



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a Code of Conduct for computerised reservation systems

(presented by the Commission)

{SEC(2007)1496}

{SEC(2007)1497}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The Code of Conduct for Computerised Reservation Systems was established in 1989 by Regulation 2299/89 when the vast majority of airline bookings were made through CRSs and most of the CRSs were owned and controlled by airlines. Significant market developments, such as the rise of alternative booking channels, have rendered the Code of Conduct increasingly ill-adapted to the market conditions: in fact, it is impeding competition and thereby contributing to higher distribution costs than necessary.

The proposal aims to significantly simplify the Code of Conduct and to reinforce competition between the CRS providers while maintaining basic safeguards against potential competitive abuses, especially in the case of close links between CRSs and airlines, and ensuring the provision of neutral information to consumers.

- **General context**

Computerised Reservation Systems (CRSs) provide customers 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.

The Code of Conduct for Computerised Reservation Systems ("the Code of Conduct") 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 of the 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. The Code of Conduct was established with the aim of improving transparency and preventing discriminatory behaviour both by the system vendors themselves and also by airlines, especially parent carriers of CRSs. On the one hand, system vendors were required to deal in an even-handed manner with all carriers and travel agents, while, on the other, parent carriers of a CRS were required not to favour that system over the others.

The Code of Conduct proved successful in preventing abuses of market power but it has unintended consequences as it is increasingly ill-adapted to the changing market conditions. First, many airlines have 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. 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's non-discrimination requirements stifle price competition and innovation, because they severely restrict the airlines' and CRS providers' freedom to negotiate booking fees and fare content offered via the CRSs. The ensuing lack of competition keeps booking fees at a higher level than necessary. Consequently, airlines tend to distribute an increasing share of their tickets via the alternative channels such as their own Internet websites, which are less costly and technically more flexible.

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 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.

- **Existing provisions in the area of the proposal**

Regulation 2299/89 as modified by regulations 3089/93 and 323/99 will be replaced by the present proposal.

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The preparation of this proposal has been preceded by a public consultation in order to gather as many comments and suggestions as possible from the individuals and bodies concerned. This exercise respected the minimum standards for consultation of interested parties as defined in the Communication from the Commission of 11 December 2002 (COM(2002)704 final).

An open internet consultation was carried out between 23 February 2007 and 27 April 2007. 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

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

Summary of responses and how they have been taken into account

The consultation revealed that only few stakeholders – among the airlines and the CRS providers – favour a complete abolishment of the Code of Conduct. Most stakeholders prefer to keep a Code of Conduct, but they 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.

Travel agents fear greater pricing freedom and are in favour of amending the Regulation to ensure access to airlines' full content at no additional cost.

The consumers' organisations caution that a revision should be done very carefully in order to guarantee the provision of neutral and comprehensive information to consumers.

Most of the stakeholders have expressed a clear preference 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 of the Code) and the prohibition on linking incentives or disincentives to the use of a particular CRS (article 8).

A more detailed overview of stakeholders' views and the way they have been taken account of is given in the impact assessment report that accompanies the present proposal.

The results of the public Internet consultation are available on http://ec.europa.eu/transport/air_portal/consultation/2007_04_27_en.htm.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

In this impact assessment, two options for revision - partial and full deregulation - were compared to the base case of the status quo. 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:

- Option 0: status quo

- Option 1: partial deregulation

- Option 1a: partial deregulation with control unbundling of the airlines and the CRSs;

- Option 1b: partial deregulation with specific provisions for parent carriers;
- Option 1c: partial deregulation without specific provisions for parent carriers;
- Option 2: full deregulation (abolition of the Code of Conduct).

The status quo (option 0) has been rejected because the present Regulation's restrictions on pricing and negotiating freedom are having increasing negative effects, in particular in terms of high distribution costs.

A full deregulation (option 2) has been rejected at the present state of the market. Many corporate travellers remain highly dependent upon the single distribution channel constituted of the travel agents and the CRSs. The same is true for travellers in Member States with low Internet penetration rates: less than half of the EU population has access to the Internet - which is the most important alternative distribution channel.

In these circumstances, the risks of competitive abuse are higher than in other economic sectors and the sole reliance on the general competition rules would not be sufficient, especially in case of close links between airlines and CRSs. In addition, certain market behaviours of the CRSs (e.g. display bias) would be harmful to consumers even if they were not the result of a competitive abuse.

The impact assessment shows that option 1b offers the most favourable outcome in terms of increased competition, safeguards against competitive abuse, neutral, transparent and comprehensive information for consumers and the promotion of rail transport in CRS displays.

