

## **Summary of the contributions received by the Commission following the open consultation on the possible revision of Regulation 2299/89 establishing a Code of Conduct for Computerised Reservation Systems (CRS)**

*This document does not express the position of the Commission; neither does it commit the Commission, nor should it be assumed that it will be the position taken by the Commission following this consultation process.*

On 23 February 2007, the Commission launched an open consultation to obtain interested parties' comments on the possible revision of the Code of Conduct (Regulation 2299/89). To this effect, the Commission services published a consultation paper that reviewed recent market developments. The document was published on its Internet website "Your voice in Europe". The consultation was closed on 27 April 2007. On 2 May 2007, stakeholders and stakeholders' organisations were invited to a meeting in Brussels in order to give a short overview of their contributions.

The Commission received 48 contributions, breaking down into the following groups:

- Air carriers and representative bodies: 18
- CRS providers and IT services providers: 5
- Consumer/ travellers and representative bodies: 9
- Travel agents and representative bodies: 10
- Rail-transport sector: 1
- Other: 5

A complete list of contributors is given in the annex. All non-confidential contributions can be consulted on the Commission's website:

[http://ec.europa.eu/transport/air\\_portal/consultation/2007\\_04\\_27\\_en.htm](http://ec.europa.eu/transport/air_portal/consultation/2007_04_27_en.htm).

The following summary gives a general overview of the contributions, in the order of the questions asked in the consultation paper.

### **1. Need for a revision of the Code of Conduct (questions 1 and 2 of the consultation paper)**

Most stakeholders prefer to keep a Code of Conduct, but favour a revision of the present Code in order to adapt it to the market developments by giving airlines and CRS providers more freedom to negotiate booking fees and fare content. Only few stakeholders – among the airlines and the CRS providers – favour a complete abolishment of the Code of Conduct.

The proponents of full deregulation believe that general competition law is sufficient as a remedy or deterrent of abusive behaviour. They argue that the competition from alternative distribution channels has significantly reduced the scope for abuse and that the competitive risks are not higher than in other economic sectors.

However, most stakeholders argue that the competition from alternative distribution channels has not yet sufficiently reduced the CRSs' market power – especially for business travel – and that sector-specific rules to deter competitive abuses are still needed in the presence of a reduced number of CRS providers and/or the vertical integration between air carriers, CRSs and travel agents.

A number of stakeholders proposed to include a "sunset clause" into the Code of Conduct according to which the Code would automatically cease to exist when all airlines will have fully divested from the CRSs.

The associations of travel agents and some associations of business travellers fear that the development of alternative distribution channels – in particular the Internet – will lead to a "content fragmentation" between the CRSs and the Internet. They favour a revision of the Code of Conduct that would protect the CRS distribution channel by guaranteeing the access of CRSs to the airlines' full content at no additional cost compared to other distribution channels.

## 2. Pricing freedom for booking fees (question 3)

Most stakeholder groups favour greater freedom for the airlines and the CRSs to negotiate fare content and booking fees. This would include lifting – or at least changing – article 10 of the Code of Conduct. It also implies a modification of article 4 of the Code of Conduct to give airlines more negotiating freedom.

However, some stakeholders state that, even in the case of lifting article 10, some safeguards against excessive pricing by CRSs – especially for small- and medium-sized airlines – should be kept.

Travel agents oppose greater pricing freedom as they fear that airlines will drive down the booking fees paid to the CRSs by using direct distribution as leverage. This will impact the incentive payments from the CRSs to the travel agents and the subscription fees paid by the latter. Instead, travel agents are in favour of regulation that ensures access to airlines' full content at no additional cost (see first point).

## 3. Specific obligations for parent carriers of CRS providers (questions 4 and 5)

Most stakeholders prefer to keep the present rules applicable to parent carriers of CRS providers, i.e. the mandatory participation of parent carriers in all CRSs (article 4a) and the prohibition on linking incentives or disincentives to the use of a particular CRS (article 8). These stakeholders either refer to the financial interests of three airlines in Amadeus, to the risk of airlines taking control over CRS providers in the future, or to the still existing ties between several airlines and the National Marketing Companies (NMC) of CRS providers.

A number of individual air carriers and two associations of air carriers favour the abolishment of these rules, judging that general competition rules are sufficient in the current market context. One CRS provider also favours the abolishment of these rules.

One airline stated that it would be sufficient to limit the parent carrier rules to the home markets of these airlines. Another airline favoured a modification of the mandatory participation rule by imposing on parent carriers the participation in at least two major CRSs instead of all; this rule would provide more negotiating power to the parent carriers while maintaining a safeguard against competitive abuse.

Most stakeholders believe that restrictions on the possibility for air carriers to control CRS providers are not needed, either because the specific obligations imposed on parent carriers are sufficient or because they believe that general competition rules are sufficient to ensure fair competition. Some stakeholders favoured restrictions on control, but most of these were not opposed to a financial participation without control.

