REGULATIONS ON COMPUTORISED RESERVATION SYSTEM IN TRANSPORT SERVICES

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Abstract: The paper analyses legal issues concerning computerised reservation system in air transport services and rail products incorporated alongside the air-transport product into principal display of computerised reservation system. It gives a study of the European Union Code of Conduct for computerised reservation system in air-transport products focusing the obligations for system vendors and transport providers. The legal framework of personal data protection is elaborated with the evaluation of fair transport competition terms. In author's opinion, in order to promote fair competition in transport services, prevent the systems from engaging in anti-competitive conduct and to ensure that consumers’ rights, it is necessary to have more comprehensive and stringent rules in e-transport services.

Key words: Computerised Reservation System, Regulation, Transport Services, System Vendor.

INTRODUCTION

Computerised reservation system, originally designed, owned and operated by airliners as a rule contains information about schedules, availability of seats and fares. Technological and market development allow for a substantial simplification of the legislative framework by giving more flexibility to entities responsible for computerised reservation system and air carriers to negotiate booking fees and fare content. In addition, thanks to Internet, the direct selling of ticket by the air-liners via their website has augmented.

Increasing use of information technology in transport services is opening new legal challenges in contracting parties’ rights and obligation.

1. ORIGIN OF THE COMPUTORISED RESERVATION SYSTEM

A computerised reservation system is a processor system used to store and retrieve information and conduct operation related to air travel with instantaneous information about the availability of transport services and the fares of such services.

In 1970 the airliners began modifying and enhancing their internal reservation system to make sale airline tickets through travel agents more efficient. The system gave access to information about flights schedules, fares and seat availability. It also enabled them to make reservations and issue tickets automatically. Since agents tend to suggest
the flights listed, computerised reservation system owners displayed their own flights most notably.

2. AIMS OF THE HARMONISED CODE OF CONDUCT

The use of computerised reservation system in transport and tourism products has revolutionized the ways of running transport and tourism companies along with introducing new possibilities for distribution of services. Internet penetration is likely to continue to increase as Internet access show that the growing number of citizens is having access to this distribution channel.

Regulation (EC) No.80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89 applies to air-transport products, when offered for use in the Community and also to rail-transport products, which are incorporated alongside air-transport products into the principal display of the computerised reservations system, when offered for use or used in the Community. This Regulation aims to establish a harmonised code of conduct regarding the use of computerised reservation systems in order to ensure fair competition and protect consumers’ rights.

3. OBLIGATIONS OF SYSTEM VENDORS AND TRANSPORT PROVIDERS

A system vendor, as an entity or its affiliates which is responsible for the operation or marketing of computerised reservation system, shall not attach unfair and/or unjustified conditions to any contract with a participating carrier or require the acceptance of supplementary conditions which have no connection with participation in its computerised reservation system. Moreover, a system vendor shall not make it a condition of participation in its computerised reservation system that a participating carrier may not at the same time be a participant in another system or that a participating carrier may not freely use alternatives reservation system such as its own Internet booking system.

In its relationship with transport providers a system vendor shall load and process the data provided by air carrier or rail-transport operator which has an agreement with system vendor with equal care and timeliness, subject only to the constraints of the loading method selected by the individual participating carrier.

All system vendors shall apply the same treatment to all participating carriers with regard to distributing their carriage of passengers between two airports or rail stations and shall inform them of changes to their distribution facilities or loading procedures. In addition a system vendor shall ensure that its information facilities about air carriers and rail-transport schedules, availability, fares and related services for marking reservations and/or issuing tickets and for related services are clearly separated from the management and marketing facilities of participating carriers.
The presentation of data on displays shall not mislead the user. Where price is shown on main display, and/or where ranking based on prices is chosen, process shall be inclusive of the fares and of all applicable taxes, charges, surcharges and fees to be paid to the air carrier or rail-transport operator, and which are unavoidable and foreseeable at the time when shown on the display. Flight other than scheduled air services and flights involving stops en route must be clearly identified.

Flights operated by air carriers subject to an operating ban pursuant to Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier must be clearly and specifically identified in the display. This Regulation is intended to give passengers the right to be informed of the identity of the carrier operating the flight they have booked, while at the same time reinforcing the obligation of Member States to pass on safety-related information. Companies to be unsafe will find their aircrafts banned from flying and will have their names published on the Internet blacklist and in the Official Journal.

Air carriers will be included on the blacklist on the basis of evidence of serious safety deficiencies on part of the carrier, on the basis of lack of ability or willingness on part of a carrier to address safety deficiencies, as well as on the basis of a lack of ability or willingness on the part of the authorities responsible for overseeing carrier to address safety deficiencies.

To enable airline passengers to be better informed about the operating carrier when choosing a flight, passengers must be able to know which carrier will be operating the flight when they made their booking. The contracting carrier is required to inform passengers of the identity of the operating air carrier or carriers when making reservation, whatever the means used to make the booking.

