eu travel tech Position Paper – Single Digital Booking and Ticketing Regulation

Executive Summary

Objectives

The Single Digital Booking and Ticketing Regulation (SDBTR) presents a critical opportunity to address long-standing market failures in transport distribution by promoting fair, open access to content across modes. eu travel tech supports the Commission's ambition to enable seamless, multimodal journeys, but underscores that this goal cannot be achieved without comprehensive regulatory obligations extending beyond rail to include air travel.

The European Commission has correctly identified a significant problem when it comes to digital ticketing: independent distributors play a vital role in enhancing consumer choice and transparency, yet they are increasingly hindered by exclusionary practices by dominant transport operators. These operators leverage their market power to restrict access, impose unfair terms, and self-preference their own sales channels, undermining competition and limiting passengers' ability to compare and combine offers across providers and modes. The SDBTR proposal includes measures that address this problem efficiently, i.e. the obligation for dominant transport operators to negotiate with independent vendors based on FRAND terms. Fair, reasonable and non-discriminatory terms are especially important when it comes to remuneration and data access, both of which we understand the European Commission aims to address in the proposal.

Need to extend scope

Because the SDBTR proposes the right obligations for incumbent operators, the exclusion of air carriers would be a missed opportunity. Given air travel's essential role in long-distance and cross-border mobility, its integration into the framework is indispensable. The regulation must enshrine content access under fair, reasonable, and non-discriminatory terms to ensure a level playing field.

Only with consistent, mode-neutral content access rules can the SDBTR deliver on its promise to support sustainable, competitive, and consumer-centric multimodal mobility across Europe.

Key recommendations

- Address access of independent ticketing platforms to the content of indispensable rail operators, ensuring an end to exclusionary practices and more consumer choice.
- Extend the scope of obligations for indispensable transport operators to modes beyond rail, most notably air, thereby facilitating modal shift and integration and addressing equally anti-competitive and anti-consumer practices by indispensable (air) carriers.

- Proposes clear and comprehensive FRAND obligation, providing a flexible for solid legal standards for issues including content access and remuneration, supported by a strong enforcement framework.

Introduction

Facilitating multimodal travel has been a key policy objective of EU transport policy for some time. One of the Flagship aims of the 2020 Sustainable and Smart Mobility Strategy was "Making connected and automated multimodal mobility a reality"[1], which was refined into the statement that "the EU needs to transform its legal framework to support multimodal travel information, booking and ticketing services"[2].

In this context of firm political commitments to take action the European Commission is currently considering initiatives regarding (multimodal) distribution of transport services. A key pillar of a possible upcoming package of legislative proposals is the Single Digital Booking and Ticketing ("**SDBTR**") initiative.

Through this paper, eu travel tech presents its views on the substance of the SDBTR initiative as presented by DG MOVE in several workshops in early 2025.

1. State of the market - the impetus for regulation

Travelers are facing an increasingly opaque processes when booking their trips due to underlying reasons which are not immediately obvious to them, yet directly impact how tickets can be found, compared and booked.

Independent travel intermediaries offer consumers an opportunity to compare a broad range of travel options from different operators and make their choice based on their preference (incl. on price, speed, mode, environmental considerations). For the benefit of their customers, these platforms invest innovative in multi-currency, multilingual digital interfaces, enhancing customer experience and growing passenger numbers across the board.

To provide their services, these platforms require comprehensive content from transport operators (such as inventory, fares and ancillaries), otherwise known as content, of transport operators and fair remuneration. If such data is available, independent intermediaries can give consumers a the complete range of options, while also facilitating competition between different transport operators. The outcome is a more competitive market, where users are easily able to access their preferred service and operators can compete on the merits of their offer. The problem arises where such data / content is not being shared with independent intermediaries, which may not hold sufficient content to effectively distribute these services, to the detriment of consumers and competition in the network.

Many platforms base their business model on receiving a percentage from the carrier for each ticket they sell. At least in some modes, independent vendors struggle to negotiate fair remuneration with dominant transport operators. Failing to negotiate a sufficiently

[1] European Commission, Sustainable and Smart Mobility Strategy 2020, p. 12

[2] Ibid.

high commission means not being able to grow, or in many cases survive. Especially in rail, incumbent carriers take advantage of their hold on national markets to impose on distributors commission levels that are not economically viable.

