions specified by this regulation.*

**Amendment 46**

**Proposal for a regulation**  
**Article 17 - paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall report to the Parliament and to the Council on a biannual basis with a report on the application of Article 8 with regards to equivalent treatment in third countries and shall propose any appropriate measure in order to alleviate discriminatory conditions, including the conclusion or modification of bilateral air transport agreements between the EC and third countries.***

*Justification*

*The European Parliament's Transport and Tourism Committee shall be kept informed on a regular biannual basis by way of a report on the treatment of air carriers by system vendors operating in third countries. Air Transport Agreements with third countries seem to be the appropriate framework to deal with such situations or incidents.*

**Amendment 47**

## Proposal for a regulation

### Annex I

#### *Text proposed by the Commission*

1. Where ***fares*** are shown in the principal display, and/or where a ranking based on ***fares*** is chosen, ***fares*** shall be inclusive of all applicable ***and unavoidable*** taxes, charges and fees to be paid to the ***transport provider***.
2. No discrimination on the basis of airports or rail stations serving the same city shall be exercised in constructing and selecting transport products for a given city-pair for inclusion in a principal display.
3. Flights other than scheduled air services must be clearly identified. A consumer shall be entitled to have, on request, a principal display limited to scheduled or non-scheduled services only.
4. Flights involving stops en route must be clearly identified.
5. 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 must be clearly identified. That requirement will apply in all cases, except for short-term ad hoc arrangements.
6. Information on bundled products - i.e. prearranged combinations of transport with other services not ancillary to transport and offered at an inclusive price - shall not be featured in the principal display.

#### *Amendment*

1. Where ***prices*** are shown in the principal display, and/or where a ranking based on ***prices*** is chosen, ***prices*** shall be inclusive of ***the fares and of*** all applicable taxes, charges, ***surcharges*** and fees to be paid to the ***air carrier or rail-transport operator, and which are unavoidable and foreseeable at the time when shown on the display***.
2. No discrimination on the basis of airports or rail stations serving the same city shall be exercised in constructing and selecting transport products for a given city-pair for inclusion in a principal display.
3. Flights other than scheduled air services must be clearly identified. A consumer shall be entitled to have, on request, a principal display limited to scheduled or non-scheduled services only.
4. Flights involving stops en route must be clearly identified.
5. 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 must be clearly identified. That requirement will apply in all cases, except for short-term ad hoc arrangements.
6. Information on bundled products - i.e. prearranged combinations of transport with other services not ancillary to transport and offered at an inclusive price - shall not be featured in the principal display.  
***6a. At the choice of the subscriber, travel options in the principal display shall be ranked either by fares or in the following order:***  
***(i) non-stop travel options ranked by departure time;***

*(ii) all other travel options ranked by elapsed journey time.*

*6b. Except as provided in paragraph 6e, no travel option may be featured more than once in any principal display.*

*6c. Where travel options are ranked in accordance with paragraph 6a (i) and (ii), for all flights of elapsed journey time of up to 90 minutes, the best ranked alternative train services, including connecting services, must be featured on the first screen of the principal display.*

*6d. Where travel options serving the same city-pair are offered with connecting flights or as a combination of scheduled air and rail service on the CRS, at least the best ranked option by scheduled air and rail service shall be featured on the first screen of the principal display.*

*6e. Where air carriers operate under code-share arrangements the information indicating the different individual carrier-designator codes shall be clearly included without duplication and the carrier actually operating the flight shall be designated.*

#### *Justification*

*Paragraph 2 of Annex 1 refers to fares. This may be confusing as the definition of "fare" does not necessarily include all the elements of the price. To ensure maximum price transparency, the impact of the measure would be higher if we directly referred to the price instead of the fare.*

*For shorter distances, viable alternative train services should also feature on the first screen, to promote a more environmentally-friendly mode of transport.*

*Where travel options serving a destination are offered with connecting flights, the principal display should permit to rank the best option, where available, by scheduled air and rail service.*

