

## Advance passenger information (API): Revising the rules

Impact assessment (SWD(2022) 422, SWD(2022) 423 (summary)) accompanying a Commission [proposal](#) for a Regulation of the European Parliament and of the Council on the collection and transfer of advance passenger information (API) for enhancing and facilitating external border controls, amending Regulation (EU) 2019/817 and Regulation (EU) 2018/1726, and repealing Council Directive 2004/82/EC and a [proposal](#) for a Regulation of the European Parliament and of the Council on the collection and transfer of advance passenger information for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, and amending Regulation (EU) 2019/818, COM(2022) 729 and COM(2022) 731

This briefing provides an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above-mentioned proposals to revise the advance passenger information rules, submitted on 13 December 2022 and referred to the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE). The proposals are included in the Commission's 2022 [work programme](#) and in the [joint declaration](#) on the EU legislative priorities for 2023 and 2024.

Advance passenger information (API) data is biographical information on passengers collected by air carriers during check-in (online or at the airport) for transmission to the competent border control authorities of the country of destination. This allows the authorities to screen the passengers' data prior to the flight's take-off. Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data (the [API Directive](#)) sets up minimum standards for the collection and processing of passenger data. It aims to help improve border controls and combat illegal immigration through the transmission of advance passenger data by air carriers to the competent national authorities at their request (Articles 1 and 3). While carriers are obliged to transfer data on request, national authorities are not obliged to make such a request. In accordance with their national law and subject to data protection provisions, EU Member States may also use passenger data for law enforcement purposes (Article 6). Under current EU law, API data is only collected systematically for flights entering the EU from third countries. The Commission's [strategy](#) towards a fully functioning and resilient Schengen area envisaged expanding the use of API data to also cover intra-Schengen flights. According to the Commission, an increased use of API data in combination with passenger name record (PNR) data (as provided for in the [PNR Directive](#))<sup>1</sup> has the potential to significantly enhance internal security and to close security gaps.

The present initiatives to revise the API rules seek to enhance the management of the Schengen external border management by ensuring that every person travelling on flights entering or leaving the Schengen area is pre-checked with API data prior to arriving at the Schengen external border. They also aim to enhance the EU's internal security significantly by ensuring that Member States' law enforcement authorities have access to reliable air passenger data to effectively prevent and fight terrorism and serious crime.



## Problem definition

The IA substantiates its findings with references to several sources, including the [evaluation](#)<sup>2</sup> of the existing API Directive in 2020, in line with the 'evaluatefirst' principle, the [review](#) of the PNR Directive and the results of the Commission's consultations with stakeholders in the preparation of the present IA.

The IA describes how gaps in the current EU legal framework give rise to inconsistencies in the way Member States process API data for **border management** and **law enforcement purposes**. All Member States have national API systems in place. However, the evaluation of the API Directive found that the Member States are not making sufficient use of the possibility to collect and process API data (IA, pp.7-8 and evaluation of the API Directive, p. 13 onwards). In addition, where Member States do collect API data, their national authorities do not use it in a consistent way and have divergent practices. As regards data quality, the evaluation stated that API data collection and transmission should be in line with the international API data standards (e.g. WCO/IATA/ICAO API [Guidelines](#)). Regarding the processing of API data for law enforcement purposes, the evaluation highlighted that 'an effective use of API data for law enforcement would require a dedicated legal instrument for this distinct purpose' (IA, p.12), since the API Directive does not define law enforcement and therefore API data can be used for any law enforcement purpose. This reduces the foreseeability of data processing for the data subjects and leads to diverging practices in different implementing countries. The review of the PNR Directive confirmed that the joint processing of API data and PNR data not only enables national authorities to confirm the identity of a passenger but also to know whether they have actually travelled and boarded a plane. However, under the existing legislation – the API Directive and the [Schengen Borders Code](#) – air carriers are not obliged to collect API data for intra-EU and domestic flights.

Based on the above findings, the IA identifies two **main problems**: i) that not every person crossing the Schengen external borders is pre-checked with API data (P1); ii) that there are security gaps in the processing of air passenger data for law enforcement purposes (lack of EU-wide criteria on the use of API for law enforcement purposes) (P2).

