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## GUIDANCE MATERIAL ON THE REGULATION OF COMPUTER RESERVATION SYSTEMS

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and published by decision of the Council*

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## FOREWORD

In 1985, the Third Air Transport Conference adopted Recommendation 20 calling on the Council to “study all relevant aspects of computer reservation systems and to formulate recommendations whose purpose would be to avoid abusive use of these systems at the international level, in order to enhance fair competition between airlines and to protect the travelling public”. The Council subsequently approved Recommendation 20 and the study called for was undertaken by the Secretariat, with the assistance of a group of experts from Contracting States and international organizations.

The principal findings of the study were that computer reservation systems provide substantial benefits to the air transport industry but that there is some abuse of the systems which requires redress through government action internationally. A comprehensive set of conclusions regarding regulatory guidance was therefore prepared by the Secretariat and subsequently amended in the light of a review by the Air Transport Committee in October 1988. The Council decided in November 1988 that these conclusions should be issued as guidance material prepared by the Secretary General to assist States in the development of policy and regulations to curb possible abusive use of computer reservation systems at the international level. The guidance material is presented in this circular, accompanied by an Appendix giving examples of actual and potential problems regarding computer reservation systems.

In addition to providing guidance to States, this circular will serve as a reference for consideration of the subject of computer reservation systems by the 27th Session of the Assembly in September 1989.

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# GUIDANCE MATERIAL ON THE REGULATION OF COMPUTER RESERVATION SYSTEMS

## Introduction and Objectives

In recent years, the use of computer reservation systems has increased markedly, with substantial benefits for air carriers, travel agents and passengers. These systems enable information to be distributed and reservations to be processed in a much more efficient manner than is possible with the traditional procedures involving printed schedule and tariff guides. As a result, in many markets, particularly those where there are frequent changes in schedules and fares, they have become an essential business tool.

There has also been some abuse of these systems, however, which has had a detrimental effect on the fair and equal opportunity of carriers to compete and has led to misrepresentation of information to passengers on air transport services.

This guidance material is designed to assist States in developing policy and regulations to curb abusive use of computer reservation systems at the international level, in order to enhance fair competition between airlines and to protect the travelling public, while furthering the development and application of the systems. It also serves as a reference source for national or international agencies which are responsible for questions of trade, competition or contractual law and to which certain complaints regarding computer reservation systems could have to be submitted.

## Definitions

**Computer reservation system (CRS).** A computerized system that contains information about air carrier schedules, seat availability, fares and fare rules, and through which reservations can be made and tickets can usually be issued.

**CRS vendor.** Any entity or its affiliates (whether air carriers or independent commercial enterprises) which in whole or part control a CRS (through ownership, lease, or similar financial affiliation) and which make the system available on a commercial basis to third parties such as travel agents who provide information to the general public.

**Participating carrier.** Any air carrier which is a vendor of the CRS concerned or any other air carrier which pays the requisite fees for the services offered by the CRS vendor.

**Non-participating carrier.** Any air carrier which is not a participating carrier. Although a non-participating carrier does not pay participation fees to the CRS vendor it may nevertheless have its published schedules, fares and fare rules stored and displayed on the CRS at the vendor's discretion.

**Service enhancement.** Any improved or additional service option offered in conjunction with participation in a CRS.

**Travel agent.** Any entity which is authorized, *inter alia*, to sell air transport services on behalf of a carrier (except when acting as the carrier's general sales agent).

## Scope of Application

The suggested regulatory principles in paragraphs 1 through 27 below apply to any CRS which displays information about itineraries including one or more international sectors and which can be accessed directly in travel agency locations, or to any other CRS which serves as a general replacement for printed multi-carrier timetable and tariff guides and therefore bears a public interest obligation. Conversely, the guidance is not intended to apply to a CRS used by an air carrier solely in house or in its own sales offices, on the grounds that a passenger contacting a particular carrier would expect to be offered a product preferred by that carrier.

These principles are intended to apply to all CRSs no matter how they are technically configured, including multi-access systems where the user has direct access to the CRSs of a number of individual carriers through a common switching centre and/or interface. In the case of multi-access systems, however, it is recognized that full conformity with the paragraphs regarding inventory and display (9 through 12) and regarding data integrity (13 through 17) may present technical difficulties in the short term and that these paragraphs may for the present require special interpretation to ensure that the principles concerned are followed.