*The proposal allows for an exception with regard to code-share arrangements in order not to discourage this type of arrangements that allows especially smaller air carriers to offer a larger network to their passengers. However it is important to prevent 'screen padding' where code-share flights are displayed and the CRS provider should adapt their service with technological innovation so that this is prevented. Consumers should benefit from being better informed.*

## EXPLANATORY STATEMENT

The Code of Conduct of Computer Reservation Systems (hereafter CRS) regulates how travel bookings are managed by air carriers and rail transport operators, CRS, and travel agents. The proposal contained in the Commission's Communication aims to reform the Code, established in 1989 by Regulation 2299/89 and modified by the Regulations 3089/93 and 323/99, by reinforcing the competition between CRS. The Code applies mainly to airline bookings, but also applies to rail services that are integrated into an air transport CRS.

This Code of Conduct was created in very different market conditions than the current ones. The majority of airline bookings were made by CRS, which were mostly owned or controlled by airline companies. The Code of Conduct was established to promote transparency and to prevent any market abuses or distortions of competition through a set of *ad hoc* rules. However, the Code is increasingly ill-adapted to new market conditions, the deregulation of other CRS markets around the world, the development of alternative distribution channels, and the decrease of airline ownership in CRS.

Today the annual market turnover volume generated by the companies providing CRS services is estimated to have a value of nearly 8 billion Euro (DG TREN, 2006) while the European corporate travel market was estimated at 88.2 billion \$ in 2005 (PhoCusWright Corporate Travel Distribution Report August 2006) and is expected to grow at a rate of 11% over the next three years.

### Commission Proposal

The main aim of the Commission proposal is that airlines and CRS should be able to freely negotiate the conditions of the distribution of air services. Systems should compete on price and on service quality. Yet it recognises that there should be a balance between the need to allow greater competition and the need for basic safeguards. When consulted interested parties explained that some safeguard rules were still needed: mainly to ensure fair competition in the presence of "parent carriers", to ensure the provision of neutral CRS displays and to guarantee the protection of personal data.

The Commission proposal does not change for the definition of a parent carrier, keeping the dual test of ownership and effective control. The Commission proposal simplifies rules concerning the CRS, especially in respect of their contractual relationship with air carriers, allowing greater freedom to negotiate content and fares. However, with regard to Marketing Information Data (MIDT), the Commission proposes a change to the current Code. By removing the possibility of travel agent identification within this information, the Commission are aiming to prevent possible influence from air carriers on travel agents and their distribution methods.

### Key areas of the proposal

#### *Parent carrier rules*

In recent years airlines have divested themselves of CRS ownership. One exception remains: Amadeus. It is owned by three airlines as minority shareholders, Air France, Iberia and

Lufthansa.<sup>1</sup> How much strategic influence this ownership gives them is unclear, but it is clear safeguards are needed against potential abuse. Without these it might be possible for a CRS to favour the parent carrier in terms of content, timeliness etc. As far as it is known, today no CRS are shareholders of airlines.

### *Marketing Information Data Tapes (MIDT)*

MIDT is booking data processed and sold by a CRS to air carriers. MIDT data can add significant value to several airline core operations; specifically, sales and marketing, network planning, pricing and revenue management. This can help airlines to understand market trends and competitor information. Due to alternative booking distribution channels the value of this data has been diminishing, as it is not representative of the whole market. Whilst the majority of CRS providers and airlines would like the identification of travel agents to remain available in the MIDT, the travel agents request that this should be removed from the MIDT because it might give airlines the ability to put pressure on the travel agents to reduce their bookings with rival airlines.

### *Display*

The display is the screen used by the travel agent to order the CRS information. The software is usually provided by the CRS to the travel agent as part of their business contract. It is crucial that the information provided by the CRS to the travel agent is neutral and fair.<sup>2</sup>

### **Rapporteur's comments**

Your Rapporteur believes that the Commission's aim to allow airlines and CRS to negotiate content and fares is a good one. Currently, lack of competition leads to higher CRS booking fees. Under the revision, CRS would have to compete more aggressively with each other for air carrier participation on the basis of lower booking fees and better service quality.<sup>3</sup> Your Rapporteur is keen for this central aim to remain intact.

