



**WORKING PAPER**

**FACILITATION PANEL (FALP)**

**ELEVENTH MEETING**

**Montréal, 13-16 January 2020**

**Agenda Item 6: Other matters**

**FUNDING OF PASSENGER DATA PROGRAMS**

(Presented by the International Air Transport Association (IATA))

**SUMMARY**

This Working Paper proposes changes to Annex 9, Chapter 9 as follows:

1. Move the Standard 9.12 from Section B. Advance Passenger Information (API) to Section A. General;
2. Expand the scope of this Standard to all passenger data types: API, Passenger Name Record (PNR) and interactive API (iAPI);
3. Amend the wording to remove 'to the extent possible' (which is more appropriate for a Recommended Practice); and add 'financial burden'.

The proposed changes reflect that the passenger-related data being used by States, namely API and PNR, is collected and formatted by aircraft operators, and transmitted to national authorities.

Enhancing border controls and national and aviation security is a shared responsibility between States and aircraft operators. Aircraft operators recognize their responsibility and have set up complex and expensive systems in order to process passenger data.

States are increasingly implementing passenger data programs to comply with their international obligations. This, in turn, increases the pressure on aircraft operators that have to establish the connection with a growing number of States. Some States seek to finance their programs through a charge applied to passengers, which further increases the financial burden on carriers.

IATA has conducted studies that demonstrate that passenger charges negatively affects the demand for air transport and the contribution of the air transportation industry to national economies.

Given the negative consequences for all stakeholders of applying passenger data charges and that such charges contradict a number of ICAO principles, States shall seek to limit the financial burden on aircraft operators and consider other means for funding their programs.

**Action by the FAL Panel:**

The FAL Panel is invited to consider the proposals described in this paper and agree that Annex 9 be amended, as set out in the Appendix.

## 1. INTRODUCTION

1.1 As States consider implementing passenger data programs in order to use API and PNR data transmitted by carriers, they seek ways to finance these systems.

1.2 Some States have proposed to introduce a per-passenger data fee, and in some cases also on crew members, on routes to, from and via their territory. The charge varies from country to country and may be as high as US \$5 per person.

1.3 Ultimately, this increases the cost of air travel and decreases the attractiveness of this country. The IATA Economics Department has studied this impact on some countries and has found that the reduction in passenger volume is substantial given the increase in ticket price. Imposing a passenger data charge can result in the diversion of tourists and air passengers to neighbouring jurisdictions that do not impose such a tax. This reduction in passenger volume ripples out through the broader economy. Any government decision leading to an increase in the cost of air travel imposes a barrier to the development of aviation and tourism industries, which play a vital role in a State's economy.

1.4 Reducing the operational, financial, and administrative burdens on aircraft operators will help maintain the cost of air travel low, enable better connectivity for businesses and leisure travellers, and keep air travel affordable for tourists.

## 2. DISCUSSION

2.1 States implement passenger data exchange programs in the context of wider national border control and border security programs and to comply with international obligations set by the United Nations Security Council to prevent the movement of foreign terrorist fighters. Receiving, processing, and analyzing API and PNR data is a State's duty and should be funded by the national budget.

2.2 The airline industry fully understands its responsibility and its unique position in supporting States in performing their border security functions. Airlines have already been transmitting passenger data to many governments and have set up and developed sophisticated IT systems, which cost hundreds of thousands of dollars to establish. These costs increase as the number of States requiring API and PNR data at departure, during transit, and/or on arrival continues to grow.

2.3 In addition to allocating the appropriate funding, IATA recommends that States carefully plan for a reasonable number of transmissions (per flight, per origin/destination) and adhere to international standards and guidelines on passenger data exchange, as set forth in the API-PNR Toolkit developed by the World Customs Organization (WCO), IATA and ICAO.

2.4 Passenger data charges contradicts ICAO principles. ICAO's Policies on Taxation in the Field of International Air Transport (Document 8632) states that "Each Contracting State shall reduce to the fullest practicable extent [...] all forms of taxation on the sale or use of international transport by air, including taxes on gross receipts of operators and taxes levied directly on passengers or shippers.". ICAO's Policies on Charges for Airports and Air Navigation Services (Document 9082) "recognizes that civil aviation should not be charged for any costs that would be incurred for more general security functions performed by States, such as general policing, intelligence gathering and national security."

2.5 The airline industry is supportive of passenger data programs and acknowledges its responsibilities for contributing to the enhancement of border controls and national aviation security, and

to the global fight against terrorism. Aircraft operators are more effective in upholding these responsibilities when they are released from financial burden in addition to the funding of their systems to collect and transfer API and PNR data to a State.

### 3. **RECOMMENDATIONS**

3.1 The Panel is invited to consider the proposal to request that the ATC, through the Secretariat, to:

3.1.1 Amend Annex 9 as set out in the Appendix;

3.1.1 Encourage ICAO Contracting States to evaluate the impact of a levy imposed on passenger travelling by air on their economy before imposing such charge;

3.1.2 Advise ICAO Contracting States to seek funding and implementation assistance from international organizations or other States; and

3.1.3 Recommend ICAO Contracting States to otherwise fund their passenger data program through general government revenues.

-----

**APPENDIX**

*Amend Annex 9 as follows:*

**CHAPTER 9. PASSENGER DATA EXCHANGE SYSTEM****A. General**

9.xx ~~If a Contracting State requires the exchange of Advance Passenger Information (API)/interactive API (iAPI) and/or Passenger Name Record (PNR) data API data interchange, then it shall seek, to the greatest extent possible,~~ to limit the operational, financial and administrative burdens on aircraft operators, while enhancing passenger facilitation.

**B. Advance Passenger Information (API)**

9.12 ~~If a Contracting State requires API data interchange, then it shall seek, to the greatest extent possible, to limit the operational and administrative burdens on aircraft operators, while enhancing passenger facilitation.~~

— END —