



Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2007/0243(COD) Procedure completed
Air transport services: Code of Conduct for computerised reservation systems	
Subject 3.20.01 Air transport and air freight	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	TRAN Transport and Tourism		09/01/2008
		PPE-DE KIRKHOPE Timothy	
	Committee for opinion	Rapporteur for opinion	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		27/02/2008
		PPE-DE BRADBOURN Philip	
Council of the European Union	IMCO Internal Market and Consumer Protection		31/01/2008
		PSE BULFON Wolfgang	
	Council configuration	Meeting	Date
	Employment, Social Policy, Health and Consumer Affairs2916		16/12/2008
	Transport, Telecommunications and Energy	2861	07/04/2008
European Commission	Commission DG	Commissioner	
	Energy and Transport	TAJANI Antonio	

Key events			
14/11/2007	Legislative proposal published	COM(2007)0709	Summary
29/11/2007	Committee referral announced in Parliament, 1st reading		
07/04/2008	Debate in Council	2861	Summary
29/05/2008	Vote in committee, 1st reading		Summary
10/06/2008	Committee report tabled for plenary, 1st reading	A6-0248/2008	
03/09/2008	Debate in Parliament		
04/09/2008	Results of vote in Parliament		
04/09/2008	Decision by Parliament, 1st reading	T6-0402/2008	Summary
16/12/2008	Act adopted by Council after Parliament's 1st reading		
14/01/2009	Final act signed		

14/01/2009	End of procedure in Parliament		
04/02/2009	Final act published in Official Journal		

Technical information

Procedure reference	2007/0243(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 071; EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/56357

Documentation gateway

Document attached to the procedure		SEC(2007)1497	08/11/2007	EC	
Legislative proposal		COM(2007)0709	15/11/2007	EC	Summary
Document attached to the procedure		SEC(2007)1496	15/11/2007	EC	Summary
Committee draft report		PE402.929	18/03/2008	EP	
Document attached to the procedure		52008XX0911(01) OJ C 233 11.09.2008, p. 0001	11/04/2008	EDPS	Summary
Amendments tabled in committee		PE405.739	05/05/2008	EP	
Committee opinion	LIBE	PE404.571	06/05/2008	EP	
Committee opinion	IMCO	PE404.772	27/05/2008	EP	
Economic and Social Committee: opinion, report		CES0985/2008	28/05/2008	ESC	
Committee report tabled for plenary, 1st reading/single reading		A6-0248/2008	10/06/2008	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0402/2008	04/09/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)6073	17/10/2008	EC	
Draft final act		03675/2008/LEX	14/01/2009	CSL	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2009/80](#)
[OJ L 035 04.02.2009, p. 0047](#) Summary

Air transport services: Code of Conduct for computerised reservation systems

This Commission impact assessment concerns the revision of the Code of Conduct for computerised reservation systems (CRSs).

The report states that Computerised Reservation Systems (CRSs) provide subscribers with instantaneous information about the availability of air transport services and the fares for such services. They permit travel agents, whether brick-and-mortar or on-line, to make immediate confirmed reservations on behalf of the consumer. There are currently four major CRS providers active on the European market: Amadeus, Sabre, Galileo and Worldspan (the two latter are currently merging).

The Code of Conduct for Computerised Reservation Systems was first established in 1989 with the adoption of Regulation 2299/89. At that time, the vast majority of airline bookings were made through CRSs. For air travel, consumers could practically only rely on one single information and distribution channel, the one constituted by CRSs and travel agents. In addition, most CRSs were owned and controlled by airlines. This combination of facts created particular risks of competitive abuse for which general competition rules were not sufficient and for which specific *ad hoc* rules in the form of a Code of Conduct were necessary. Given the complex and multi-national character of the CRS services and its support for the single aviation market, regulation on EU level has a value-added in this sector.

Changes in CRS technology and economics are gradually eroding the key features of the competitive landscape for which the Code of Conduct was designed. First, many airlines have divested their CRS ownership. Three of the four CRSs (Galileo, Worldspan and Sabre) no longer have any airline ownership, and three airlines only hold a minority share in Amadeus. Second, thanks to the development of alternative distribution channels, such as the airlines' Internet websites or their call centres, consumers have nowadays access to a multiplicity of information and booking channels for air transport services. About 40% of all airline tickets in the EU are booked via alternative channels and about 60% via travel agents and CRSs.

The Code of Conduct is increasingly ill-adapted to the changed market conditions and is creating economic inefficiencies: the Code's provisions increase the cost of CRS services (they represent on average about EUR 10 per return ticket) and restrict the CRSs' flexibility to adapt their services to the specific needs of the airlines and the travel agents. Most importantly, the Code's non-discrimination requirement for booking fees stifles price competition, and the prohibition for airlines to differentiate content between CRSs significantly restricts their negotiating freedom. The ensuing lack of competition leads to higher CRS booking fees and creates a system of economic rents in favour of CRSs and travel agents, at the expense of airlines and their passengers.