The Commission proposal also provides for adequate protection of personal data, although the amendments to the Commission text proposed by the Rapporteur enhance the legal certainty.

However, some elements of the Commission proposal are unsatisfactory. The **parent carrier definition** (Article 2(g)) is misleading. A recent DG COMP investigation concluded that Lufthansa could not be considered a parent carrier of Amadeus.<sup>4</sup> Air France, Iberia and Lufthansa do not now consider themselves parent carriers. In short, each claim these are simply financial investments.

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<sup>1</sup> Airline ownership in Amadeus: Air France 23%, Iberia 11%, Lufthansa 11%, BC Partners and Cinven 53%, (EC - DG TREN Impact Assessment, SEC(2007)1496)

<sup>2</sup> The "principal" display is the initial screen seen by the travel agent, yet its importance should not be overstated, as in most cases the travel agent performs a more refined search using secondary screens.

<sup>3</sup> Negotiation freedom typically leads to the air carriers subscribing to so-called full-content programmes by which they provide all their fares to the CRS, in exchange for lower booking fees - Commission briefing March 08.

<sup>4</sup> In the merger control case M. 3717 of March 16, 2005, DG COMP found Amadeus is jointly controlled by BC Partners and Cinven Ltd. only.

To answer to the thorny question of why airlines should prefer to be parent carriers despite the burdens imposed by the Code of Conduct, one should note that if the participation of airlines in CRSs' equity in the past could have been justified by their interest to promote the start up of an efficient channel of communication of data to the market, this cannot be justified today. This situation has changed over time as CRSs increasingly became autonomous entities following the divestment of ownership.

It's therefore legitimate to conclude that the benefits airlines expect from owning CRSs have more to do with "competition" gains (i.e. with preferential conditions – or with the risk to be discriminated) and strategic reasons rather than exclusively with costs. The risk of abuse is particularly high when a dominant airline participates in a dominant CRS (e.g. which is the case in the French, German and Spanish markets).<sup>1</sup>

Your Rapporteur believes that this should be clarified, and the definition tightened. Although generally the greater the participation in ownership, the easier the possibility to obtain preferential conditions, it would be hard to indicate a threshold over which the risk of discrimination may be presumed.<sup>2</sup>

In light of this, your Rapporteur advises the Committee not to impose a prohibition or a threshold to the participation of the airliners in the CRS capital, but rather to impose an unequivocal condition: any capital investment in a CRS by an airline should lead to compliance with Article 10. This means that parent carriers of a CRS shall have to provide to the other CRSs the same fare information as to their own CRS. This provides safeguards against discriminations and abuses of dominant position by parent carriers to air carriers or rail operators without ownership stake in CRS.

With regard to **MIDT** (Article 7), the Rapporteur suggests a compromise allowing travel agent identification in MIDT if there is agreement between travel agents and CRS. The Rapporteur suggests a compensation scheme whereby remuneration for the travel agent is exchanged for such identification.

The above proposals should be considered under the fact that we are in a sector with several actors involved, mainly air carriers or rail-transport operators, CRSs, travel agencies and consumers. Since the Commission has not presented any appraisal on its impact assessment on the MIDT, the review should include all elements of travel distribution. Any decision to legislate on one element of distribution must take into account the relevance and consequences in other areas. For example, if the identification of the travel agencies in the MIDT is restricted as proposed by the Commission, then it may result in a monopoly situation from the existence of a similar system of data marketing from airliners, i.e. the IATA PaxIs.

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<sup>1</sup> . See Elaborated Briefing Note on ' The Revision of the code of conduct for computerised reservation systems (CRS)', European Parliament, 2008, IP/B/TRAN/IC/200X\_XX, p. 15.