1.1. Market failure – anti-competitive and anti-consumer practices by dominant carriers

The Commission has accurately identified this main market failure on the transport distribution market in the past: deliberate exclusionary strategies by transport operators with entrenched market positions to limit the comparability, availability and attractiveness of their services on indirect distribution channels. These practices have direct and harmful effects on consumer choice and both inter-brand and intra-brand competition.

Independent distributors are often unable to obtain and/or retail certain transport operators' content under fair, reasonable and non-discriminatory conditions. Their revenue streams are reduced by low commission levels or other restrictions imposed by operators. They also encounter significant marketing restrictions and obstacles to distributing offers in a transparent manner.. Dominant air and rail operators often use a strong power asymmetry in their favour to impose terms on independent distributors that disadvantage them and often ultimately prevent them from operating in a competitively viable manner. This problem is reinforced by a clear preferencing by dominant transport operators in favour of their own distribution channels. Yet independent distributors across modes are key to ensure customers' choice across transport operators, across borders and across transport modes, and therefore to the development of multi-modal, multi-operator and cross-border travel options.

1.2. Market failure – the air perspective

In air travel, information on content (i.e. tickets, ancillaries and other relevant services) has become more fragmented across different sources: travellers need to consult multiple sources such as airlines' direct distribution websites and indirect distribution channels such as online travel agencies, Travel Management Companies and/or metasearch engines, to search and compare competing airline offers. In turn, travel agencies increasingly need to connect to multiple systems (Global Distribution Systems, aggregators, airlines' agency portals and airlines' direct connections) to offer a broad range of air fares to consumers. Large airlines' practices of withholding content from indirect distribution channels and adding surcharges to such channels are the primary source of this fragmentation.

Airlines have progressively unbundled their offers, with a number of services becoming optional such as baggage. As a result, the information provided by airlines to the intermediaries does not always include all information necessary to ensure effective comparison of competing airline offers. Additionally, airlines have continued not to provide information to intermediaries in a uniform and consistent manner. The lack of uniformity in the provision of information from different airlines to their distribution channels makes it highly difficult for intermediaries to be able to present a uniform and consistent price display to consumers, which has a negative impact on the ability for consumers to compare competing offers.

This lack of transparency currently experienced on the marketplace prevents consumers from accessing comprehensive and transparent information on air fares, optional price supplements and related charges. As a result, it is increasingly difficult for them to compare prices across airlines, as searching for the same ticket can yield very different results depending on the distribution channel used.

The ultimate outcome of these market failures is indeed that passengers have limited and distorted information and tickets on independent MDMS. This is the simple result of anti-competitive practices by large transport operators which are intended to reduce the competitive pressure exerted by these MDMS and drive consumers to their direct booking channels. The practices addressed mean that independent MDMS are often unable to make the cheapest or otherwise attractive tickets available to their users. In addition, users may be confronted with distorted information, in so far as transport operators have added unjustified surcharges for indirectly distributed tickets, which simply appear to be more expensive services for these users.

Unless operators share all fare and schedule availability with independent MDMS providers consumers will only be able to see all their options by searching on railway.com and airline.com, which reduces the number of bookable itineraries and makes it impossible to compare options across operators and book multimodal itineraries which may include more sustainable journeys. Such an outcome harms both consumers and other operators wishing to compete on merits on non-biased marketplaces and does nothing to advance the goal of giving travellers more sustainable choices.

1.3. **Market failure – the rail perspective**

Regarding rail, in addition to the content access issue mentioned above, independent distributors struggle in attaining fair and reasonable commercial terms from rail operators to sell their products. The problem mostly lies in the operators' unwillingness to provide economically viable commission levels on tickets sold by independent ticket vendors. In rail travel, European passenger markets are frequently dominated by incumbents. Such legacy railway undertakings (RUs) continue to operate as quasi-monopolies on their domestic markets.. This strong market position makes these operators unavoidable partners for independent distributors, meaning these RUs are free to dictate the terms of any distribution agreement and even attain openly unfair contractual terms.[3]

Independent distributors are forced to accept such agreements or exit the rail distribution market entirely, as they cannot sustain their businesses based solely on the few new entrants present in some markets. In many cases, the incumbent rail operators even refuse to comply with a non-discriminatory approach and self-preference their direct distribution channels over independent distributors. Indeed, the horizontal competition between RUs' own distribution arms and independent distributors creates an additional natural incentive for these dominant incumbents to restrict independent distribution.