Marketing, booking and sales data may be available by system vendors provided such data are offered with equal timeliness and on the non-discriminatory basis to all participating carriers including parent carrier i.e. air carrier or rail-transport operator which controls or participates in capital with rights and representation on the boards of directors, supervisory board or any other governing body of a system vendor, as well as any air carrier or rail-transport operator which it controls.

System vendors from third countries have an obligation to threat Community carriers in a manner that is equivalent to their treatment of national carriers. Participating carrier shall submit precise data to a computerised reservation system to make possible compliance with the rules on displaying data. A parent company, subject to reciprocity, shall not discriminate a competing computerised reservation system by refusing, for example, to provide the latter with the same information on its own transport products that it provides to its own computerised reservation system. Also, a parent carrier shall not favour its own computerised reservation system by obliging a subscriber to use a particular computerised reservation system to sell its transport products.
4. PROTECTION OF CUSTOMER PERSONAL DATA

Processing, access and storage of personal data personal data in the course of activities of computerised reservation system for the purpose of making reservations or issuing tickets for transport products shall be in accordance with the European Parliament and Council Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on free movement of such data. This Directive is focused as the quality of data and legitimacy of data processing. Personal data must be processed fairly and lawfully, and collected for specified, explicit and legitimate purposes and personal data may be processed only for the performance of a contract to which the data subject is a party or, for compliance with a legal obligation to which the controller is subject or, in order to protect the vital interest of the data subject or, for the performance of a task carried out in the public interest or, for the purposes of the legitimate interests pursued by the controller.

Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and protection of privacy in the electronic communication sector contains provisions on a number of more or less sensitive topics, such as Member States keeping connection data for the purposes of police surveillance, the sending of unsolicited e-mail, the use of cookies and the inclusion of personal data in public directories.

Commission Decision 2004/915/EC of 27 December 2004 amending Decision 2001/497/EC as regards the introduction of an alternative set of standard contractual clauses for the transfer of personal data to third countries is focused to ensure adequate safeguards when personal data are transferred from the European Union to third countries.

Commission Decision 2001/497/EC of 15 June 2001 on standard contractual clauses for the transfer of personal data to third countries under Directive 95/46/EC requires Member States to recognise that companies or bodies which use standard clauses in contracts relating to personal data to third countries ensure an adequate level of protection of the data.

Regulation (EC) No 45/2001 of the European Parliament and of the Council of 19 December 2000 on the protection of individuals with the regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data includes provisions which guarantee a high level of protection of personal data processed by the Community institutions and bodies and provides for the establishment of an independent supervisory body to monitor the application of these provisions.
5. TRANSPORT COMPETITION TERMS AND CUSTOMER'S PROTECTION

E-commerce and consequently e-business, on one hand has enhanced productivity and enables mass customization and cost reduction and, on the other hand, opens new legal issues. European businesses depend on a specific brick-and-mortar agency to manage their travel-related accounts with a growing proportion of business travellers booking their own travel online. The computerised reservation system requires a certain degree of regulation in order to ensure that all airlines enjoy the same level of access to travel agents and consumers.

Regulation (EC) No.80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89 has made a crucial contribution to ensuring fair and unbiased conditions for air carriers in a computerised reservation system thereby protecting the interests of consumers. The Code of Conduct was establish with the aim of improving transparency and preventing discriminatory behaviour both by system vendors themselves and also by airlines, in particular those which have a stake of ownership of the computerised reservation system. The Code of Conduct also imposed obligations in terms of neutral displays in order to avoid discriminatory treatment of airlines on the system's principal display.

On the one hand, system vendors were required to deal in an even-handed manner with all carriers and travel agents while, on the other carriers with a financial stake in a computerised reservation system were required not to favour that system over the others.

System vendor shall submit an independently audited report dealing the ownership structure and governance model and the cost related to the audited report shall be borne by system vendor. The European Commission shall first issue to the undertakings or associations of undertakings concerned a statement of objection and give them the opportunity to submit their views in writing and, if they so request at an oral hearing. Where the Commission finds that there is an infringement of the Regulation, it may require the undertakings or association of undertakings concerned to bring such an infringement to an end and impose on the latter fines not exceeding 1% of the total turnover. In fixing the amount of fines, regard shall be given both to the gravity and to the duration of infringement.

CONCLUSIONS

Although the dominance of computerised reservation system in airline booking has been reduced by development of direct distribution channels, especially via Internet, it seems they may remain the main providers of travel distribution services. This should allow them to adapt to the needs and requests of travel agents and consumers and to distribute more efficiently their transport products.
So as to protect consumer’s interest, it is necessary to present an unbiased initial display to users of the computerised reservation system and to ensure that information is equally accessible.

In author’s opinion, in order to promote fair competition in transport services, prevent the systems from engaging in anti-competitive conduct and to ensure that consumers do not receive inaccurate and misleading information it is necessary to have more comprehensive and stringent rules on computerised reservation system.

Any transformation to the regulatory environment of the airline distribution market needs to take account of the likely future evolution of the market. Over the years the computerised reservations system is gradually evolving into global distribution system that host inventory of multiple airlines and other modes of travel and travel related services.

REFERENCES


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