<sup>2</sup> In an early case (BAT/Reynolds v. Commission – Judgment 17.11.1987, Case 142 and 156/1984) the Court of Justice held that “*although the acquisition by one company of an equity interest in a competitor doesn't in itself constitute conduct restraining competition, such an acquisition may nevertheless serve as an instrument for influencing the commercial conduct of the company in question so as to restrict or distort competition on the market (...). That will be true in particular where, by the acquisition of a shareholding or through subsidiary clauses in the agreement, the investing company obtains legal or the facto control of the commercial conduct of the other company or where the agreement provides for **commercial cooperation** between the companies or creates a structure likely to be used for such a cooperation*” (par. 37 - emphasis added). see page 14 , op cit.,



Provisions regarding the **Display** have been inserted in order, first and foremost, to benefit the needs of the consumer. Ranking criteria must be fair and must aim to help the travel agent give the consumer the clearest choice of travel options. These can be considered as additional safeguards against abuse. Your Rapporteur sees this as an opportunity for the CRS to develop more user-friendly and detailed search options. Finally, provisions on the audit of parent carriers have been inserted to increase the transparency of the sector.

## ANNEX

### ***LIST OF STAKEHOLDERS REPRESENTATIVES AND LOBBYISTS on Code of Conduct Review of Computerised Reservation Systems***

The rapporteur would like to make it known that he was contacted during the preparation of his report by the following stakeholder representatives and lobbyists\*:

#### Held meetings with:

Air France  
British Airways  
Lufthansa  
SAS  
IATA  
Cabinet DN, on behalf Amadeus  
APCO, on behalf Sabre Holdings  
Travelport  
Business Travel Coalition  
ECTAA  
ITM

#### Informally involved/written correspondence:

Freshfields  
ABTA  
BEUC

**\* NON EXHAUSTIVE LIST**

27.5.2008

## **OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION**

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems  
(COM(2007)0709 – C6-0418/2007 – 2007/0243(COD))

Draftsman: Wolfgang Bulfon

### **SHORT JUSTIFICATION**

The Code of Conduct for Computerised Reservation Systems (CRS) relates to the reservation by travel agents via CRS of airline and rail tickets. Since the Regulation entered into force in 1989, it has been revised twice (1993 and 1999). This forthcoming third revision seeks to reinforce competition between CRSs by means of a partial liberalisation of the Code of Conduct.

Your draftsman acknowledges that a revision of the current CRS Code of Conduct could lead to greater flexibility and better service. However, there are also concerns that, owing to the present structure of the European airline market, in which national carriers enjoy a privileged position thanks to their dominance of their domestic markets, there could be a further expansion of dominant market positions.

The interconnection of airlines, CRSs and travel agencies where there are dominant market participants means that independent travel agencies will in future be forced to participate in a particular CRS to obtain information about the whole range of fares and availability on particular airlines.

The liberalisation of the Code of Conduct not only means heightened competition but also an increase in the trend towards fragmentation of the information on fares and availability which is already developing as a result of airlines' alternative distributions channels.

Your draftsman is mostly afraid that the competitive situation for small and medium-sized travel agents will deteriorate, since they do not have sufficient resources to enter into contracts with several CRSs, and would otherwise have to use the airlines' direct distribution channels in order to have access to all services. This could gradually lead to rising prices for end users.

Your draftsman supports the provisions of Article 10 seeking to ensure that parent carriers supply all CRS providers with the same information on fares and availability ('full content'), including those with which they do not have a contract.

The Commission's proposal to prevent the identification of travel agents in the Marketing Information Data Tapes (MIDTs) by deleting their IATA agency number meets with your draftsman's full approval.

He also calls for the pricing structure of each flight segment offered by a CRS to be made as transparent as possible, showing all taxes, costs and fees payable to the transport service provider. Supplements for a CRS booking, imposed after the event, are unacceptable.

On the definition of 'parent carriers', your draftsman urges that any direct or indirect participation of an airline or railway company in a CRS should lead to its classification as a 'parent carrier'. He considers that any type of ownership in a CRS involves a degree of influence. To create fair conditions for competition, all airlines should withdraw from their participation in CRSs.