The result is independent distributors exiting markets because they are unable to negotiate fair commercial terms with RUs.. Again, this harms the consumer and the sector

[3] Monopolkommission: 8. Sektorgutachten Bahn (2021), p. 122

itself. As stated in the Commission's 2021 rail action plan "railway companies and ticket vendors should be able to offer attractive tickets without undue market barriers".[4]

The anti-competitive nature of these practices is underscored by the decision of German Competition Authority against Deutsche Bahn[5], the DG COMP commitments decision in the Renfe case[6], the commitments decision by the Swedish Competition Authority in the Finnair case, and the ongoing investigation by the Italian Competition Authority against Ryanair[7].

Similar problems exist in air ticket distribution, where large airline groups are increasingly seeking to disintermediate and discriminate against indirect booking channels.[8] This development is also a result of the lacklustre enforcement of the CRSs CoC[9], which has allowed such discriminatory practices. Market realities may differ slightly between rail and air, but similar market imbalances and harmful practices by dominant operators are visible in different modes[10].

2. Scope of obligations: designation of operators

Under SDBTR, the Commission is considering an application of obligations only to 'indispensable' rail operators. There are two elements to address: the concept of designation and the sole focus on rail operators.

2.1. Positive - Covering indispensable rail operators

Firstly, eu travel tech fully supports a restriction of obligations under SDBTR for transport operators only above a certain threshold. The market share threshold of 50% of a domestic market is well aligned with the Commission's antitrust decisional practice and provides a useful proxy to assess the required "significant market power" to find indispensability. The goal of limiting obligations under SDBTR only to those transport operators with sufficient market power to adversely affect competition on the upstream market for the provision of transport services and/or the downstream market for transport ticket distribution is positive. Small operators should not be overburdened with such rules. Similarly, the focus on long-distance and regional rail is correct, as market dynamics and problems arising in urban transport markets differ significantly.

2.2. Negative - Foregoing any rules for airlines and other transport modes

[4] The secret to seamless travel – eu travel tech Rail Policy Brief, 2022

[5] Bundeskartellamt, B9-144/19

[6] AT. 40735 - Online rail ticket distribution in Spain

[7] AGCM, A568

[8] Such as withdrawal of basic fares from GDSs; surcharge on ticket purchased via GDS channels; ancillary services not made available to indirect channels; marketing and advertising restrictions (meta bans, brand-bidding restrictions)

[9] Further details in eu travel tech's position paper on the review of the CRSs CoC

[10] Air content continues to be fragmented across multiple distribution channels, combined with an increase in the number of ancillary services and charges applied by the airlines, this reduces transparency and comparability of travel options. It prevents fair competition between smaller airlines and big players by limiting market access, thereby impairing market efficiency and consumer benefit. This mirrors developments in the rail sector.

Secondly, the Commission has decided to focus entirely on rail operators regarding the obligations under SDBTR, foregoing any rules for airlines, coach operators or other carriers active in other transport modes.

We highlight that the ongoing trends in the air market and dominant airlines' disintermediation strategies result in consumers being driven away from independent multimodal combination/comparison, towards such airlines' own distribution channels (i.e. airline.com). Concretely, airlines favor their own distribution channels by adding surcharges for bookings on independent channels, introducing marketing restrictions, and withdrawing contents (such as certain fares or ancillaries) from these independent distributors. Such practices ultimately mean that consumers cannot fairly compare all offers on independent channels and are pushed towards airline.com for the best offers. Airlines' own distribution channels will never provide full multimodal transparency and booking options, as this would run counter to their fundamental commercial interest in selling more flights.

