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Taking AIM

Information generation and processing is one of the most overlooked aspects of air navigation service provision. It is in the same category as the plumbing – only noticed when not working. For over 50 years, under Annex 15 of the Chicago Convention, each State has been required to provide certain information, on paper, on a cost recovery basis. But paper based systems are slow, expensive, inflexible and inaccessible – and out of date.

As is true for much of life, aviation is increasingly data driven. Modern cockpits are computer based. Aircraft and airports are moving down the road of data exchange; data link; data-driven processes. There is a growing need for seamless, integrated data and for systems that use that data to drive the aviation industry. That is equally true for Air Traffic Management.

The rules talk about information; increasingly, the systems, the processes and the technology talk about data. There is a significant difference.

Consequently, it is right that ICAO is looking at a system wide movement from aeronautical information systems (AIS) to aeronautical information management (AIM). ICAO is hosting a symposium in early June to consider some of the tricky institutional issues raised by this change. A study group established by ICAO has set what many would consider to be a world land speed record breaking time in producing new guidelines for the industry by 2010. Sadly, just as it is recognised that maps are in the same category as cannon balls and button up boots, ICAO is proposing that this be called a 'road map'; but rather than point out the irony, we should perhaps celebrate the spirit of speed called for by ICAO.

The pace of change is accelerating, and ICAO's standards need to accelerate too. Why is it therefore not possible to put in place not SARPs, but a flexible framework for how data are produced and used? Once the data is agreed, that might then leave a level playing field for the production of the resulting information.

At the core of the issue is whether information provision is a commercial service, or a State obligation. Most Air Navigation Service Providers (ANSPs – State owned as they are) cannot resolve that issue.

The underlying data are different. The data required to be produced by each State should come from a single, credible source – there can only be one set of aeronautical data per State; particularly for time critical NOTAMs, an integral part of the Annex 15 requirements.

That frees up the supply of information (which manipulates and relies on the data) to be dealt with on commercial terms. That addresses both liability and copyright. The bigger question is if ANSPs commercialise their information services, how do we ensure that they compete with their private sector competitors on an equal footing? The AIP/AIS department of every ANSP tends to be kicked between 'commercial' and 'core' with each reorganisation. In other words, until we resolve the issues surrounding the separation of

service regulation and service provision, it's likely that the institutional issues too will continue to be a political football.

Maybe it is time for industry to step up. The industry should support, as a State obligation, the production of reliable, incontrovertible data. Each State should have responsibility for overseeing the integrity of that data. To encourage the growth of a competitive service industry focussed on the needs of users that data should be made available, consistently with the current terms of Annex 15, as a State obligation, at cost. ICAO's role should be to specify which data are needed, and to encourage global, accurate data provision from all States.

That would then leave users free to purchase whatever information, and information systems, each user considers necessary from a range of potential suppliers, regulated by normal market forces and market demand for new and innovative products.

The low down on the Environment Summit

Some deep semiotic symbolism was at play at what is now an annual aviation industry 'Summit' on the environment, held in Geneva in April. The summit was held in a basement.

Once, a summit was a meeting of the powerful to reach an agreement. In this case, one should be thinking PowerPoint, not powerful. The great and the good did sign a declaration (details in our Aviation Intelligence Reporter of March), but maintaining the spirit of 'pre-staged' to the bitter end, even as pens were being photographed in the act of putting the ink on the page, copies of the fully signed document were distributed to the delegates' desks.

The declaration is dreadfully worthy, and reads like wet toast. On the positive side, as IATA pointed out, the chances of getting the various signatories to sign any document collectively four years ago, when the Summit was first held, were remote, and now: look! they say. Yes, and the chances of the various signatories refusing to sign after the attention and focus that this issue has received over the last four years are substantially more remote. The only circumstance in which the signatories would not have signed would have been if they were actually dead.

If IATA is saying that this is as good as it gets for aviation then that is very scary. The question is not that they signed something, but what exactly did they sign? Did the various parts of the aviation industry, including the airlines, the airports, ANSPs and airframe manufacturers sign something that addresses what the industry needs? Is it fit for purpose?

That is a lot harder to answer, but the need for good answers is pressing. The summit was neatly set in context by events in Brussels. The day before the summit, the Council of Ministers sent an agreed version of the proposed Emission Trading Scheme (ETS) for aviation back to the European Parliament for reconciliation. In other words, one of the major political hurdles was overcome. If there was any doubt about ETS applying to air transport in Europe, then it was laid to rest with that single act.

The Council proposal modifies some of the proposals that the Parliament had put forward, but continues to require 100% benchmarking, 10% auctioning and a start date of 2012. Furthermore, it notes that a wide-ranging review of the ETS scheme in general (which will then include aviation) is scheduled for 2015 and the Council is not prepared to rule out additional, more stringent, measures being put in place then. There is an exemption for carriers operating less than 243 flights in three consecutive four month periods. Finally, there is an exhortation that the Commission work hard to find international agreement on the introduction of an ETS for all airlines around the world.