Any airlines or railway companies which prefer to retain their participation in a CRS should be bound by the measures provided in Article 3a.

Your draftsman proposes, prompted by Article 17 of the Commission proposal, that a periodic review of the implementation of the regulation should take place three times within five years from its entry into force. This review will in particular focus on the effectiveness of the regulation in ensuring non-discrimination and fair competition on the market in CRS services, and evaluate their effects on the consumer's interests.

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation

#### Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(9a) According to Regulation (...) on common rules for the operation of air transport services in the Community, air carriers must publish their fares inclusive of all applicable taxes, and charges, surcharges and fees which are unavoidable and foreseeable. CRS displays should provide information on fares inclusive of the same price categories to ensure that travel agents can communicate this information to their clients.***

### *Justification*

*Consumers need to have precise information on fares. Each of the actors (air carriers, CRS operators and travel agents) must therefore be obliged to provide transparent information on the elements making up the fares. This is in line with the recasting of the Regulation on common rules for the operation of air transport services (currently under examination).*

## **Amendment 2**

### **Proposal for a regulation Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) The Commission should regularly monitor the application of this Regulation and in particular its effectiveness in preventing anti-competitive and discriminatory practices in the market for distribution of travel services via a CRS, notably in the presence of carriers with close links to system vendors.***

### *Justification*

*Without calling into question the results of the impact assessment on parent carriers, the Commission must remain attentive and prevent anti-competitive practices.*

## **Amendment 3**

### **Proposal for a regulation Recital 12**

*Text proposed by the Commission*

*Amendment*

(12) This Regulation is without prejudice to the application of Articles 81 and 82 of the Treaty.

(12) This Regulation is without prejudice to the application of Articles 81 and 82 of the Treaty. ***It is complementary to general competition rules, which continue to apply in full to competitive abuses such as antitrust violations or abuse of a dominant position.***

### *Justification*

*The aim of this code of conduct is to help ensure fair and unbiased conditions for air carriers in computerised reservation systems. However, the text does not stand in isolation but*

*complements the provisions of Articles 81 and 82.*

#### **Amendment 4**

##### **Proposal for a regulation Article 2 – point g**

###### *Text proposed by the Commission*

(g) ‘parent carrier’ means any air carrier or rail-transport operator which directly or indirectly, alone or jointly with others, **owns or effectively controls** a system vendor, as well as any air carrier or rail-transport operator which it owns or effectively controls;

###### *Amendment*

(g) ‘parent carrier’ means any air carrier or rail-transport operator which directly or indirectly, alone or jointly with others:

**- holds one or more capital shares in or is entitled to appoint top executives or members of the board of directors, the supervisory board or any other governing body of a system vendor, and**  
**- has been recognised by the Commission as effectively controlling** a system vendor as well as any air carrier or rail-transport operator which it owns or effectively controls.  
**The Commission may at any time ask the air carrier or rail-transport operator holding one or more capital shares in a system vendor to provide it with all information considered necessary to determine its possible status as a parent carrier;**

###### *Justification*

*The Commission’s definition must be made more specific. There is no defined threshold beyond which capital holdings in a CRS clearly influence its commercial policy. It is therefore necessary to target all companies with CRS capital holdings and entrust the Commission competition authorities with the task of verifying whether they exercise any effective control over the CRS in question.*

*The second part of the amendment concerns transparency obligations.*

#### **Amendment 5**

**Proposal for a regulation**  
**Article 5 – paragraph 1**

*Text proposed by the Commission*

1. A system vendor shall provide a principal display or displays for each individual transaction through its CRS and shall include therein the data provided by participating carriers in a neutral and comprehensive manner and without discrimination or bias. Criteria to be used for ranking 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. The principal display(s) shall respect the rules set out in Annex 1.

*Amendment*

1. A system vendor shall provide a principal display or displays for each individual transaction through its CRS and shall include therein the data provided by participating carriers in a neutral, ***transparent*** and comprehensive manner and without discrimination or bias. Criteria to be used for ranking 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. The principal display(s) shall respect the rules set out in Annex 1.