There appears to be confusion among stakeholders about the interpretation of the definition of a "parent carrier". One stakeholder suggested that the definition should be clarified during the revision of the Code of Conduct.

#### 4. The provision of Marketing Information Data Tapes (MIDT) to *groups* of airlines (question 6)

The CRS providers and a number of airlines state that these provisions are no longer pertinent as competition from other data sources has led to the provision of specialised products at lower cost (e.g. regional data sets).

However, a number of airlines and airlines' associations believe that provisions for the grouped purchase of MIDT are still pertinent as the data are still very expensive and only affordable to big airlines. They state that the notion of "group of airlines" should be clearly defined in the Code of Conduct as today's term leaves too much room for interpretation and no group purchases have been allowed by the CRSs in practice. Some of these airlines explain that group purchases should be allowed for regional carriers where no regional MIDT are available and for concentrations in the sense of Regulation 139/2004.

#### 5. The identification of travel agents in the MIDT (question 7)

Two CRS providers and almost all the airlines would like to retain the identification of travel agents in the MIDT to ensure maximum market transparency.

However, the travel agents and part of the business travellers request that the identity of the travel agents should be removed from the MIDT. They allege that this identification gives the airlines an unfair competitive advantage over the travel agents and allows the airlines to impose incentive schemes that may have a distorting effect on competition. Concealing travel agents' identity in the MIDT should reduce the airlines possibility to pressure travel agents to reduce rival bookings.

One stakeholder also advocates that CRSs should be prohibited from releasing data on any airline that does not give its consent, in order to make it more difficult for established airlines to exclude new entrants, for instance by way of targeted pricing.

A similar position is taken by one airline that requests the removal of both airline and subscriber identities. It believes that this would limit the value of MIDT and drive down their prices while still remaining useful for network planning purposes.

#### 6. Prescriptions with regard to neutral display (question 8)

The overwhelming majority of stakeholders are in favour of maintaining neutral display provisions, but acknowledge that the provisions in the Code of Conduct (especially in the annex) can be simplified.

One CRS provider favoured maintaining the present prescriptions, while another CRS provider favoured a lifting of all display prescriptions. Two stakeholders note that if neutral display requirements are kept, then they should also apply to alternative distribution channels.

There were not many comments on the question with regard to the administrative costs of the display prescriptions. Travel agents explained that the lifting of the neutral display prescriptions would lead to higher administrative costs for them as they would have to invest in the software that ensures that the information remains neutral.

#### 7. The display of rail services on CRS displays (question 9)

Most stakeholders acknowledge that greater pricing freedom would allow the CRS providers to offer more competitive booking fees to attract rail service providers. Under present rules, as CRS providers have to apply the same booking fees to all operators, these fees are comparatively higher for rail services than for air services as the average value of a rail ticket is lower than that of an air ticket.

Most stakeholders do not believe that additional measures are needed to favour rail services in the CRS displays. The airlines insist on ensuring fair competition between transport modes and not to introduce discrimination between modes.

One association of travel management companies advocates going beyond pricing freedom by ensuring more visibility to carbon-friendly travel solutions.

## **Annex: list of contributors to the consultation**

### ***1. Air carriers and representative bodies***

Association of Asia Pacific Airlines (AAPA)  
Association of European Airlines (AEA)  
Arab Air Carriers Organisation  
European Regions Airline Association (ERA)  
Fédération Nationale de l'Aviation Marchande (FNAM)

Air France  
American Airlines  
Austrian Airlines  
bmi  
British Airways  
Brussels Airlines  
Gulf Air  
Iberia  
KLM  
Lufthansa  
Middle East Airlines  
SAS Group  
United Airlines

### ***2. CRS and IT services providers***

Amadeus  
Galileo  
ITA Software  
Sabre  
Worldspan

### ***3. Travel agents and representative bodies***

Advantage – The National Network of Travel Agents (UK)  
Association of British Travel Agents  
DRV Deutscher Reiseverband  
ECTAA-GEBTA Group of National Travel Agents' and Tour Operators' Associations within the EU and Guild of European Business Travel Agents

Advantage Travel  
AUF & DAVON Reisebüro GmbH  
Carlsson Wagonlit Travel  
Explorer Fernreisen  
JUST Travel GmbH  
La route des Îles

#### ***4. Travellers/Consumers and representative bodies***

Association of Corporate Travel Executives (ACTE)  
Air Transport Users Council (AUC)  
Business Travel Coalition (BTC)  
The European Consumers' Association (BEUC)  
Finnish Business Travel Association (Paragon Partner)  
Institute of Travel Management (UK – Paragon Partner)  
Iberian Business Travel Association (Paragon Partner)  
VDR – The Business Travel Association of Germany

ABB Ltd  
UPM Kymmene

#### ***5. Rail-transport sector***

CER – Community of European Railway and Infrastructure Companies

#### ***6. Other***

Airports & Travel srl  
Coalition for Fair Access to Reservations in Europe (C-FARE)  
The Identity Project (IDP)  
Jonathan Kaye  
Konkurransetilsynet – Norwegian Competition Authority