Higher than necessary booking fees incite airlines to distribute an increasing share of their tickets via alternative distribution channels such as their own Internet websites, which are less costly and technically more flexible. Many low-cost airlines do not use the services of the CRSs at all and hence are not offered by many travel agents. Furthermore, as CRS markets in other parts of the world have been deregulated, it is necessary to ensure that airlines and CRS providers from within and outside the EU compete on a level-playing field.

The public consultation has shown that most stakeholders are in favour of revising the Code of Conduct to adapt it to the present day conditions, but to keep key provisions ensuring the provision of neutral information to subscribers and safeguards against potential abuses in the presence of close links between air carriers and CRS providers.

This report, in the form of an impact assessment, highlights **two options for revision** - partial and full deregulation. The first option ? partial deregulation ? has been further sub-divided in three sub-options that differ with regard to the safeguard measures in case of close links between airlines and CRSs. All the options aim to increase the scope for competition in the CRS market.

Air transport services: Code of Conduct for computerised reservation systems

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 airlines 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.

Air transport services: Code of Conduct for computerised reservation systems

The Council reached a general approach on a proposal for a regulation on a code of conduct for computerised reservation systems

The text agreed by the Council does not modify the substance of the Commission's proposal. The modifications made by the Council improve and clarify the Commission proposal, particularly as regards provisions on rules applicable to principal displays.

The proposal will replace Regulation No 2299/89 as amended by Regulations No 3089/93 and No 323/99.

The European Parliament is expected to adopt its first-reading opinion in July or September 2008.

Air transport services: Code of Conduct for computerised reservation systems

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the proposal for a Regulation of the European Parliament and of the Council on a code of conduct for computerised reservation systems.

The aforementioned was sent by the Commission to the EDPS for consultation and was received on 20 November 2007. The proposal concerns the processing of passenger data by computerised reservation systems (CRSs) and is closely related to other schemes of collection and use of passenger data, within the EU or in relation with third countries. The objective of the proposal is to update the provisions of the code of conduct for CRSs. The code appears to be increasingly ill-adapted to the new market conditions, and would need simplification in order to reinforce competition - while maintaining basic safeguards, and ensuring the provision of neutral information to consumers.

The EDPS welcomes the inclusion in the proposal of data protection principles that specify the provisions of Directive 95/46/EC. These provisions enhance legal certainty, and could usefully be complemented by additional safeguards on three points: (i) ensuring the fully informed consent of data subjects for the processing of sensitive data; (ii) providing for security measures taking into account the different services offered by CRSs; and (iii) the protection of marketing information.

With regard to the scope of application of the proposal, the criteria that make the proposal applicable to CRSs established in third countries raise the question of its practical application, in a coherent way with the application of the *lex generalis*, i.e. Directive 95/46/EC. To ensure the effective implementation of the proposal, the EDPS considers that there is a need for a clear and comprehensive view on the whole CRSs problematic, taking into account the complexity of the CRS network and the conditions of access by third parties to personal data processed by CRSs.

Even if these issues go beyond the concrete provisions of the proposal, it is nevertheless deemed as essential to put the CRS question in its global context and to be aware of the implications and the challenges of having such a large amount of personal data, some of them sensitive, processed in a global network practically accessible to third State authorities. It is therefore decisive that effective compliance is ensured, not only with regard to competition aspects of the proposal but with regard to data protection principles, by authorities competent for enforcement, i.e. the Commission, as foreseen in the proposal, and Data Protection Authorities.

Air transport services: Code of Conduct for computerised reservation systems

The Committee on Transport and Tourism adopted a report drafted by Timothy KIRKHOPE (EPP-ED, UK) and made several amendments, in the 1st reading of codecision, to the proposal for a regulation of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems.

The main amendments are as follows :

Definitions of parent carrier, control and participation in the capital: carriers who are the parent of a CRS must provide all the same information

to other CRSs as they do to their own CRS. The text adopted by the committee revises the key definitions of 'parent carrier' and 'control' to limit the influence of airlines over CRSs, but also to make an exception for accidental investments not conferring ownership rights in the CRS. The definition of "parent carrier" is extended to ensure the influence of carriers as a consequence of capital holdings in system vendors is duly taken into account. The committee considers that 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.

The committee also specifies that 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". 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.

Investigation of discriminatory treatment: 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.

Marketing Information Data Tapes and Data protection: MEPs voted to allow airlines to make agreements with travel agents to use the agents' booking and sales data for their core operations such as sales and marketing.

Members added a clause stating that 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.

On personal data, the committee stated that 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. 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.

Audit: Members inserted a new clause on audit. 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.

A price is an inclusive price: the price shown in the principal display of the CRS should effectively be the price the customer pays. Members state that 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.

Train options for short flights: for air journeys of up to 90 minutes, the committee voted to include a requirement that where travel options are ranked, the best ranked alternative train services, including connecting services, must be featured on the first screen of the principal display. Where travel options serving the same departure and arrival cities are offered with connecting flights or the combination of scheduled air and rail services on the CRS, at least the best ranked option by scheduled air and rail service shall be featured on the first screen of the principle display.

Report: 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.

CO2 emissions: a new recital states that CRS should in future contain easily understandable information about the CO2 emissions and fuel consumption of the flight. This could be shown via average fuel consumption data per person/litre/100km and average CO2 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.