That, the Commission has started to do. Just as the summit's solemn agreement to work through ICAO and ICAO alone for a multilateral cap and trade system hit the delegates' desks, the Commission announced that it had signed an agreement with Japan to work together to address this and other environment issues. Since then, a further announcement of discussions with Australia have also been announced. It is not clear in either case whether it is intended that this cooperation be within the walls of ICAO. It is likely that the French Presidency of the EU (which starts in July) may recommend that bilaterals between the EU and third countries be renegotiated to incorporate the ETS principle, by mutual consent.

On the day after the summit, as IATA's Environment Committee passed a resolution that they did not accept that NOx gases should have a multiplier effect on any calculation of greenhouse gas emissions, or on the certificates that airlines would need to acquire. As they were doing so, the Commission announced that it would be releasing its analysis on the size of the multiplier on May 16.

So where does that leave aviation and the environment? In Europe, the Commission has made clear it intends pressing forward with its cap and trade system. The U.S. has hinted that it might litigate to stop that system from being enforced against US carriers (and by extension other non-European carriers). The aviation industry has said that it wants any cap and trade system to be designed and administered by ICAO. But the EC is running around that objection by signing up support from various countries. To be fair to Europe, it has made known its keenness to do 'equivalence' deals with other countries and regions for some time, so it should be no surprise that they are now actually doing it.

And the battle for hearts and minds is no nearer to victory for aviation either. With some bitterness, the airlines and airframe manufacturers ask that the world look at the progress that has been made in the last 25 years. It never ceases to amaze that the old 'it was much, much worse then' argument continues to be used. It is simply not working today. The public perception is that we have a problem going forward, not that we had a problem then. And public perception is everything in this debate at the moment. To have improved by 75% is irrelevant if the perception is that you fall short by 25%.

Technology is not going to solve the PR problem, even if, ironically, it is the solution. And it is a risky strategy to put all the eggs in the technology basket. Just as quickly as bio-fuels were being touted as The Answer, they appear to have caused worldwide food crises, famine, drought and general desolation and despair. Another good technology to be on the other side of then.

Because the airlines refuse to engage in meaningful debate with the regulators they are not able to focus on the real issues: designing a cap and trade system that is transparent and fair, getting any funds raised from such a system recycled into the air transport industry and using the funds to alleviate any other taxes on air transport.

This last thought was actually put forward by Olivier Onidi, EC Head of Unit, Internal Market, Air Transport Agreements and Multilateral Relations, at a recent industry gathering in Malta. He said that on the inclusion of aviation in the EU Emissions Trading Scheme, all other environmental taxes on aviation should be dropped. Interestingly, the only airline group that picked up on the comment was the European Low Fare Airline Association – a notable absentee from the summit.

We have made known our views on what airlines need to do – focus on the detail of making the ETS scheme workable and appropriate, rather than reject it outright. The devil will be in the detail. The scheme should focus on actual emissions, not substitute measures such as RTK, or MTOW, and any scheme needs to be easy to administer and audit. A single scheme around the world would be good too, but anyone thinking that ICAO can deliver that in the time available is looking at a very old road map indeed: one with large sections of the world blank, with ‘there be dragons’ written on it.

Match point Heinrich – Security regulations face renewed scrutiny

We have previously had some fun with the case currently before the European Court of Justice (ECJ) brought by Herr Heinrich, a keen amateur tennis player from Austria. You may recall that he was refused boarding on a flight to a tennis tournament with his racquets, on the grounds that they were on the list of banned objects. Sadly for Mr Heinrich, he was unable to verify that, on the grounds that what was on the list was itself confidential and thus not for the likes of him to be able to see. Refusing to accept that response, Heinrich took action in the local court in Austria, which referred the issue to the ECJ.

Advocate General Sharpston has now handed down her opinion on this matter. It is a model of the English language. No word out of place, but anger and frustration flashing off every line – or at least those bits between the lines. How can anyone be expected to live in a situation where there is no transparency about what is necessary for our common security she asks?

The advocate general does not believe the Commission had the power to issue common rules for security without following all the rules for establishing rules. If the court agrees, as it most usually does, then the EU will be without common security rules. Whilst it is not certain, AG opinions are accepted in more than 80% of cases.

This ruling runs a huge risk of voiding the current EU common security framework, and likely the brand new EC framework, (300/08) on which the ink was not yet dry when the AG opinion was handed down. Pre-existing national rules and airline security policies may once again become the governing rules. The irony is that the Council and the Parliament negotiated right down to the wire on a hard fought compromise solution last month. All that work may now be in vain. This time it might go to a tie breaker.

Round 2 on EU-US open skies

Open skies between the EU and the U.S. started on 30 March, and to date it is a case of so far, so good. With every week bringing news of another airline ceasing business (or merging with another) and the oil price continuing to spiral upwards, any move that opens access to markets is positive. But it is only a first step, certainly as far as the Europeans are concerned.

The second round of negotiations start in Ljubljana in mid May, and already the parties are marking out the issues of concern. Ownership and control, cabotage and government preferences being principal among them. No surprises there.