**Amendment 6**

**Proposal for Regulation**  
**Article 5 - paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. When providing information from a CRS to the consumer, the subscriber shall inform the consumer of the final price to be paid for the transport service, including all additional costs and service fees charged by it.***

*Justification*

*The measure enhances price transparency for the consumer. It concerns both on-line and off-line travel agents. It complements the price transparency obligations of the recently adopted regulation on the operation of air transport services (revised 3<sup>rd</sup> package) which requires the same from the airlines.*

**Amendment 7**

**Proposal for a regulation**  
**Article 7 – point b**

*Text proposed by the Commission*

(b) *when* such data *result from the use of the distribution facilities of a CRS by a subscriber established in the territory of the European Union, it shall include no identification either directly nor indirectly of that* subscriber.

*Amendment*

(b) *participating carriers shall not use* such data *in order to unduly influence the choice of the* subscriber.

**Amendment 8**

**Proposal for a regulation**  
**Article 12**

*Text proposed by the Commission*

Where the Commission, acting on a complaint or on its own initiative, finds that there is an infringement of this Regulation it may by decision require the undertakings or associations of undertakings concerned to bring such infringement to an end.

*Amendment*

Where the Commission, acting on a complaint or on its own initiative, finds that there is an infringement of this Regulation it may by decision require the undertakings or associations of undertakings concerned to bring such infringement to an end. *Investigations regarding possible infringements of this Regulation shall fully take into account the results of any inquiry under Articles 81 and 82 of the Treaty.*

*Justification*

*The CRS code of conduct does not replace but complements existing competition rules, which remain fully applicable.*

**Amendment 9**

**Proposal for a regulation**  
**Article 13**

*Text proposed by the Commission*

In order to carry out the duties assigned to it by this Regulation the Commission may, by simple request or decision, require undertakings or associations of undertakings to provide all necessary

*Amendment*

In order to carry out the duties assigned to it by this Regulation the Commission may, by simple request or decision, require undertakings or associations of undertakings to provide all necessary



information.

information, *including the provision of specific audits, in particular on issues covered by Articles 4, 7 and 11 of this Regulation.*

*Justification*

*The Commission needs extended powers to ensure that the code of conduct is properly applied.*

**Amendment 10**

**Proposal for a regulation  
Article 17 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

*The Commission shall monitor the application of this Regulation on a regular basis, if necessary with the assistance of specific audits as provided for in Article 13. It shall in particular examine the effectiveness of the Regulation in ensuring non-discrimination and fair competition in the market for CRS services.*

**Amendment 11**

**Proposal for a regulation  
Annex I – point -1 (new)**

*Text proposed by the Commission*

*Amendment*

*-1. At the choice of the subscriber, travel options in the principal display shall be ranked either by fare or in the following order:*