These principles are designed to apply to the scheduled passenger services of air carriers. If, however, a CRS vendor decides also to include non-scheduled passenger operations in its system the vendor should offer this facility on equal terms to all carriers or travel organizers carrying out such operations for each city-pair concerned. The information provided on non-scheduled operations should be stored and displayed in a manner which does not discriminate amongst the carriers or travel organizers concerned and treated in accordance with the paragraphs below regarding data integrity and sensitivity (13 through 21); in the particular case of operations on a seat-only basis (such as advance booking charter, travel group charter), the paragraphs regarding inventory and display (9 through 12) would also be applicable, although a CRS vendor should not be obliged to present non-scheduled operations on the same display as the scheduled services for the city-pair concerned.

## Carrier Participation in CRSs

1. A CRS vendor should not deny participation in that CRS to any air carrier which is prepared to pay the requisite fees for the services concerned.
2. A CRS vendor should not discriminate amongst participating carriers in the fees it charges for any of the services or service enhancements it provides.
3. A CRS vendor should not structure the fees it charges for any of the services it provides in such a way that they result in inequitable conditions which may preclude participation by smaller carriers.
4. A CRS vendor should not impose any conditions on participation in that CRS which have no connexion with participation, such as the purchase or sale of any other goods or services.
5. A CRS vendor should not attach anti-competitive conditions as to duration of contracts or penalties for withdrawal from contracts, to any contract with a participating carrier.
6. If a CRS vendor makes any service enhancements available to participating carriers, it should make them available on a non-discriminatory basis to all such carriers.
7. On written request by any interested carrier, a CRS vendor should make available, in written form and in a timely manner, current information on the services and enhancements it offers to participating carriers and the fees it charges for these services and enhancements.

**Travel Agents' Relationships with CRS Vendors**

8. A travel agent should have the opportunity of unrestricted access to as many different CRSs as it wishes. Consequently, a CRS vendor should not, in particular:
- a) discriminate amongst agents in offering CRS services or enhancements;
  - b) charge prices to agents conditional in whole or in part on the identity of carriers whose services are sold by the agent;
  - c) require agents to use the vendor's CRS exclusively or for a certain proportion of their sales activity;
  - d) require agents to use the vendor's CRS for sales of air transport services provided by the vendor;
  - e) tie any other aspect of the commercial arrangements between carriers and agents regarding the sale of air transport services provided by the vendor (for example levels of commission or other payments) to use of the vendor's CRS;
  - f) require agents to use the vendor's terminal equipment, although a vendor may require that the equipment used by agents be technically compatible with the vendor's system; or
  - g) require agents to enter into contracts of more than X years [the "X", probably in the order of 2 to 5, to be determined in individual countries], use "rollover" provisions to undermine contract termination provisions (such as recommencing the contract period when an additional item of hardware or software is provided), or attach anti-competitive conditions for withdrawal by agents from the contracts.

**CRS Inventory and Display**

9. When furnishing information regarding schedules, seat availability, fares and fare rules, a CRS vendor should provide at least one principal display, that is a display which would conform with the following requirements while being as fully functional and easy to use as any other display maintained by the vendor (any editing or updating of information for such a principal display should also be consistent with these requirements):
- a) more favourable treatment should not be given to some participating carriers than to other participating carriers;
  - b) different treatment may be given to non-participating carriers than to participating carriers, but any information on non-participating carriers that a CRS vendor chooses to display should not be presented in a misleading fashion;
  - c) any methodology used by a CRS vendor for ordering flights in displays of schedule information (including that used for the selection and construction of connecting flights) should meet the following criteria:
    - i) it should be based on objective service criteria that meet consumer needs (such as fares, routing, number of stops, number of connexions, departure/arrival times, and total elapsed time between flight departure at origin and flight arrival at destination, etc.);

- ii) it should not be influenced by carrier identity or by airport identity;
  - iii) it should be applied consistently and on a non-discriminatory basis to all participating carriers and to all city-pairs displayed;
- d) in applying any methodology for ordering flights, the services concerned should not be misrepresented and, in particular:
- i) any flights which are routinely expected to include a change of aircraft en route (whether or not they use a single flight number) should not be treated as if they were direct flights;
  - ii) any combination of flights which involves one air carrier using the designator code of another air carrier should not be treated as if it were an on-line combination;
  - iii) each combination of flights should not be presented more than once (such as under different flight numbers or air carrier codes);
- e) in presenting information, CRS displays should be accurate and not misleading. For example, displays of schedule information should clearly identify (and participating carriers should provide vendors with means of identifying):
- i) any flights which are routinely expected to include a change of aircraft en route;
  - ii) any flights which involve one carrier using the airline designator code of another carrier;
  - iii) any combinations of flights which require a change of airport by surface transport; and
  - iv) the number of stops en route for each flight.
10. A CRS vendor or a travel agent may also provide displays which differ from the principal display(s) referred to in paragraph 9 above. Such alternative displays should, however, be presented only in order to meet preferences expressed by a passenger, and in the absence of such expression of preference the CRS should default to presentation of a principal display. Moreover, alternative displays should, to the extent applicable and feasible, reflect those principles contained in paragraph 9 that are not overridden by passenger preference and, in particular, should always reflect the disclosure principles contained in 9 e).
11. A CRS vendor should provide in its contracts with travel agents that the travel agent should use the principal display available for each transaction, except where the use of alternative displays is permitted under paragraph 10 above, and that the travel agent should not manipulate information supplied by the CRS in a manner that would result in inaccurate, misleading or discriminatory information being given to passengers.
12. On written request by any interested party, a CRS vendor should make available, in written form and in a timely manner, a description of the methodologies it applies for entering, storing, displaying, editing or updating information. A CRS vendor should not, however, be obliged to make available proprietary information such as software programs.