In some areas the new cooperative spirit is taking hold. EASA and the FAA have announced a series of measures to coordinate and harmonise policies and procedures. That is to be applauded.

In other areas, there is little evidence of a new spirit of cooperation. Security issues and visa issuance being a case in point. The U.S. and EU met in mid March, in what they too called a summit, to discuss the new US strategy of divide and conquer, whereby the U.S. has been negotiating and signing visa waiver arrangements with individual EU States, in return for increased personal data (a particular concern for the Americans, and a particular bone of contention for Europeans, on privacy grounds). The meeting did not go well. The American side resolved to continue with its strategy. The ball is clearly in the European court.

Visa waivers for EU travellers to the USA

Consequently, the Council adopted a decision authorising the Commission to open negotiations with the U.S. on the conditions for European participation in the visa waiver programme that come under Community law. The decision does not apply to the UK and Ireland as they do not take part in the common visa policy.

A two-track system will be put in place, whereby the Commission, on the basis of that mandate, will negotiate with the U.S. on certain issues of exclusive Community competence, while at the same time Member States will be able to negotiate bilaterally with the U.S. on other issues. Visa issues, including PNR data and asylum policy will fall within the EU's remit. So that is clear then.

According to Transport Commissioner Jacques Barrot, the key issues in the Commission's negotiations with the U.S. would be the principles of reciprocity and respect for fundamental rights, including data privacy. Electronic approval via internet of visa applications will be proposed, on the basis that the U.S. only require the same personal data as is the case today. Visa waiver authority should also be valid for two years.

Negotiations continue.

State Aid to Alitalia – you wouldn't read about it

If the Olympic Airways saga can be compared to a Greek tragedy, the Alitalia saga is more like a collage of all Roman Empire history; as if a school text book has been thrown into the wind and pages flutter down with moments in history jumbled up.

We have had the year of the six Caesars; the slave's revolt; riots over the price of corn from Egypt; adventures in the north and east, always eventually leading to tears; threats not to cross the Rubicon; the crossing of the Rubicon; great Caesars cut down by lieutenants and staff; the Praetorian Guard doing a deal that if none of their number are to become Caesar, then no-one else will be Caesar either; the splitting of the empire into East and West (or Rome and Milan in this case); and of course the sacking of Rome by the Goths, Visigoths and Huns.

It is not likely that a new Gibbon will be called upon to write in six volumes the Decline and Fall of this particular Roman Empire, but if he were to do so, it is unlikely that the events of this month would be skipped over as a footnote.

First, in a thinly veiled threat to Rome, the ECJ ruled out of bounds a payment to Agusta Helicopters. It was not only the name of the company that was a big hint. The timing could not have been more obvious. No need to call in the priests to read the augers on that one. Then it got better: the outgoing socialist government, which had resisted all calls to bail Alitalia out (again) on the grounds of fiscal probity, but which had lost the election in no small measure because Mr Berlusconi had made saving Alitalia an election issue, somehow found €300M in its final days to ensure that the airline survived long enough to be a headache on Mr Berlusconi's shift.

As Caesar Augustus once said: 'give the mob bread and circuses'.

Airport Charges Directive – back to the Parliament

We may be very near the end game of the discussion on the draft Airport Charges Directive. Having considered the matter, the Council has returned to the Parliament what the Council considers to be a politically acceptable version of the draft. Whilst there has been some movement towards the airline positions, airports are still entitled to consider this to be a substantial victory.

Specifically, the Council deleted the very explicit language allowing pre-financing of planned projects from current charges and the note that each airport was entitled to chose either a single or dual till business model. They did not exclude either of these things, but did take out the specific language allowing it.

Still outstanding is the scope of the agreement: debate ranges from making the Directive apply to airports over one million passengers a year, or those over five million passengers a year. There is a wrinkle here because, strictly, the Directive will apply to airports over five million passengers and to the largest airport in each Member State, regardless of size. That presents a particular problem for Luxembourg. Luxembourg

airport is covered, as the largest airport in the Member State, but the medium sized airports surrounding it will not be covered.

There is a further complication. The current draft does not appear to include charges that airports charge directly to passengers, but which is collected by the airlines and marked separately on the face of the ticket. It is more than likely that this will either be picked up and included in the final draft as it has its second reading in Parliament, or each Member State, at a national level, will interpret the wording to include these charges in any event.

Given the small range of outstanding issues, and the keenness of the French Presidency to finalise this work, it is likely to be completed soon after summer, which would see it come into force in early to mid-2010.

Stop Press: The Commission recognises secondary slot trading

Just as this Aviation Intelligence Reporter went to print, the European Commission released a communication on the application of the slot allocation Regulation. The Communication clarifies a number of issues regarding the existing rules. The Commission wants to improve the efficient use of scarce capacity at congested European airports. Most significantly, it signals the acceptance of secondary trading of airport slots between air carriers.

We will cover this communication in more detail in next month's Aviation Intelligence Reporter.