If left unregulated, dominant airline disintermediation strategies would thus result in an air travel distribution ecosystem, which would exist largely isolated from the wider distribution of rail and multimodal travel through MDMS. Fair and transparent intermodal comparison, or the free combination of transport modes, would thus be severely diminished. This is why eu travel tech believes that without regulatory intervention in air, the MDMS initiative could fail to achieve the EC's ambition to truly facilitate an efficient and sustainable transport system in Europe, based on enhanced information and booking for travellers, enabling them to play to each mode's strengths.

The reality is that air travel is currently not replaceable as a very long-distance transport mode, however, it is expendable for many travellers in short and medium distances. Here, the multimodal comparison offered by MDMS is needed to give consumer transparency to enable a modal shift away from air for short and medium distance journeys. If such a fair comparison between modes (on the basis of price, journey duration or sustainability) is not enabled, many travellers will continue to default to air distribution channels for their booking.

Furthermore, the multimodal combination offered by MDMS is needed to enable a partial modal shift. In this regard, so called feeder flights (i.e. short-haul flights connecting to long-haul flights) are particularly important. They represent prime opportunities to offer sensible multimodal travel by replacing highly CO2-emitting short-haul connecting flights with rail journeys.

More specifically, eu travel tech strongly advocates for a new regulatory framework which regulates the access of independent distributors to quality air travel content (incl. ancillary content), so as to prevent the harmful disintermediation strategies of dominant airlines from limiting consumer transparency and sustainable travel options. While this content access obligation could be tackled either directly in the MDMS Regulation or in the revision of the CRS CoC, it should be fully on par with content access obligations for other modes. This regulatory path is key to make multimodality in Europe a reality and to address the issues facing air ticket distribution.

We re-emphasize the importance of air travel being considered within the scope of this regulatory initiative since it plays a fundamental role in achieving the policy objectives

identified in the inception assessment document. It would also ensure consistency in the regulatory framework in transport, avoid fragmentation and potential overlaps.

Overall, we note with concern that the regulatory direction of the SDBTR/MDMS has veered far off course from the original goal presented by the Commission and Commissioner Valean in the past mandate or indeed the political direction provided by President von der Leyen. As stated at the beginning of this questionnaire, "This initiative will help to improve multimodal transport, reducing road transport impacts, and facilitating open booking for trans-European journeys. It will also help contribute to implementing the Commission President's Political Guidelines which outlined that "people should be able to use open booking systems to purchase trans-European journeys with several providers". It remains entirely unclear why coach and air transport operators have been excluded from the consideration of a regulatory framework which should ultimately aim to enable open booking systems to purchase trans-European journeys with several providers.

3. Substantive obligations for operators

The heart of the Commission's plan is to facilitate multimodal travel through independent distribution. The ability to combine multiple modes of transportation is needed to enable a partial modal shift. The integration of air and rail services in MDMS is necessary to provide the required transparency and consumer options to facilitate multimodal booking and modal shift.

3.1. Positive - Obligations for indispensable railways

The framework foreseen for rail operators under SDBTR is a significant step forward which has the potential to positively address prevalent market failures in rail ticket distribution. The Commission has correctly identified the problem and relevant solutions in its preliminary policy measures by foreseeing a coherent designation of indispensable rail operators and applying relevant obligations to these operators, including obligations to enter into commercial agreements with willing MDMS to enable the sale of tickets and to respect FRAND principles on distribution fees, without imposing highly restrictive clauses (exclusivity clauses, marketing clauses and other technical restrictions) when entering into commercial agreements with MDMS.

These policy measures build on discussions in the Commission's previous mandate and accurately address problematic practices. While they will need to be further refined, they could provide a much-needed systematic solution to the problems raised by European competition authorities regarding dominant rail operators' distribution practices, in particular:

- Railways mandate unreasonably low commission rates for the independent MDMS distributing their tickets. Rates may be so low as to not allow viable commercial operation. This issue was raised for example in the Bundeskartellamt decision against Deutsche Bahn[11] but has not been resolved and continues to be prevalent across Europe.

[11] Bundeskartellamt, B9-144/19

- Railways introduce unfair technical and commercial restrictions, such as unreasonably low look-to-book (L2B) ratios. L2B ratios determine how many times independent MDMS are able to view or call on the operators' IT system without incurring fee or penalty. L2B ratios in the age of consumer internet searches and comparison are key barriers and were raised in DG COMP's commitments decision in the Renfe case[12], but has not been resolved consistently across Europe.