**Data Integrity**

13. A participating carrier should be primarily responsible for the accuracy of the information that it provides to a CRS vendor directly or via a publisher of schedules or tariffs.
14. A CRS vendor should take measures to ensure that the information provided by participating carriers is accurate. If a CRS vendor believes such information to be inaccurate, it should contact the participating carrier to resolve the problem as soon as possible.
15. A CRS vendor and/or the publisher concerned should be responsible for the accuracy of any information contained in that CRS regarding non-participating carriers or any other information that the vendor and/or publisher provide themselves (such as fare construction rules).
16. A CRS vendor should load in its CRS information from any participating carrier, whether received directly or via an intermediary, with consistent standards of care and timeliness, subject to any constraints imposed by the participating carrier's loading method.
17. If a CRS vendor provides special data loading capability to any other carrier, it should offer the same services to all participating carriers in a non-discriminatory fashion.

**Commercially Sensitive CRS Information**

18. A CRS vendor should make the information generated by that CRS concerning a single booking available on an equal basis to the carrier (or carriers) on whose services the booking was made. Without the written consent of those carriers, the vendor should not make such information available to any other party.
19. A CRS vendor should not provide any information generated by that CRS in aggregated or anonymous form to any carrier without making it available on a non-discriminatory basis to all participating carriers.

**Privacy of Personal Data and Free Flow of Information**

20. A CRS vendor, participating carriers and travel agents should ensure that they safeguard the privacy of personal data.
21. Subject to paragraph 20, a CRS vendor, participating carriers and travel agents should be permitted free flow of the information needed to meet passengers' reservation, ticketing and related requirements.

**CRS Operations in Foreign Markets**

22. A CRS vendor must respect the national sovereignty of any State in which operations are planned or already current, and all operations must be in observance of the national laws and regulations of the State concerned and in accordance with any relevant agreement between the State(s) where the CRS is domiciled and the State(s) where it is operated. Consistent with or subject to any relevant provisions of such national or bilateral laws, regulations or agreements, a CRS vendor should be granted access to a foreign market if the following conditions are met:

- a) effective reciprocity for any CRS vendor from the State concerned is available;
  - b) any carrier from the State concerned is permitted to participate in the CRS; and
  - c) the CRS is operated in accordance with the other principles contained in this guidance material.
23. Any national requirements imposed on CRS vendors regarding access to and use of communications facilities, selection and use of technical hardware and software, or installation of hardware, should not have the effect of favouring one CRS vendor over another.
24. Any national requirements imposed on CRS vendors in connexion with any aspect of CRS operations or sales should apply equally to all CRS vendors.
25. A CRS vendor should not enter into any agreement with other vendors, regarding any aspect of CRS services or enhancements, the objective or the effect of which would be to partition markets on a geographical or other basis in such a way as to eliminate or reduce competition amongst vendors.
26. Any designated international carrier which provides information on schedules, fares and fare rules to a CRS should not refuse to provide this information, directly or indirectly, to any other CRS available in the same country.

#### **Reciprocity**

27. A CRS vendor should not be bound by all the paragraphs of this guidance material in its treatment of a carrier which is a vendor of a CRS which does not conform with the principles contained therein; however, if the CRS vendor avails itself of this provision and does not follow one or more of the principles, it should not act in a disproportionate manner.
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## APPENDIX

### EXAMPLES OF ACTUAL AND POTENTIAL PROBLEMS ARISING FROM THE DEVELOPMENT OF COMPUTER RESERVATION SYSTEMS

This Appendix presents examples of problems which have been raised in connexion with the development of CRSs, under three headings:

- a) display bias by CRS vendors and/or by travel agents;
- b) market manipulation by CRS vendors other than through display bias; and
- c) other problem areas.

