

**ERA (EUROPEAN REGIONS AIRLINE ASSOCIATION) RESPONSE TO
EUROPEAN COMMISSION IMPACT ASSESSMENT QUESTIONNAIRE ON
A COMMON EU APPROACH
TO THE USE OF PASSENGER NAME RECORD (PNR) DATA
FOR LAW ENFORCEMENT PURPOSES**

Introduction

The objectives of any collection and subsequent use of passenger data by authorities need to be clear.

ERA does not believe that the submission of passenger data for those making international air journeys will reduce the threat of a terrorist attack against air transport, as terrorists could then simply attack domestic flights, as they did in USA on 9/11. Aviation security is thus predicated on security checks, of which passenger profiling may have a greater role to play in the future.

Therefore the only significant legitimate objective of states collecting international passenger data is to increase the knowledge that authorities may have about actual or prospective criminals including terrorists, refugees including asylum seekers, and other categories of people who might be subject to a ban or other restrictions when crossing their borders.

There should be a greater emphasis on the exchange of available information between police, intelligence branches, security agencies, customs and immigration. ERA welcomes moves that enhance this capability.

The remainder of this paper is based on these premises.

Scope of instrument (forms of transport)

Airlines are one mode of public transport. Other widely used public transport modes within, to and from the EU include railways, coaches and ferries. All of these modes of transport can be used by individuals to cross borders.

ERA therefore submits that any system that requires data to be reported for air passengers, but takes no account of other modes of transport, is of little or no value to states.

As a result ERA opposes the introduction of airline passenger data collection alone as it will impose a burden on airlines with little or no benefit to states or airlines. Any data collection must cover all modes of transport, and must be imposed simultaneously to avoid distortions of competition.

Scope of instrument (geographic)

ERA submits that there is no value in states collecting data for international journeys within the Schengen area, due to the large volume of uncontrolled road crossings. Unless controls are reimposed at road borders, there is little or no benefit to states or public transport operators from the reporting of data to states for journeys within the Schengen area.



Only the UK and Ireland are likely to be EU states outside the Schengen zone for any length of time. The UK has already announced its intention to collect data for all international travel, including journeys to and from all EU states. Currently, representatives of all transport operators operating internationally to and from the UK are in discussions with the UK authorities and are investigating system requirements.

Almost no ERA airlines serve states that currently require passenger data. Therefore their systems have not been adapted to allow for data reporting. As only about one third of ERA member airlines serve the UK, two-thirds of ERA member airlines will continue to have unmodified systems. Exceptions are those airlines that use the same systems as major airlines that have had to adopt their systems to meet the demands of states such as USA and Australia.

In addition, some ERA airlines operate mainly within one member state. These airlines may carry only a small number of international passengers. The cost of systems modification for these airlines is disproportionate to the benefit that will be gained.

All staff dealing with international passengers will require training. This will include all staff taking reservations - this represents a fixed cost irrespective of the number of flights affected. There is also a requirement to train staff at airports. This cost will vary considerably depending on the number of airports affected. This itself will depend on whether information is required for inbound journeys only or for both inbound and outbound journeys, and will also vary considerably depending on the origin or destination countries for which data is required.

Body receiving PNR data

Airlines would benefit from having to report data to a single European body. However, the added cost of having to provide data to different units depending on the route would be significant. What is important from a cost perspective is that each set of data should only be required to be transmitted once rather than several times to a number of different agencies or states.

Method of transmitting PNR data to PIU or other relevant body

It must be noted that many ERA airlines have no systems in place to either “push” or “pull” data. Both would impose a cost burden. ERA has no information as to whether there is a significant cost difference between introducing a “push” or a “pull” method.

Bulk or case by case transfers

Data protection issues are for others to consider. Any mandatory provision of passenger information by transport operators to states must be in full compliance with all relevant data protection laws. There must also be legal immunity for this provision.

Any requirement on airlines to develop systems that select individual data fields rather than selecting an entire data record will involve significant extra costs.

Security of data

Standardisation of methodology and of encryption, if any, is essential to keep costs under control. Standardisation of message formats has been a feature of inter-airline communications for decades,



and standardised encryption is already common in financial organisations. It should be seen as a prerequisite for states to adhere to practices that are commonplace in the commercial world.

It is therefore important that the UK authorities, who are currently involved in detailed planning for implementation of reporting, should be involved in discussions on standards that would be acceptable throughout Europe.

General

2.1

The impact on individual airlines will vary depending on their current requirements. For example, airlines operating to USA or Australia will already have systems for submitting PNR data in place in their systems. In general, ERA members will have no such systems – the exception being those airlines that use an intercontinental airline's system.

It should also be noted that airlines do not necessarily collect standardised PNR data. Some airlines define the minimum that they need for particular operations and collect only that. There will be a very significant burden on airlines that are obliged to collect additional passenger information to meet the requirements of a PNR reporting system.

The impact on a typical ERA airline serving local markets within Europe using its own reservation system will rate as very burdensome (5).

2.2

ERA suggests that the burden can be minimised by ensuring that

- all EU states adopt an identical standard
- mandatory items required are kept to an absolute minimum
- airlines are only obliged to submit data that has been provided by the passenger

2.3

ERA is seeking average labour cost (including overheads) per hour data from its member airlines. Any cost data that is supplied must be treated as commercially confidential.

2.4

EU member states should not collect data until there is an agreed standard to be applied by all states.

As an alternative approach, ERA proposes that state employees should collect data, rather than relying on transport operators to submit data. This could be implemented by making all the required data available from a single machine readable document. A state or EU database could hold additional data linked to the document if necessary.

2.5

Given that airlines are already required to submit data to some authorities, and the UK intends to introduce a data collection from 2008, ERA does not believe that a passenger has an option to decline



the transmission of the required data. Tickets would not be available to passengers who refused to submit the necessary information. Consent is therefore immaterial.

Data protection authorities will need to ensure that transport operators are not held liable for transferring data required by a state.

It should be a state's responsibility to ensure that travellers wishing to enter the state are aware that it collects data about the passenger.

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