- Railways withdraw and withhold content from independent MDMS. This could mean the cheapest ticket (i.e. without luggage) or most attractive ticket is only bookable on a direct or otherwise preferred channel. This issue was also raised in the DG COMP commitments in the Renfe case[13] but has not been resolved consistently across Europe. Information and tools needed for passenger support are also often withheld, resulting in the operator controlling that part of the passenger journey even when the ticket was bought on an intermediary.

3.2. Lack of obligations for airlines – multimodal ambition missing

However, we also note that such practices exist not only in the rail sector, but across transport modes. Large transport operators incl. railways and airlines favour the distribution of their offers through their own distribution channels (airline.com/railway.com), by discriminating against indirect booking and search channels such as independent MDMS platforms. This is done to protect their dominant market position by preventing comparison with existing competitors or new entrants. Large transport operators (such as incumbent railways and large airline groups) are able to increasingly cut out intermediaries from their booking processes by not sharing their content and pursuing restrictive commercial agreements. As a result, for consumers, the best results are only available on railway.com or airline.com, making direct (price) comparison impossible and reducing the number of bookable itineraries (including multi-operator and/or multimodal itineraries) and harming both consumers and other operators wishing to compete on merits on non-biased marketplaces. To achieve the Commission's underlying policy aim of enabling more multimodal travel and facilitating the shift from air travel towards rail, it will be impossible for MDMS providers to contribute to this policy aim without the requisite access to content of operators, particularly dominant operators with market power on a route/hub/regional/national level.

In air travel, Europe has experienced a trend of consolidation among airlines for some time. Consolidated airline groups have the power and incentives to aggressively pursue disintermediation, to the detriment of consumers and competition. Several methods are applied to achieve these aims:

- Airlines withdraw and withhold content from independent MDMS. This could mean the cheapest ticket (i.e. without luggage) or most attractive ticket is only bookable on a direct or otherwise preferred channel.

[12] AT. 40735 - Online rail ticket distribution in Spain

[13] AT. 40735 - Online rail ticket distribution in Spain

- Airlines surcharge independent booking channels. For years, the surcharging practices were purported to aim to accelerate the adoption of the IATA NDC standard in air ticket distribution, thus targeting non-NDC channels. Large airline groups have now begun to surcharge B2B NDC channels and even B2C channels.

- Airlines mandate restriction on the marketing of their tickets by independent MDMS. Such practices by Finnair were investigated by the Swedish Competition Authority, focusing on a Finnair prohibition for Online Travel Agencies to market their prices beneath Finnair references prices on metasearch sites.

- Airlines introduce unfair technical restrictions, such as unreasonably low look-to-book (L2B) ratios. L2B ratios determine how many times consumers or businesses accessing a ticket through an independent MDMS are able to view the ticket before the independent MDMS incurs a fee or penalty. L2B ratios in the age of consumer internet searches and comparison are key barriers.

- Certain dominant airlines entirely refuse to have their tickets distributed by third parties and denounce any independent MDMS who book tickets on behalf of consumers. This is practice in question in the ongoing investigation by the Italian Competition Authority against Ryanair[14].

These strategies ensure that already dominant airlines can maintain their position by keeping customers in their ecosystem and foreclosing fair comparison with other operators. They prevent consumers from easily accessing comprehensive and transparent information on air fares, optional price supplements and related charges. As a result, it is increasingly difficult for consumers to compare prices across airlines, as searching for the same ticket requires turning to multiple sources of distribution and can yield very different results depending on the distribution channel used.

These airline practices are in many cases functionally identical to those pursued by dominant railway operators.

