

Proposal of the European Commission for a Multimodal Digital Mobility Services (MDMS) Regulation

ERA fully supports the principles around which the airline distribution market has grown during the past years: **level playing field, fair competition and transparency**. These principles need to continue to be protected for the benefit of cost transparency for the end consumer.

ERA air carriers are in favour of a regulation that reflects **the new competition environment of the airline distribution ticket market**. It is a critical instrument for the European Commission to ensure the aviation market remains competitive and to protect the Single European Aviation Market, thus providing all airlines regardless of their size with the opportunity to compete on the merits of their offer and services.

The aviation industry believes **that technology is developing and exploring new ways of selling and distributing tickets**.

ERA carriers believe that the neutral display principle which is core to the CRS Code of Conduct and the B2B relations must be retained in the future proposal for the MDMS Regulation, if B2B relations are to be covered.

Neutral display ensures non-discrimination between carriers and is a tool to ensure effective competition between carriers as well as efficient consumer choice. Indeed, the neutral display rule provides a **very powerful tool to correct market failures resulting from advantageous competitive position** while ensuring fair competition and transparency in the air travel market. It provides also full transparency to customers for an informed choice.

If the CRSs would be allowed to display something else than a neutral display, it might lead to a bidding war from the airlines to get a higher ranking – the same way that Google has – **and would decrease transparency for the end-consumer, while driving up ticket prices**.

In such context, smaller airlines might face greater difficulties to get their content out to the public. The capacity for ERA members to compete in a market which is predominantly dominated by large airlines would therefore be challenging without such tool.

As for advertisement, we advocate for a close adherence to the guidance of the Commission on the unfair Commercial Practices Directive which addresses all issues in detail.

To ensure a level playing field, ERA strongly supports that **similar rules and obligations must be applied to all competing B2B players in the airline distribution ticket market**, including GDSs, content aggregators, direct connects and anyone else who works as an intermediary between airlines and sales agents. Airlines are concerned that the scope of the future MDMS Regulation as it states today is broad and will cover different modes of transport with very

different business models.

Airlines see as a big threat any obligation for sharing their data and see no market justifications for such a policy option. Airlines believe it is important for their business model to remain free **to determine their distribution channels and the relevant technology they want to use**. In addition, ERA members question the feasibility of handling different sur-charges and rules in different countries.

Therefore, ERA carriers strongly oppose the European Commission's proposal to impose a full content access obligation on transport operators.

From a B2B perspective, mandating full content will deprives airlines of any negotiating power with GDSs. Today airlines provide full content to GDSs in exchange for discounts on booking fees. Such an obligation would therefore distort the principle of equality of the negotiating power of each party to a contract and create uncertainty about how costs will develop for airlines, which will then be passed on to the end consumer. A full content obligation will also kill the idea of innovating and developing new partnerships.

The distribution of the airline content via intermediaries to customers **must be provided on a transparent and fair basis**. All distribution players pricing must be fair and transparent and competition amongst all distribution players is encouraged to the benefit of all airlines including those that do not enjoy the economies of scale or commercial capabilities of certain larger groups.

In B2B relationships, parity clauses that are imposed by CRSs lock airlines into accepting clauses in contracts not to be excluded from part of the market.

The incentive schemes from the GDSs should be defined as an unfair or unjustified condition. The incentives are so large that the subscribers can be locked in to using one CRS. The only way to reverse the practice for the airlines is to **impose big GDS-fees on the ticket prices and set up their own links**. Smaller airlines might not have this possibility because of the cost related to building such an infrastructure.

Interline agreements should also be exempted from the scope of the Regulation.

Airlines fear that such an obligation would ultimately strengthen the position and profitability of meta-search - often non-European - and therefore create dominant positions in the Single European Aviation Market.

Requiring transport operators to agree to be resold on third parties' platforms will deprive airlines of the ability to choose their sales partners – **including partners who are unreliable and cannot offer the same level of standards to customers as airlines can offer themselves** – and will not ensure that the airline's product will be properly sold. This would be the case even if the obligation is subject to a fair contractual agreement that complies with the FRAND principles set out in the legislation.



The European Commission should also ensure cohesion between the policies that will apply to B2B and B2C operators. Indeed, in most cases, it is materially impossible for airlines to pass the content to OTAs without passing by GDSs.

For the sake of efficiency ERA carriers believe that the scope of the MDMS initiative should focus on B2C relationships and metasearch capabilities to provide comprehensive and transparent information to the consumers.

From a B2C perspective, mandating full content will prevent airlines from interacting with travel agencies one by one. Travel agencies are not resellers of airline tickets but representatives of the airlines with a mandate to sell air tickets under strict conditions.

Thus, if the travel agency does not properly represent the airline, the airline must have the power to break the commercial relationship with the travel agency. This pattern would not work with a full content obligation and therefore would have implications for the travel experience of the customer. Moreover, today airlines can offer a wide range of customer experience which requires a sophisticated understanding by the travel agencies of the airline business.

The example in Norway of all railway companies having to transfer their data to a central entity - the NPR EnTur - is very illustrative in this regard. Indeed, some public discussions have taken place in the media in which railway companies have stated that the mandatory distribution of content to an NPR such as EnTur leads to costs because of complexity and is an obstacle for the railway companies in designing new products. In this case, it seems that mandatory data sharing increases ticket prices – because of increased costs – while decreasing the willingness of operators to innovate new products for the customer.

When it comes to environmental concerns, ERA members believe that travelers should be able to make **sustainable and informed travel choices** by getting transparent and comparable information on the emissions of each travel option, notably through indirect distribution platforms. We support the need for information based MDMS to provide travelers with relevant information based on a standard environmental emissions accounting system such as the one foreseen in Count emissions EU initiative.

To truly enable a fair comparison based on sustainability factors (mainly CO2 emissions), transport services providers should be obliged to share comprehensive and accurate emissions data. Such data should be based on the methodology to be developed under the Count Emissions EU initiative and must be provided to independent distributors.

Finally, ERA would like to stress that the MDMS initiative raises **major issues related to the ‘ownership of the consumer’, the responsibility of the consumer data and EU261/2004 Regulation obligations.**

Indeed, if policy makers agree on an MDMS Regulation, they must address in the policy how to



deal with passenger's rights in a multimodal environment.