#### A. Display bias by CRS vendors and/or by travel agents

<i>Bias factor</i>	<i>Example</i>
Carrier identity	Displaying flights or fares of a specific carrier ahead of those of other carriers by overriding other display priority parameters.
Carrier's status of participation in CRS	Excluding a carrier's flights or fares from the display because that carrier is not a participating carrier in the CRS (the printed multicarrier schedule guides, which CRSs are tending to replace or supplement, attempt to include all flights).  Giving flights or fares of participating carriers display priority over those of non-participating carriers.  Giving flights or fares of certain participating carriers display priority over those of other participating carriers.
Use of default departure times	Assuming a certain departure time if passenger does not indicate a desired departure time, with the (intentional or unintentional) result that the display of flights favours certain carriers.
Commonality of screen priority parameters	Applying the same display priority parameters to domestic, domestic/international and purely international services, despite the distinctive characteristics of these services.
Means of constructing connecting flights	Limiting the number of alternative connexions which may be listed, or excluding from the display some or all connecting flights through a particular city.
Airport identity	Displaying flights or fares from or via a certain airport ahead of those from or via another airport by overriding other display priority parameters.

<i>Bias factor</i>	<i>Example</i>
Display priority given to on-line transfers	Giving flights for an on-line connexion display priority over flights for an interline connexion, despite other inferior connexion parameters for the former. (Where the connexion is domestic/international, a wholly domestic carrier or a foreign international carrier thereby loses display priority.)
Code-sharing	Carrier "A" and carrier "B" making an agreement to designate a connexion between their flights as carrier "A" to carrier "A" and such a connexion being considered by some CRSs as on-line, thus gaining display priority.
Dual-listing or "screen padding"	In previous example, the same carriers "A" and "B" having their connexion listed twice, firstly as "A" to "A" and secondly as "A" to "B".
Change of gauge without change of flight number	A carrier using a single flight number where a change of aircraft is required en route and such a service being considered by some CRSs as a direct flight, thus gaining display priority.
Falsification of flight schedules	A carrier providing inaccurate departure, arrival or elapsed journey times to the CRS vendor, in order to achieve display priority.
Restrictions on display of fares	Limiting the number of classes of service or types of fare which may be listed for a specific carrier.

#### **B. Market manipulation by CRS vendors other than through display bias**

<i>Form of manipulation</i>	<i>Example</i>
Control of participation	Refusing outright to accept a (foreign) carrier as a participant, or accepting only under unduly burdensome or discriminatory conditions, or conditions that are unrelated to participation in a CRS.
Control of sales information	Manipulating a participating carrier's flight and fare information to that carrier's disadvantage.  Evaluating and responding to a competing carrier's revised schedules and fares before they are officially announced.
Control of marketing information	Information generated through a CRS being exclusively available to the vendor or sold by the vendor at excessive fees (such information could include, for example, data to identify travel agents who might be induced to direct their business away from competing carriers, or analyses of reservation patterns with a view to amending tariffs).
Control of reservations policy	Conditioning reservations for flights on routes where the vendor is a dominant or monopoly carrier upon the use of the same carrier wherever available for any other segments of the journey.

<i>Form of manipulation</i>	<i>Example</i>
Control of ticket issuance	Designating the vendor as the issuing carrier on all tickets or on any ticket containing a coupon for that carrier (whether first coupon or not) in order to achieve improved cash flow.
Control of system enhancements	Offering "last seat" availability (information on and reservation of seats which are still available shortly before departure) or advance issue of boarding passes only for certain participating carriers.
Inequitable access fees	<p>Allocating costs inequitably amongst the vendor, participating carriers and travel agents.</p> <p>Charging excessive fees for the services provided.</p> <p>Using fee structures that vary amongst participating carriers.</p> <p>Using fee structures with, for example, high initial costs which smaller carriers cannot afford (unlike CRSs the printed multicarrier guides are financed primarily by subscriptions rather than by carriers).</p>
Discrimination amongst travel agents	Offering certain services or enhancements to some agents, but not to others.
Tying of agents to a vendor's system or equipment	<p>Prohibiting an agent's use of other systems.</p> <p>Limiting the number of reservation terminals for other CRSs permitted on an agent's premises.</p> <p>Refusing to allow agents to use terminal equipment that is not provided by the vendor.</p> <p>Tying the provision of CRS services to use of the vendor's ticket printer (or imposing excessive charges for connexion and testing of other ticket printers).</p>
Tying of CRS services to other commercial arrangements	<p>Requiring an agent to use a vendor carrier's CRS for all reservations that contain a flight segment for that carrier (whether first segment or not).</p> <p>Tying the prices charged to an agent to the identity of carriers whose services are sold by the agent.</p> <p>Tying the levels of commission paid to an agent on the sale of a vendor carrier's air transport services to the use of the vendor's CRS.</p>
Unreasonable termination clauses in contracts with travel agents	<p>Requiring contracts to have excessively long duration.</p> <p>Requiring excessive "liquidated damages" for withdrawal and/or change to another CRS by agents.</p>