To ensure a truly multimodal and future-proof transport ecosystem, the SDBTR must extend content access obligations to airlines. Air travel plays a pivotal role in both domestic and international connectivity, and its exclusion from the regulatory framework creates a critical blind spot. Without airline integration, MDMS platforms cannot offer the comprehensive itineraries or comparisons that empower consumers to make informed, sustainable travel choices. This not only limits the practical utility of MDMS but also undermines the EU's broader climate and digitalisation goals. A regulation that omits air content risks entrenching existing silos between modes, leaving consumers with fragmented options and reinforcing market power imbalances. By contrast, including air transport ensures alignment with the EU's ambitions for interoperable, cross-border ticketing and prevents regulatory loopholes that dominant players can exploit. Regulating

[14] AGCM, A568

airline content access is therefore not ancillary—it is essential to building a coherent, equitable, and consumer-centric digital mobility infrastructure across all transport modes.

3.3. FRAND principle – a cornerstone of well-designed transport distribution rules

We believe that the fair, reasonable, and non-discriminatory ("**FRAND**") principle should remain at the centre of the Commission's approach to transport distribution under SDBTR. While the policy measures do contain a reference to "principles on distribution fees and without imposing highly restrictive clauses" we believe that FRAND is a more robust legal standard which is already embedded in the EU's regulatory approach to data sharing through the Data Act and which leaves fewer possible loopholes than the vague terms mentioned in policy measures (seemingly covering only a limited list of practices, leaving operators able to circumvent them by being contractually innovative). The FRAND principle allows for reciprocal safeguards for both transport operators and MDMS and would ensure alignment of the new regulatory framework with the Data Act. FRAND would be highly useful as an enforceable defence under contract law which would enable Transport operators and independent distributors to continue to negotiate bilateral distribution agreements, while establishing a right for involved parties to contest unfair commercial terms before national courts or other dispute settlement bodies. It would create a level playing field in the negotiation of distribution agreements, between large incumbent transport operators and comparatively weak independent distributors or large MDMS and smaller operators. FRAND should feature as a core legal standard of the SDBT Regulation. While negotiated distribution agreements will remain the indispensable basis for access to contents, the Commission could develop concrete guidelines on the application of FRAND to such distribution agreements. These guidelines, published prior to the implementation date, should address specific use cases of the application of FRAND principles in the context of different transport modes and specific market circumstances (e.g. urban vs. long-distance). This would take the recommendation of the MPMF and contribute to the initiative's overall policy objectives. FRAND should be defined to at least mention the issue of remuneration and provide guidance on what constitutes viable commission levels.

4. Enforcement

Enforcement will be a key facet of the SDBT Regulation once adopted. We welcome the proposal to give national regulators a strong mandate to enforce the rules, empowering the right regulator to act in the context of the specific mode. Input from those regulators will be important as the Commission oversees the application of this Regulation., which will require significant resources and a deep understanding of national market dynamics in ticket distribution. Further cooperation between the Commission and national enforcement authorities would be beneficial, also in light of past lacklustre enforcement regarding practices by airlines potentially violating the CRS CoC. We suggest establishing national dispute settlement bodies, offering an alternative to public enforcement by authorities which are often overwhelmed and under-resourced and private enforcement through costly/long-lasting proceedings before national courts. The concept of dispute settlement bodies should be extended to the obligations for transport operators, as also recommended by the MPMF in its report.

5. Conclusion

The SDBTR represents a pivotal moment for the EU to create a unified, competitive, and consumer-focused transport ecosystem. While the Commission's proposals address key shortcomings in rail distribution—particularly around dominant incumbents' treatment of independent intermediaries—the continued exclusion of air transport from regulatory obligations is a missed opportunity.

A truly multimodal framework cannot function in silos. Without regulated access to air content, MDMS providers cannot offer comprehensive itineraries, nor can travellers benefit from meaningful comparisons across modes. This undermines the policy's stated goals of promoting sustainable travel, enabling modal shift, and facilitating trans-European mobility. Moreover, the practices currently employed by dominant airlines—such as content withholding, surcharges, and technical barriers—mirror the same anti-competitive tactics observed in rail.

To safeguard consumer choice, ensure equitable market conditions, and deliver on the political vision of open booking systems across Europe, regulatory parity between transport modes is essential. Content access and fair remuneration obligations, underpinned by FRAND principles, must be extended to all dominant operators regardless of mode. Only then can the SDBTR achieve its objective of fostering a competitive, transparent, and future-ready transport distribution environment that truly serves European travellers.