The Commission carried out an impact assessment listed in the Work Programme, whose report is accessible on http://ec.europa.eu/transport/air_portal/internal_market/networks_en.htm

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The present proposal would replace Regulation 2299/89 as modified by Regulations 3089/93 and 323/99.

- **Legal basis**

Articles 71 and 80(2) of the Treaty establishing the European Community.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

Regulation 2299/89 confers exclusive competence to the Commission. Given the international character of the CRS operations and the difficulty to monitor these activities on a national level, the proposed revision and simplification of the regulation maintains the competence at EU level.

The proposed revision and simplification of the Regulation does not affect national, regional and local authorities, and reduces the already limited administrative burden on economic operators.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

A Regulation is the most adequate for the following reasons(s):

- The proposal concerns the revision of an existing Regulation;
- The Regulation concerns an economic activity with an international character which would be difficult to regulate on a national level.

4. **BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget

5. **ADDITIONAL INFORMATION**

- **Simplification**

The proposal provides for simplification of legislation.

The revised Code of Conduct for CRS has been drafted and structured in an easy-to-understand manner. Superfluous provisions from the Regulation 2299/89 have been removed, especially when they stand in the way of greater market efficiency.

The proposal is included in the Commission's rolling programme for up-date and simplification of the *acquis communautaire* and its Work and Legislative Programme under the reference 2002/TREN/29.

- **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation.

- **Review/revision/sunset clause**

The proposal includes a review clause

- **European Economic area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

- **Detailed explanation of the proposal**

Partial de-regulation of the CRS market

The proposal amends the Code of Conduct for CRS in order to adapt it to today's market context - in particular the development of alternative distribution channels - and to reinforce the competition between the CRS providers. By giving more flexibility to CRSs and airlines, the proposal allows CRSs to compete more effectively with the alternative distribution channels, both in terms of prices and services offered.

The simplification of the Code mainly increases the negotiating freedom of the market participants: 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. The restrictions of the present Code of Conduct with regard to fare content, access to the distribution facilities and booking fees will be lifted (with the exception of the safeguards mentioned below).

Safeguards

The proposal keeps in place a number of safeguards against potential competitive abuses, especially in the case of close links between CRSs and transport services providers. These safeguards reflect the view expressed by many stakeholders and confirmed by the impact assessment, that in the present market context, such close links still represent competitive risks that require specific rules besides the general competition rules.

The simplified Code of Conduct maintains the following provisions to protect against competitive abuse and to ensure the supply of neutral information to consumers:

- Safeguards to protect the neutral advice of travel agents (article 6), such as for example the prohibition for system vendors to attach exclusivity conditions to their contracts with the travel agents. The proposal adds the prohibition for system vendors to identify travel agents in the Marketing Information Data Tapes (MIDT); this provision avoids that an airline could use the data to pressure travel agents to reduce their bookings on rival airlines.
- The obligation for system vendors to clearly separate the CRS systems from any airline's internal reservation system (article 4.2), such as to avoid that a parent carrier would have a privileged access to the CRS system.
- The prohibition for system vendors to reserve any distribution facilities to their parent carriers (article 4.1), such as to avoid competitive advantages of parent carriers over other participating carriers.
- The obligation for system vendors to provide neutral and non-discriminatory displays (article 5) in order to ensure neutral information for consumers and avoid any screen bias in favour of specific airlines.

- The obligation for system vendors to provide Marketing Information Data Tapes (MIDT) on a non-discriminatory basis (article 7).
- The obligation for parent carriers to provide another CRS than its own with the same information on its transport services or to accept bookings from another CRS than its own (article 10.1) such as to avoid that parent carriers hinder competition from other CRSs.
- The prohibition for parent carriers to link incentives or disincentives to the use of a specific CRS (article 10.3) such as to avoid systematic preference of the own CRS.
- Safeguards allowing the Commission to take measures to ensure equal treatment of EU airlines with regard to CRS systems in third countries (article 8).
- Provisions for the protection of personal data that particularise and complement those of Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (article 11).

Rail services

The Code of Conduct also applies to rail services that are integrated into an air transport CRS (it does not apply to "rail only" systems). It ensures that rail services are given a non-discriminatory treatment in the CRS. However, today's provisions with regard to non-discriminatory pricing lead to a de facto discrimination of rail services as they are charged the same booking fees although the average value of the tickets is smaller. 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 their tickets and hence creates an incentive for rail companies to offer their services on the CRS systems, too. The provisions with regard to parent carriers and display neutrality continue to apply to rail services, too.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a Code of Conduct for computerised reservation systems

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71 and 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Having regard to the opinion of the European Data Protection Supervisor,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:

- (1) Regulation (EEC) No 2299/89 of 24 July 1989 on a code of conduct for computerised reservation systems⁴ has made a major contribution to ensuring fair and unbiased conditions for air carriers in computerised reservation systems (hereinafter "CRS"), thereby protecting the interests of consumers.
- (2) An important part of airline reservations are still made through computerised reservation systems.
- (3) Technological and market developments allow for a substantial simplification of the legislative framework by giving more flexibility to CRS vendors and air carriers to negotiate booking fees and fare content. This will allow them to adapt in a flexible way to the needs and requests of travel agents and consumers and to distribute more efficiently their transport products.