Air transport services: Code of Conduct for computerised reservation systems

The European Parliament adopted by 496 votes to 103, with 23 abstentions, a legislative resolution amending the proposal for a regulation of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems. The report had been tabled for consideration in plenary by Timothy KIRKHOPE (EPP-ED, UK) on behalf of the Committee on Transport and Tourism.

The main amendments - adopted under the 1st reading of codecision procedure - were the result of a compromise agreement between Parliament and Council:

Definitions of parent carrier, control and participation in the capital: carriers who are the parent of a CRS must provide all the same information to other CRSs as they do to their own CRS. The text adopted by Parliament revises the key definitions of 'parent carrier' and 'control' to limit the influence of airlines over CRSs, but also to make an exception for accidental investments not conferring ownership rights in the CRS. The definition of "parent carrier" is extended to ensure the influence of carriers as a consequence of capital holdings in system vendors is duly taken into account.

Parliament further stated that there must be an exception for accidental investments not conferring 'decisive influence' in the running of the CRS. Accordingly, parent carriers who participate in the capital with rights or representation on the board of directors, supervisory board or any other governing body of a system vendor are carriers with an investment to which are attached rights or representation on the board of directors, supervisory board or any other governing body of a system vendor, and conferring the possibility of exercising, alone or jointly with others, decisive influence on the running of the business of the system vendor.

A system vendor shall publicly disclose, unless this is otherwise made public, the existence and extent of a direct or indirect capital holding of an air carrier or rail-transport operator in a system vendor, or of a system vendor in an air carrier or rail-transport operator.

Displays: flights operated by air carriers subject to an operating ban pursuant to Regulation (EC) No 2111/2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community must be clearly and specifically identified in the display.

Equivalent treatment in third countries: 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 Community carriers in CRSs of third countries. The Commission shall, when appropriate, report to the Parliament and to the Council 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 Community and third countries.

Data Tapes and Data protection: MEPs say that where a system vendor operates databases in different capacities such as a CRS or as a host for airlines, technical and organisational measures must be taken to prevent the circumvention of data protection rules through the interconnection between the databases, and to ensure that personal data are only accessible for the specific purpose for which they were collected.

Independent report: every system vendor shall, every four years and, in addition, upon request from the Commission, submit an independently audited report detailing the ownership structure and governance model. Costs related to the audited report shall be borne by the system vendor.

Price is inclusive price: 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.

Train options: where travel options are ranked and where train services for the same city-pair are offered on the CRS, at least the best ranked train service or air-rail service shall be featured on the first screen of the principle display.

CO2 emissions: a new recital states that CRS should be encouraged to provide in the future easily understandable information about CO 2 emissions and fuel consumption of the flight. This could be shown via average fuel consumption data per person in litre/100km and average CO 2 emissions per person in g/km, and could be compared with data of the best alternative train/bus connection for journeys of less than five hours.

Air transport services: Code of Conduct for computerised reservation systems

PURPOSE: to modernise and simplify the Code of Conduct for Computerised Reservation Systems (CRS) and to reinforce competition between CRS providers.

LEGISLATIVE ACT: Regulation (EC) No 80/2009 of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89.

CONTENT: having reached agreement with the Parliament at first reading, the Council adopted a Regulation introducing a code of conduct for computerised reservation systems.

The code of conduct for computerised reservation systems was established in 1989 (Regulation No 2299/89), at a time when airline ticket reservations were generally made using computerised reservation systems most of which were operated and controlled by air carriers.

The Regulation is intended to simplify the existing code of conduct and strengthen competition between suppliers of computerised reservation systems. It shall apply to: (i) any CRS, in so far as it contains air-transport products, when offered for use or used in the Community; (ii) rail-transport products, which are incorporated alongside air-transport products into the principal display of a CRS when offered for use or used in the Community.

At the same time, basic safeguards against potential competitive abuses should be maintained, to ensure the provision of neutral information to consumers. The Regulation also ensures that rail services which are integrated into an air transport computerised reservation system are given a non-discriminatory treatment in that system.

In terms of displays, the Regulation stipulates that 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 not mislead the user and shall be easily accessible.

Moreover, flights operated by air carriers subject to an operating ban pursuant to Regulation (EC) No 2111/2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier must be clearly and specifically identified in the display. To this end, the system vendor shall introduce a specific symbol in the CRS display which shall be identifiable by the users.

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. Flights involving stops en route must be clearly identified.

Furthermore, where travel options are ranked, and where train services for the same city-pair are offered on the CRS, at least the best ranked train service or air-rail service shall be featured on the first screen of the principal display.

The Commission may require all system vendors operating in the Community to treat air carriers of that third country in a manner that is equivalent to the treatment of Community air carriers in that third country. 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 Community air 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.

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

The Commission shall, when appropriate, report to the European Parliament and to the Council with regards to equivalent treatment in third countries and shall propose any appropriate measure in order to alleviate discriminatory conditions.

By 29 March 2013, the Commission shall draw up a report on the application of this Regulation which shall assess the need to maintain, amend or repeal this Regulation.

ENTRY INTO FORCE: 29/03/2009.