

**AEA Comments on the Consultation Paper of DG TREN**  
**with regard to the possible Revision of the Code of Conduct for CRS**

**Brussels, April 27, 2007**

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***Q1. In the light of the described market developments, is there still a need for the sector-specific competition rules imposed by the Code of Conduct? Or should the Code of Conduct be revised or abolished?***

AEA welcomes the Consultation Paper and the efforts of the Commission to review market developments. There is unanimous agreement among all AEA members that the Code of Conduct should not be maintained in its current form.

All airlines state that their main concern is the increase in the GDS incentive payments to their subscribers, which in turn have led to higher booking fees for airlines.

Uncertainty exists in the face of the rapidly changing distribution landscape: GDS ownership is changing, GDSs merge, GDSs have content back-up agreements with each other, airlines merge, home markets are changing, consumers prefer more and more to shop directly with the air transport providers, intermediaries prefer to maintain the one-stop shopping, etc. Some intermediaries such as global chains have increased their market power over airlines and GDSs, thereby becoming another threat to aviation sector-specific competition.

***Q2. Given the described market developments, has the risk of market foreclosure not reduced and are general competition rules (Article 82 of the Treaty in particular) not a sufficient remedy/deterrent against these risks?***

The answer to this question is mostly covered by the answer to Q1.

The Consultation paper describes the alleged cases of market foreclosure in the past years; it appears that the risk has been minor.

The future developments regarding possible vertical and horizontal integrations in the distribution market are difficult to predict and therefore it is very difficult to quantify the risk.

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- Iberia
- Icelandair
- Jat Airways
- KLM
- LOT
- Lufthansa
- Luxair
- Malev
- Olympic Airlines
- SAS
- Spanair
- SWISS
- TAP Portugal
- TAROM
- Turkish Airlines
- Virgin Atlantic Airways

**Q3. Would the air transport distribution market –including small and medium-sized companies involved in the market – be ready for the introduction of greater pricing freedom (such as through the removal of the rules of non-discriminatory fees given in Article 10)?**

AEA members could accept that Art.10 be removed.

Airlines have found that the cost-relatedness of GDS fees (Art. 10a) is impractical to enforce and therefore useless for future reference. It is also the common view of AEA that non-discriminatory GDS fees could lead to increased fees for all. This has been experienced in the past.

If Art. 10 is removed then small and medium sized AEA members must be able to benefit from a greater pricing freedom as well.

AEA is of the opinion that the definition of GDS incentives as their “distribution cost” (Art.10b) was an invitation to the GDS to impose cost-related price increases, so this should not be continued.

**Q4. Given the changes in the market and in the ownership and control structures of the CRS providers, are the specific obligations imposed on parent carriers still needed? Or should these obligations be reviewed or lifted?**

The group of AEA airlines decided to leave this question to be answered individually by the members.

**Q5. Should airlines remain free to invest in CRS providers and control them or should there be rules that restrict the possibility for airlines or other sectors to control CRS's? Are specific transparency requirements needed for CRS providers that are not publicly listed on a stock exchange.**

AEA members agree that, in principle, airlines should be allowed to invest in CRS providers. However, AEA airlines were not able to reach a common position as to what restrictions and transparency requirements – if any - would be needed in the event that airlines invest in CRS providers.

**Q6. Are the provisions given by Article 6 of the Code of Conduct to make the data from Marketing Information Data Tapes (MIDT) available to groups of airlines and subscribers still pertinent in the present market context?**

The current provision of “group purchase” could not be successfully applied in the past because the wording is not precise enough and leaves too much room for interpretation; the GDSs refused to allow group purchase.

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***Q7. Should travel agents' identities no longer be revealed in the MIDT?***

All AEA airlines using MIDT data today require that agents' identities should continue to appear in the MIDT as this is an element of transparency which is an essential requirement in the functioning of a market.

However, AEA airlines were not able to reach a common position as to what restrictions and transparency requirements would be needed in the event that airlines invest in CRS providers. The Commission's Consultation paper seems to imply that the inclusion of the travel agents' identity in the MIDT could influence the design of airlines' incentive schemes that would entail loyalty rebates which would tie travel agents to a particular airline. In this respect, AEA airlines submit that any such issue has to be dealt with separately from a Code of Conduct that is meant to deal with the use of a CRS.

***Q8. Are the Code of Conduct's detailed prescriptions with regard to the principal display of a CRS still pertinent in the present market context? Are they still required to ensure a neutral choice? Or can they be simplified or removed? In case stakeholders favour a simplification or removal of these prescriptions, could they – where possible – quantify the reduction in administrative costs that such a regulatory change would induce?***

If the provision of display neutrality is to be retained, Annex I must be simplified.

All members feel that without any provision for neutral displays, the GDS would be exposed to various market forces which require their individual display versions; the administration of various display options without a fixed set of rules would increase the costs in the GDS rather than reduce them. Thus the provision of one principal display with simplified rules would help to contain costs in the GDS.

***Q9. Would greater pricing freedom with regard to booking fees allow more rail services to be offered on the CRS displays? Do we need additional measures to promote the sale of rail tickets via CRS's?***

AEA airlines strongly believe that a level playing field between the different transport modes should always be ensured.

During the consultations on the revision of the Code in 1999, AEA provided DG TREN with all its arguments regarding the inclusion of rail in GDSs. One important concern at that time was that inclusion of rail would incur development costs in the GDSs that would be passed on to the airlines.

It is not possible for AEA to predict if GDSs would make use of greater pricing freedom and greater contract freedom in order to attract rail services.