¹ OJ C

² OJ C

³ OJ C

⁴ OJ L 220, 29.7.1989, p.1 Regulation as last amended by Regulation (EEC) No 3089/93 (OJ L 278 11.11.1993, p.1) and Regulation (EC) No 323/1999 (OJ L 40, 13.2.1999, p.1)

- (4) In the present market context it remains necessary nonetheless to maintain certain provisions on CRS systems, insofar as they contain transport products, in order to prevent competitive abuses and to ensure the supply of neutral information to consumers.
- (5) The refusal by parent carriers to provide the same information on schedules, fares and availability to systems other than their own and to accept bookings made by those systems can seriously distort competition between computerised reservation systems.
- (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 access to the CRS system.
- (7) In order to protect consumers' interests, it is necessary to present an unbiased initial display to users of a CRS and to ensure that information on all participating carriers is equally accessible in order not to favour one participating carrier over another.
- (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.
- (9) The provision of information on rail and rail-air services on the CRS displays should be facilitated.
- (10) Air carriers from the Community and from third countries should be given equivalent treatment with regard to CRS services.
- (11) In order to ensure the correct application of this Regulation, the Commission should have appropriate enforcement powers, including the possibility to investigate infringements, whether on its own initiative or on the basis of a complaint, to order the undertakings concerned to bring such infringements to an end and to impose fines.
- (12) This Regulation is without prejudice to the application of Articles 81 and 82 of the Treaty.
- (13) The protection of individuals with regard to the processing of personal data is governed by Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁵. The provisions of this Regulation particularise and complement Directive 95/46/EC with regard to the activities of a CRS.
- (14) Regulation (EEC) No 2299/89 should be repealed,

⁵ OJ L 281, 23.11.1995, p.31

HAVE ADOPTED THIS REGULATION:

Section 1

Introductory provisions

Article 1

Subject matter and scope

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

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'transport product' means the carriage of a passenger between two airports or rail stations;
- (b) '*scheduled air service*' means a series of flights possessing all the following characteristics:
 - (i) on each flight seats and/or capacity to transport cargo and/or mail are available for individual purchase by the public (either directly from the air carrier or from its authorised agents);
 - (ii) it is operated so as to serve traffic between the same two or more airports, either:
 - according to a published timetable; or
 - with flights so regular or frequent that they constitute a recognisably systematic series.
- (c) 'fares' means the prices to be paid by passengers to air carriers, rail-transport operators, their agents or other ticket sellers for the carriage of those passengers on transport services and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;

- (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;
- (e) 'distribution facilities' mean facilities provided by a system vendor for the provision of information about air carriers' and rail-transport operators' schedules, availability, fares and related services and for making reservations and/or issuing tickets, and for any other related services;
- (f) 'system vendor' means any entity and its affiliates which is or are responsible for the operation or marketing of a CRS;
- (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;
- (h) 'effective 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;
- (i) 'participating carrier' means an air carrier or rail-transport operator which has an agreement with a system vendor for the distribution of transport products through a CRS.
- (j) 'subscriber' means a person, other than a consumer, or an undertaking, other than a participating carrier, using a CRS under contract or other financial arrangement with a system vendor. A "financial arrangement" means that a specific payment is made for the services of the system vendor or that a transport product is purchased;
- (k) 'principal display' means a comprehensive neutral display of data concerning transport services between city-pairs, within a specified time period;
- (l) 'ticket' means a valid document giving entitlement to transport, or an equivalent in paperless form, issued or authorised by the air carrier, rail-transport operator or an authorised agent.

Section 2

Rules of conduct for system vendors

Article 3

Relations with transport providers

1. A system vendor shall not:
 - (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;
 - (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.
2. A system vendor shall load and process data provided by participating carriers with equal care and timeliness, subject only to the constraints of the loading method selected by individual participating carriers.

Article 4

Distribution facilities

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).
2. A system vendor shall ensure that its distribution facilities are separated, at least by means of software and in a clear and verifiable manner, from any carrier's private inventory and management and marketing facilities.

Article 5

Displays

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.

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 a consumer.

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.

Article 6

Relations with subscribers

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 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.