*(a) direct travel options, ranked by departure time;*

*(b) all other travel options, ranked by total journey time.*

*Justification*

*Subscribers should be given several possible choices.*

## Amendment 12

### Proposal for a regulation Annex I – point 4

*Text proposed by the Commission*

4. Flight involving stops en route must be clearly identified.

*Amendment*

4. Flight involving stops en route must be clearly identified, ***and the length of the stops must be displayed.***

*Justification*

*So that the consumer can make the best choice corresponding to his interest.*

## PROCEDURE

<b>Title</b>	Code of Conduct for computerised reservation systems	
<b>References</b>	COM(2007)0709 – C6-0418/2007 – 2007/0243(COD)	
<b>Committee responsible</b>	TRAN	
<b>Opinion by</b> Date announced in plenary	IMCO 29.11.2007	
<b>Drafts(wo)man</b> Date appointed	Wolfgang Bulfon 31.1.2008	
<b>Discussed in committee</b>	26.3.2008	6.5.2008
<b>Date adopted</b>	27.5.2008	
<b>Result of final vote</b>	+: 36 –: 0 0: 1	
<b>Members present for the final vote</b>	Cristian Silviu Buşoi, Charlotte Cederschiöld, Gabriela Creţu, Mia De Vits, Janelly Fourtou, Evelyne Gebhardt, Martí Grau i Segú, Małgorzata Handzlik, Malcolm Harbour, Iliana Malinova Iotova, Pierre Jonckheer, Graf Alexander Lambsdorff, Kurt Lechner, Toine Manders, Nickolay Mladenov, Catherine Neris, Zita Pleštinská, Zuzana Roithová, Heide Rühle, Leopold Józef Rutowicz, Salvador Domingo Sanz Palacio, Christel Schaldemose, Andreas Schwab, Marianne Thyssen, Bernadette Vergnaud, Barbara Weiler	
<b>Substitute(s) present for the final vote</b>	Emmanouil Angelakas, Wolfgang Bulfon, Colm Burke, Giovanna Corda, Jan Cremers, Wolf Klinz, Manuel Medina Ortega, Gary Titley	
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Elisabeth Morin, Sirpa Pietikäinen, Nicolae Vlad Popa	

## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems  
(COM(2007)0709 – C6-0418/2007 – 2007/0243(COD))

Draftsman: Philip Bradbourn

### **AMENDMENTS**

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

#### **Amendment 1**

##### **Proposal for a regulation Recital 13 b (new)**

*Text proposed by the Commission*

*Amendment*

***(13b) Personal data should be processed in the course of the activities of a CRS exclusively for the purpose of making reservations or issuing tickets for transport products. The competent police authorities of the Member States or third countries should not be entitled to access personal data in the CRS.***

#### **Amendment 2**

##### **Proposal for a Regulation Article 7 - point b**

*Text proposed by the Commission*

(b) when such data result from the use of the distribution facilities of a CRS by a subscriber established in the territory of the European Union, it shall include no identification either directly *nor* indirectly of that subscriber.

*Amendment*

(b) when such data result from the use of the distribution facilities of a CRS by a subscriber established in the territory of the European Union, it shall include no identification either directly *or* indirectly of that subscriber ***in accordance with the relevant data protection laws of the Member States and those of the European Union.***

**Amendment 3**

**Proposal for a regulation  
Article 11 - paragraph 3**

*Text proposed by the Commission*

3. Where special categories of data referred to under Article 8 of Directive 95/46/EC are involved, such data shall only be processed where the data subject has given his explicit consent to the processing of those data.

*Amendment*

3. Where special categories of data referred to under Article 8 of Directive 95/46/EC are involved, such data shall only be processed where the data subject has given his explicit ***and informed*** consent to the processing of those data.

**Amendment 4**

**Proposal for a Regulation  
Article 11 - paragraph 4**

*Text proposed by the Commission*

4. Information under the control of the system vendor concerning identifiable individual bookings shall be stored off-line within seventy-two hours of the completion of the ***last element in*** the individual booking and destroyed within three years. Access to such data shall be allowed only for billing-dispute reasons.

*Amendment*

4. Information under the control of the system vendor concerning identifiable individual bookings shall be stored off-line within seventy-two hours of the completion of the ***journey relating to*** the individual booking and destroyed within three years. Access to such data shall be allowed only for billing-dispute reasons.

## Amendment 5

### Proposal for a Regulation

#### Article 11 - paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. Marketing, booking and sales data made available by a CRS shall include no identification, either directly or indirectly, of natural persons or, where applicable, of the organisations or companies on whose behalf they are acting.**

**deleted**

## Amendment 6

### Proposal for a regulation

#### Article 11 - paragraph 9 a (new)

*Text proposed by the Commission*

*Amendment*

**9a. The data processing security provisions of Directive 95/46/EC shall apply; they may be supplemented with specific security provisions laid down for data processed by the CRS. Appropriate security measures shall accordingly be taken to ensure that the different types of data in the CRS are processed separately, each according to its function.**

*Justification*

*A CRS can act as a global interface for airlines and also as a service provider for a specific airline. Specific security measures therefore need to be taken in order clearly to separate the different types of data according to function.*

