eu travel tech

REVIEW OF THE AIR TRAVEL DISTRIBUTION REGULATORY FRAMEWORK

EU TRAVEL TECH POSITION PAPER

The new European Commission is tasked with undertaking a complete review of the regulatory framework for the European air travel distribution sector: revision of the Computerised Reservations Systems (CRSs) Code of Conduct (Reg. 80/2009) and the revision of the Airline Services Regulation (Reg. 1008/2008).

This review is welcomed by eu travel tech as the air travel distribution landscape has undergone major changes over the last ten years, making the existing regulatory framework unfit for purpose.

eu travel tech supports the principles the CRS Code of Conduct promotes: level playing field, transparency and fair competition. As a result, we call for a regulation that:

- ✓ **Applies to all players in the airline ticket distribution market;**
- ✓ **Ensures access to air fare content so that European consumers can continue to compare and choose travel options that best suit their needs;**
- ✓ **Is adequately enforced by the European Commission.**

With the growth of internet and online distribution, air travel distribution has morphed from a simple relationship of CRSs sitting between air carriers and travel agents (offline or online) to a more complex ecosystem. Travel agents and metasearch sites now empower consumers to make informed choices when searching, comparing and booking flights, making travel more accessible and transparent.

However, since 2009, the share of indirect distribution and therefore the ability to compare prices has been in constant decline.

Why? Because airlines have developed a preference for direct online distribution and alternative distribution systems (used by travel agents in the same manner as CRSs but currently not regulated at all by the CRS Code of Conduct).[1] To favour those new distribution channels, large EU airlines have developed strategies to drive travellers away from indirect distribution channels, with practices such as:

- Surcharges on tickets purchased via CRS channels (imposed by Lufthansa Group, IAG and Air France/KLM)

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[1] In 2016, 34% of all bookings were made through a GDS while in 2018, the share of GDS bookings had decreased to 31%.In comparison, the non-GDS bookings have increased during the same time from 66% in 2016 to 69% in 2018. eu travel tech estimate, as mentioned in the Commission Staff Working Document "EVALUATION of the Regulation 80/2009 of the European Parliament and the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems"

- Withdrawal of basic fares from the CRSs environment (by Lufthansa Group and IAG).
- Marketing and advertising restrictions (meta restrictions, brand-bidding restrictions etc.).
- Ancillary services (such as baggage, priority boarding etc.) not made available to indirect channels.

As a result, the <u>fragmentation of content</u> across multiple distribution channels combined with an <u>increase</u> in the number of <u>ancillary services and charges</u> applied by the airlines, makes price comparisons harder. It prevents fair competition between smaller airlines and big players by limiting market access.

Alongside the rise of direct distribution is the consolidation of the European air travel market, with three carrier groups (Lufthansa Group, IAG, Air France/KLM) dominating large segments of the market. This consolidation is ongoing as exemplified by the recent acquisition of Air Europa by IAG. With their growing market power, large airlines are increasingly able to favour direct distribution and prevent comparison of competing offers by travellers.

The Code of Conduct has not kept pace with the changes in technology and the overall ticket distribution market. It covers a shrinking part of the market and its provisions are not sufficient to achieve its transparency objectives. eu travel tech therefore calls for a revised regulatory framework.

The new regulatory framework must adopt a principles-based approach, tackling only what impacts the market, extending its reach past GDSs to cover all players in the wider air travel distribution market. **eu travel tech is calling for the following to be considered in the review of the EU air ticket distribution regulatory framework:**

There must be a level playing field between all players in the air ticket distribution market:

✓ The new regulatory framework shall prevent discrimination between distribution channels by:
   o Ensuring that a basic level of content is shown and neutrally displayed on all consumer channels so that consumers are not discriminated because they choose to search for travel using OTAs or metas;
   o Tackling the anticompetitive practices of dominant airlines, as outlined above.
✓ The new regulatory framework should extend the concept of "parent carriers" to cover distribution channels controlled by airlines.
✓ In order to ensure a level playing field, the scope of the CRSs Code of Conduct needs to be revised and should be expanded to cover all competing players in the airline ticket distribution market, treating them in an equitable manner.

To ensure fair competition and transparency in the air travel market, access to <u>essential air fare content</u> is key.

- ✓ Consumers should be able to compare offers and services in one place, choosing those that best meet their needs. Airlines participating in a CRS or alternative distribution systems must be required to provide "<u>essential" air fare content, including basic fares and core ancillary services.</u> By making certain fares available only on direct distribution channels, some airlines prevent consumers from comparing prices.
- ✓ In turn, CRSs are obliged to display fares in a neutral manner. This allows fair competition between carriers and delivers transparency and choice for the consumer. But the <u>neutral display and transparency obligations of the CRSs does not make sense without access to essential air content</u> and should therefore be balanced with content access commitments from the airlines. One cannot go without the other.

A new regulatory framework must go hand-in-hand with an adequate enforcement of the rules by the European Commission

- ✓ The existing Article 16 of the Code of Conduct does not provide a robust legal framework. The obligations falling on the Commission need to be more detailed with a clear and binding timeframe for the examination of complaints and the conduct of investigations relating to suspected infringements. Improved procedures should reflect as far as possible those adopted in the areas of competition and consumer protection laws.
- ✓ The Code of Conduct seeks to "*prevent abuse of competition and to ensure a supply of neutral information to consumers*". The European Commission could consider that such objectives are better served by the application of horizontal EU competition rules, without any need for a *lex specialis*. eu travel tech would not be opposed to such a view, to the extent that any horizontal competition rules are also properly enforced for all players in air travel distribution.

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eu travel tech represents the interests of travel technology companies. eu travel tech uses its position at the centre of the travel and tourism sector to promote a consumer-driven, innovative and competitive industry that is transparent and sustainable. Our membership[2] spans Global Distribution Systems (GDSs), Online Travel Agencies (OTA), Travel Management Companies in business travel (TMCs) and metasearch sites.

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[2] eu travel tech's members include Amadeus, Booking.com, eDreams ODIGEO, Expedia Group, Travelport a Skyscanner, TripAdvisor. Associate members include American Express GBT. Strategic Partners include Lastminute.com, etraveli, Trainline, Travix, Travelgenio, Hitrail, OAG and CWT