The IA defines the following **problem drivers**:

- Member States' authorities are under no obligation to request API data from carriers, which runs counter to [international obligations](#) regarding the establishment of API systems (P1);
- Member States have inconsistent practices (e.g. no clear criteria as to the kind of flights for which API data should be collected; a non-exhaustive list of data elements to be collected, not aligned with international standards)(P1);
- there are security gaps regarding flights where only PNR data is collected (P2);
- there are no clear EU rules on the use of API for law enforcement purposes, particularly as regards the period for which data should be retained, data elements, and flight coverage (P2).

The IA sufficiently examines the nature and scale of the problems, who it would affect, and how. It describes how the problems would evolve without further EU action. The problem definition appears to be sufficiently supported by evidence. Additional complementary evidence on international standards and guidelines on API is given in Annex 5. A further analysis of the complementarities and the differences between API and PNR is provided in Annex 6.

## Subsidiarity / proportionality

The IA explains that two separate legal instruments would be necessary to regulate the processing of API data for external border management and for law enforcement purposes. For **border management purposes**, the legal basis of the proposal would be [Articles 77\(2\)\(b\) and \(d\)](#) and [79\(2\)\(c\)](#) of the Treaty on the Functioning of the European Union (TFEU). The current API Directive is based on the same provisions. For **law enforcement purposes**, the legal basis of the proposal would be [Articles 82\(1\)\(d\)](#) and [87\(2\)\(a\)](#) TFEU, the same as the one used for the PNR Directive.

The IA includes a section on **subsidiarity** (IA, pp. 13-15), where it describes the legal basis and explains both the need for and added value of EU action. As recommended by the [Task Force on subsidiarity, proportionality and 'doing less more efficiently'](#), separate subsidiarity grids accompany the IA: one for the external border management [proposal](#) and another for the law enforcement [proposal](#). The subsidiarity grids also analyse **proportionality**. The deadline for the subsidiarity check (external border controls [proposal](#) and law enforcement [proposal](#)) by the national parliaments was 4 April 2023 for both proposals. No reasoned opinions were submitted.

## Objectives of the initiative

The **general objectives** of the initiative are:

- to enhance Schengen external border management (i.e. improve border controls and combat illegal immigration), by ensuring that every person crossing the Schengen external border by air undergoes similar checks prior to entering or leaving the Schengen area;
- to enhance the EU's internal security, by ensuring that Member States' law enforcement authorities have access to air passenger data that is necessary to prevent and fight terrorism and serious crime.

The general objectives are translated into the following **specific objectives** (SO):

- to enhance pre-checks at the Schengen external borders (SO1): enabling national authorities to cross-check passenger data systematically against information contained in national, EU and international databases, before a passenger arrives at the border;
- to facilitate the flow of bona-fide travellers at the Schengen external borders (SO2): being better prepared for the control of specific passengers, by identifying them through API data before their arrival; accelerating border checks by singling out passengers requiring secondary checks, thus avoiding making the other passengers queue and wait;
- to effectively combat serious crime and terrorism with API data complementing PNR data (SO3): API data collected by automated means will reliably identify a specific passenger of particular interest to the competent authorities investigating serious crime and terrorism; all PNR data transferred to the Passenger Information Units (PIUs)<sup>3</sup> should be complemented with complete and correct API data, while respecting fundamental rights, in particular the right to protection of personal data and the right to freedom of movement.

The objectives correspond to the problems and the problem drivers identified in the IA. With regard to the S.M.A.R.T. criteria (specific, measurable, achievable, relevant and time-bound), the specific objectives appear to be specific, achievable and relevant but not entirely time-bound. The IA does not present operational objectives, defined in terms of the deliverables of specific policy actions after identifying and selecting the preferred option, as recommended in the Better Regulation Guidelines (see Better Regulation Toolbox, [Tool #15](#)). This could potentially weaken the measurability of the success of the initiative. However, the IA includes potential indicators relating to the achievement of the specific objectives (see Section on 'Monitoring and evaluation' below).

