AIRLINES FOR EUROPE

POSITION PAPER

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A4E'S POSITION ON EU DATA ACT

SUMMARY

The Data Act is part of the European Strategy for data, together with e.g. the Data Governance Act. It is intended to be a transversal document across all sectors regarding the rights to use data. As such, it is not intended to replace or change existing sectoral regulation, but it will be the framework for any future sectoral regulation.

This paper outlines the sectoral needs and views of airlines linked to the use of data generated during the operation of an aircraft. Such data is not only used to provide Air Navigation Services, which is regulated within the Single European Sky framework -- but also for internal airline analytics and processes linked to aircraft maintenance, operational improvements, safety management or reducing the environmental impact of flying.

The general view of airlines is that the data generated in-flight (and in general during aircraft operation) should be owned and controlled by the airline.

A4E therefore fully supports the European Commission's approach to the Data Act to allow for open access to data generated by the use of connected products by airlines, aircraft operators and Maintenance, Repair and Overhaul (MRO) organisations. This open access to data will lead to increased operational efficiency and flight safety, more efficient maintenance and repair processes as well as increased sustainability.

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INTRODUCTION

"As a horizontal proposal, the Data Act envisages basic rules for all sectors as regards the rights to use data, such as in the areas of smart machinery or consumer goods. However, the rights and obligations on access and use of data have also been regulated to varying degrees at sectoral level. The Data Act will not change any such existing legislation, but future legislation in these areas should in principle be aligned with the horizontal principles of the Data Act."[1]

This document will deal with the sectoral view of airlines and aircraft operators (hereinafter jointly referred to as "aircraft operators") as they rely heavily on data, its sharing, and analysis in two different areas:

- Air Traffic Management (ATM) and Air Navigation Service Provision
- Aircraft operator's internal analytics and processes

Concerning ATM and the required operational data used to provide Air Navigation Services, it is mentioned in the draft text that this kind of data will fall under the auspices of the Single European Sky (SES) regulation and therefore will not be part of this paper. Unfortunately, the SES reform is progressing very slowly, and it is not yet clear what kind of data, or what usage will be covered in SES.

Aircraft operators' internal analytics and processes are directly linked to the EU Data Act. Aircraft operators use data analytics for optimising fuel consumption and technical operation, which can extend into other modes of transport. Aircraft MRO organisations use such data to develop and improve predictive maintenance tools helping aircraft operators to become more cost efficient and sustainable. Unfortunately, retrieval and sharing of data is taxing and sometimes impossible, as dominant manufacturers of aircraft and connected products restrict access to "their" data.

[1] Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on harmonised rules on fair access to and use of data (Data Act)
(Text with EEA relevance)
{SEC(2022) 81 final} - {SWD(2022) 34 final} - {SWD(2022) 35 final, page 5}

Ownership of data and control of use

It would be desirable for aircraft operators to own all data generated by their aircraft while being operated. This would ensure that ambiguities and conflicts with data protection law (GDPR) can be appropriately addressed. In any case, legal uncertainties as well as conflicts arising from the Data Act and GDPR created by the Data Act must be eliminated in the final legal text.

Digitalisation has enabled changes in how safety and maintenance are addressed. Today preventive safety or maintenance management is state of the art. Aircraft operators are aware that aircraft (and engines) produce a rapidly increasing amount of data – but they do not know what type and for what reason this data is produced. Consequently, one cannot ensure that existing processes use the best available data and yield the best possible result. In addition, new analytics e.g. regarding environmental optimisation (reduction of fuel consumption) cannot be developed proactively by aircraft operators or third parties outside the Original Equipment Manufacturers (OEMs). It is true that OEMs provide their tools to analyse their data, but it is not clear if the subset of data available and analysed is complete and sufficient. Furthermore, these tools are not necessarily compatible with other OEM tools or data sets, thus leading to inefficiencies in aircraft operations with all their potential consequences.

We acknowledge that some of the data might be of no use to aircraft operators or might be linked to intellectual property rights stemming from design works as some OEMs claim. Nevertheless, a transparent dialogue and – if not ownership – at least control over the aircraft generated data is necessary. Such control would prevent a “locked in” situation and ensure freedom of choice for aircraft operators to select, e.g. MRO providers or a data analyst company. In other words, aircraft operators as “honest data brokers” will help to prevent monopoly situations, generate competition, and advance innovation.

Competition and business development

The EU Data Act is an important step to increase access to data which is currently controlled by a few market players (e.g. manufacturers of aircraft, engines, and connected components). Open access to data generated by the use of connected products for aircraft operators and MRO organisations will lead to increased operational efficiency, reduced emissions, and more cost-efficient service offerings.

To bring novel innovative concepts to life, aircraft operators need access to data generated during the use of their aircraft. Aircraft manufacturers acknowledge this by equipping the aircraft with so-called Aircraft Interface Devices. Unfortunately, not all data transmitted to the manufacturer is available to aircraft operators. Today, to gain full access to all data generated by the use of the aircraft, aircraft operators are de-facto bound to use hardware and software produced by the respective OEM. However, none of the aircraft operators, OEM-independent MRO providers or small and medium-sized companies specializing in data science, have access to the full data set of an aircraft, engine or connected component. As a result, their innovative power is reduced significantly nor is there competition pushing new data analysis ideas or business models. This causes another monopolistic situation in the aviation ecosystem, something aircraft operators are seeking to eliminate to allow free choice e.g. of MRO providers.

Environmental Sustainability

Already today, with limited access to the data generated during operations of an aircraft new ways of managing safety or planning maintenance are implemented. Aircraft operators are not limited to reacting to an incident/problem but can proactively detect and predict them through a combination of data analytics and technical knowledge. Access to all data would further improve these prediction capabilities, thus leading to even better maintenance planning avoiding major

damages. In return, aircraft would have a longer life span and the number of unnecessarily scrapped parts would be reduced.

A4E foresees a similar potential for aircraft generated data to be used to improve environmental aspects i.e. fuel consumption. Here the goal would be to select the best aircraft for a flight, increasing operational efficiency and therefore reducing emissions. Access to data generated during the use of connected products for aircraft operators and their MRO providers would allow this – and also promote innovation as it would allow to identify environmentally beneficial measures linked to airframe and engine.

Conclusion

A4E fully supports the European Commission's approach to the Data Act. The open access to data generated by the use of connected products by aircraft operators, and MROs and other third parties will lead to increased operational efficiency regarding flight safety, maintenance and repair as well as to enhanced sustainability.

Nevertheless, A4E requests that the final Data Act text:

- ensures that data generated during the operation of the aircraft or connected product will be owned, or at least controlled by the respective aircraft operators or aircraft operator;
- eliminates possible areas of conflict between the Data Act and data protection law.

By ensuring the above market access, competition and innovation will be supported and in addition further decarbonisation potential can be identified and realised.