2. Where a subscriber is an autonomous enterprise that employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million, it may terminate its contract with a system vendor by giving notice, which need not exceed three months, to expire not before the end of the first year. In such a case, a system vendor shall not be entitled to recover more than the costs directly related to the termination of the contract.

Article 7

Marketing Information Data Tapes (MIDT)

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.

Article 8

Equivalent treatment in third countries

Without prejudice to international agreements to which the Community or the Member States are parties, where the treatment given to Community air carriers by a system vendor operating in a third country is not equivalent to the treatment given to the third country participating

carriers with regard to any matter contained in this Regulation, 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 given to Community air carriers in that third country.

Section 3

Rules of conduct for transport providers

Article 9

Data provided by participating carriers

Participating carriers, and intermediaries handling the data, shall ensure that the data which they submit to a CRS are accurate and that they allow the system vendor to respect the provisions of Annex I.

Article 10

Specific rules for parent carriers

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.
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.
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.
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.

Section 4

Protection of personal data

Article 11

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 2(d) of Directive 95/46/EC.
2. Personal data shall only be processed insofar as processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.
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.
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.
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.
6. A subscriber shall inform the consumer of the name and address of the system vendor, the purposes of the processing, the duration of the retention of personal data and the means available to the data subject of exercising his access rights.
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.
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.
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.

Section 5

Infringements and penalties

Article 12

Infringements

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.

Article 13

Powers of investigation

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.

Article 14

Fines

1. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 10 per cent of the total turnover in the preceding business year where, intentionally or negligently, they infringe this Regulation.
2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1 % of the total turnover in the preceding business year where, intentionally or negligently, they supply incorrect or incomplete information or do not supply information within the required time limit in response to a request made by a decision adopted pursuant to Article 13.
3. In fixing the amount of the fines regard shall be had both to the gravity and to the duration of the infringement.
4. Fines shall not be of criminal nature.
5. The Court of Justice shall have unlimited jurisdiction to review decisions whereby the Commission has imposed a fine. It may cancel, reduce or increase the fine.

Article 15

Procedures

1. Before taking decisions pursuant to Articles 12 and 14, the Commission shall issue to the undertakings or associations of undertakings concerned a statement of objections and give them an opportunity to submit their views in writing and, if they so request, at an oral hearing.
2. The Commission shall not disclose information of the kind covered by the obligation of professional secrecy which it has obtained pursuant to this Regulation.

Any person who submits information to the Commission under this Regulation shall clearly identify any material which it considers to be confidential, giving reasons, and provide a separate non-confidential version by the date set by the Commission.

3. Where the Commission considers that on the basis of the information in its possession there are insufficient grounds for acting on a complaint, it shall inform the complainants of its reasons and set a time limit within which the complainant may make known its views in writing.

If the complainant makes known its views within the time-limit set by the Commission and the written submissions made by the complainant do not lead to a different assessment of the complaint, the Commission shall reject the complaint by decision. If the complainant fails to make known its views within the time-limit set by the Commission, the complaint shall be deemed to have been withdrawn.

Where the Commission issues a statement of objections, it shall provide the complainant with a copy of the non-confidential version and set a time limit within which the complainant may make known its views in writing.

4. If so requested, the Commission shall grant access to the file to the parties to whom it has addressed a statement of objection and to the complainant. Access shall be granted after the notification of the statement of objections. The right of access to the file shall not extend to business secrets, other confidential information and internal documents of the Commission.
5. If the Commission considers it necessary it may hear other natural or legal persons.

Section 6

Final provisions

Article 16

Repeal

1. Regulation (EEC) No 2299/89 is repealed.

2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 17

Review

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.

Article 18

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

Rules applicable to principal displays

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.

ANNEX II

CORRELATION TABLE

Regulation 2299/89	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3(1) and (2)	-
Article 3(3)	Article 3(1)
Article 3(4)	Article 4(1)
Article 3a	Article 10(1) and (2)
Article 4(1)	Article 9
Article 4(2)	-
Article 4(3)	Article 3(2)
Article 4a (1) and (2)	Article 4(1)
Article 4a(3)	Article 4(2)
Article 4a(4)	-
Article 5	Article 5
Article 6	Articles 7 and 11
Article 7	Article 8
Article 8	Article 10(3) and (4)
Article 9	Article 6
Article 9a	Articles 5(2) and 11
Article 10	-
Article 11	Article 12
Article 12	Article 13
Article 13	Article 13
Article 14	Article 15(2)

Article 15	Article 13
Article 16	Article 14
Article 17	-
Article 18	-
Article 19	Article 15(1) and (5)
Article 20	-
Article 21	-
Article 21a	-
Article 21b	-
Article 22	Article 11
Article 23	Article 17
Annex I	Annex I