### C. Other problem areas

<i>Problem area</i>	<i>Example</i>
Monopoly characteristics of CRS market	In many countries, one CRS (usually owned by the national carrier) dominates the market.
Collusion amongst CRS vendors	Agreements amongst CRS vendors not to compete with each other in certain markets.
Impact of CRS ownership on airline performance	Even without display bias or market manipulation, ownership of a dominant CRS could give a carrier increased exposure in a market and hence an advantage over its competitors (the "halo" effect).
Problems specific to multi-access systems	<p>Although a multi-access system enables a travel agent to have access to the CRSs of a number of individual carriers, each of these CRSs usually displays information regarding the flights and fares only of certain carriers.</p> <p>As travel agency staff become familiar with the procedures involved in using certain of the individual carrier CRSs in the multi-access system (for example that of the dominant carrier in the country concerned), they may find it convenient to use those CRSs for most of their reservations activities ("camping").</p>
Impact of CRSs on the role of the travel agent	Increasing use of CRSs may exacerbate the adverse effect on the neutrality of travel agents arising from the different commission levels and other incentives offered by carriers, and may accentuate the divided loyalties of the travel agent between its carrier principals and its passenger clients.
Lack of awareness concerning the weaknesses of CRSs	Travel agents and their customers may frequently not be aware that information provided by a CRS might be incomplete in its coverage of the carriers operating on a route or routes, and might also be biased.
Technical and commercial obstacles faced by CRS vendors entering foreign markets, despite observing laws/regulations of the countries concerned	<p>Difficulties in obtaining access to communication facilities.</p> <p>Hardware and software specifications which may favour the national carrier's CRS over foreign CRSs.</p> <p>The need to have the national carrier's approval in some countries before making a CRS available to travel agents.</p> <p>Refusal by a national carrier to provide information on schedules, fares or "last seat" availability, to a foreign CRS.</p> <p>Refusal by a national carrier to allow its tickets to be issued by travel agents using a foreign CRS, even when the CRS meets all the relevant industry standards.</p>

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<i>Problem area</i>	<i>Example</i>
Privacy of personal data	Information of a personal nature regarding a passenger which is entered into a CRS may fall into the hands of individuals or entities which could use it to the disadvantage of the passenger.
Restrictions on transborder data flows	Certain restrictions adopted on a general basis which, when applied to the specific case of CRSs, can hinder their development.

— END —

## ICAO PUBLICATIONS IN THE AIR TRANSPORT FIELD

The following summary gives the status and also describes in general terms the contents of the various series of publications in the air transport field issued by the International Civil Aviation Organization:

**International Standards and Recommended Practices on Facilitation** (*designated as Annex 9 to the Convention*) which are adopted by the Council in accordance with Articles 37, 54 and 90 of the Convention on International Civil Aviation. The uniform observance of the specifications contained in the International Standards on Facilitation is recognized as practicable and as necessary to facilitate and improve some aspect of international air navigation, while the observance of any specification contained in the Recommended Practices is recognized as generally practicable and as highly desirable to facilitate and improve some aspect of international air navigation. Any differences between the national regulations and practices of a State and those established by an International Standard must be notified to the Council in accordance with Article 38 of the Convention. The Council has also invited Contracting States to notify differences from the provisions of the Recommended Practices;

**Council Statements** on policy relating to air transport questions, such as the economics of airports and en-route air navigation facilities, taxation and aims in the field of facilitation;

**Digests of Statistics** which are issued on a regular basis, presenting the statistical information received from Contracting States on their civil aviation activities;

**Circulars** providing specialized information of interest to Contracting States. They include regional studies on the development of international air passenger, freight and mail traffic and specialized studies of a world-wide nature;

**Manuals** providing information or guidance to Contracting States on such questions as airport and air navigation facility tariffs, air traffic forecasting techniques and air transport statistics.

Also of interest to Contracting States are reports of meetings in the air transport field, such as sessions of the Facilitation Division and the Statistics Division and conferences on the economics of airports and air navigation facilities. Supplements to these reports are issued, indicating the action taken by the Council on the meeting recommendations, many of which are addressed to Contracting States.

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