## Amendment 7

### Proposal for a Regulation

#### Article 13

*Text proposed by the Commission*

*Amendment*

In order to carry out the duties assigned to it by this Regulation the Commission may, by simple request or decision, require

In order to carry out the duties assigned to it by this Regulation the Commission may, by simple request or decision, require

undertakings or associations of undertakings to provide all necessary information.

undertakings or associations of undertakings to provide all necessary information, *notably on issues covered by Articles 4, 7 and 11 but subject to the strictest data protection requirements applicable in the relevant Member State(s).*

## PROCEDURE

<b>Title</b>	Code of Conduct for computerised reservation systems		
<b>References</b>	COM(2007)0709 – C6-0418/2007 – 2007/0243(COD)		
<b>Committee responsible</b>	TRAN		
<b>Opinion by</b> Date announced in plenary	LIBE 13.3.2008		
<b>Drafts(wo)man</b> Date appointed	Philip Bradbourn 27.2.2008		
<b>Discussed in committee</b>	27.3.2008	8.4.2008	6.5.2008
<b>Date adopted</b>	6.5.2008		
<b>Result of final vote</b>	+: 41 -: 0 0: 0		
<b>Members present for the final vote</b>	Alexander Alvaro, Philip Bradbourn, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giusto Catania, Jean-Marie Cavada, Elly de Groen-Kouwenhoven, Panayiotis Demetriou, Gérard Deprez, Agustín Díaz de Mera García Consuegra, Armando França, Urszula Gacek, Kinga Gál, Roland Gewalt, Jeanine Hennis-Plasschaert, Livia Járóka, Ewa Klamt, Magda Kósáné Kovács, Stavros Lambrinidis, Henrik Lax, Viktória Mohácsi, Claude Moraes, Martine Roure, Inger Segelström, Csaba Sógor, Vladimir Urutchev, Ioannis Varvitsiotis, Manfred Weber, Tatjana Ždanoka		
<b>Substitute(s) present for the final vote</b>	Edit Bauer, Simon Busuttil, Iliana Malinova Iotova, Sylvia-Yvonne Kaufmann, Marianne Mikko, Bill Newton Dunn, Nicolae Vlad Popa, Rainer Wieland, Stefano Zappalà		
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Emine Bozkurt, Jas Gawronski		



## PROCEDURE

<b>Title</b>	Code of Conduct for computerised reservation systems		
<b>References</b>	COM(2007)0709 – C6-0418/2007 – 2007/0243(COD)		
<b>Date submitted to Parliament</b>	15.11.2007		
<b>Committee responsible</b> Date announced in plenary	TRAN 29.11.2007		
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	IMCO 29.11.2007	LIBE 13.3.2008	
<b>Rapporteur(s)</b> Date appointed	Timothy Kirkhope 9.1.2008		
<b>Discussed in committee</b>	27.2.2008	8.4.2008	28.5.2008
<b>Date adopted</b>	29.5.2008		
<b>Result of final vote</b>	+: 34 -: 1 0: 2		
<b>Members present for the final vote</b>	Inés Ayala Sender, Paolo Costa, Arūnas Degutis, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Francesco Ferrari, Brigitte Fouré, Mathieu Grosch, Georg Jarzembowski, Timothy Kirkhope, Sepp Kusstatscher, Jörg Leichtfried, Marian-Jean Marinescu, Erik Meijer, Seán Ó Neachtain, Willi Piecyk, Paweł Bartłomiej Piskorski, Luís Queiró, Reinhard Rack, Brian Simpson		
<b>Substitute(s) present for the final vote</b>	Markus Ferber, Nathalie Griesbeck, Jeanine Hennis-Plasschaert, Aldis Kuškus, Leopold Józef Rutowicz		
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Philip Bushill-Matthews, Giles Chichester, Richard Corbett, Catherine Guy-Quint, Astrid Lulling, Rovana Plumb, Elisabeth Schroedter, Czesław Adam Siekierski, Bart Staes, Glenis Willmott		