## Range of options considered

Under the **baseline**, the IA considers that the identified problems would persist (the current EU legal framework would be maintained). Based on the specific objectives, the IA groups the options in three **intervention areas**:

### 1) Options concerning the scope of API data collection for external border management purposes:

**Option 1.1:** Systematic collection and transmission of API data on **all extra-Schengen inbound flights** – Member States and Schengen associated countries would be obliged to collect and request API data on all flights coming from outside the Schengen area (in accordance with the Schengen

acquis); competent border authorities would use API data for pre-checks against the databases in the Schengen Borders Code. The current period over which competent border authorities can retain data would be extended from 24 to 48 hours.

**Option 1.2:** As in Option 1.1, but all extra-Schengen **inbound and outbound flights** would be covered.

The processing of API data by air carriers and national authorities under these policy options would have to comply with the [General Data Protection Regulation](#) (GDPR) (IA, p. 19).

## 2) Options concerning the scope of API data collection to allow the joint processing of API data and PNR data for law enforcement purposes:

**Option 2.1:** Systematic collection of API data on **all extra-EU inbound and outbound flights** (triggered by security needs reflected in the PNR Directive) – air carriers would be obliged to collect API data for all extra-EU inbound and outbound flights and transmit it to the PIUs of the Member States concerned; any subsequent processing of the data by national law enforcement authorities (other than the PIUs) would have to comply with the GDPR, the conditions for processing set in the PNR Directive, and the [Law Enforcement Directive](#).

**Option 2.2:** Collection of API data would be as in Option 2.1, but with an additional collection of PNR data on **selected intra-EU and domestic flights**.

An 'API router', established by eu-LISA, would provide a technical solution to limit the transfer of API data to selected flights only, based on a threat assessment made by the Member States (IA, p. 38).

## 3) Options concerning the quality of data and the capturing of API data (horizontal aspect):

In both options, air carriers would be obliged to collect the same set of API data elements (see IA, Annex 5). This would be necessary to align the API data elements to the identity data found in the machine-readable zone (MRZ)<sup>4</sup> of the passport or the identity card.

**Option 3.1:** Collection of API data by either **automated** (passenger online check-in: scanning the travel document's MRZ with a secure app, e.g. on a smartphone, to take a picture of the travel document during online check-in; provision of API data at the airport, i.e. travel document checked by automated means during check-in or boarding) or **manual means** (online or web check-in).

**Option 3.2:** As Option 3.1, but **without** the possibility of API data collection by **manual means**.

The sub-options under each intervention area are mostly cumulative – it is questionable whether they qualify as alternative options under the Better Regulation Guidelines. Overall, they are very limited. The IA provides information about the discarded options (IA, pp. 25-27), including collection of API data for transit (or connection) flights, API data for law enforcement purposes on **all** intra-EU flights, collection of API data for other means of transport (maritime, rail, bus). The IA is open about the reasons for discarding the options (e.g. opposition by stakeholders, conflict with fundamental rights protection, existing international obligations). The options that were retained are linked to the specific objectives and the problem drivers. Overall, the IA provides a comprehensive (albeit sometimes lacking in detail) description of the options, an analysis of their impacts, a comparison of their content, and a presentation of the preferred option, including an assessment of its impact.

## Assessment of impacts

The IA assesses the options in terms of their main economic, social and environmental impacts. The initiative is not expected to produce any significant environmental impacts. The assessment of the options' impacts is done both qualitatively and quantitatively, with a focus on the quantification of **costs** rather than **benefits**. The IA describes the key benefits and costs of the options, exploring how each performs in achieving the initiative's objectives as regards the relevant stakeholder groups (citizens/passengers, air carriers/businesses, national authorities, [eu-LISA](#)<sup>5</sup>).

When assessing **social impacts** (not quantified), the IA expects positive effects for i) security; and for ii) the convenience and facilitation of travel in the EU. Option 1.1 would permit the consistent pre-check (identification of all passengers) upon arrival at the EU's external borders. It would facilitate and accelerate the entry of all passengers into the Schengen area, because all passengers would be cross-checked by border authorities in advance. Option 1.2 would additionally cover departures from the Schengen area. Option 2.1 is expected to have a strong positive impact on the internal security of the EU. PIUs would receive API data systematically on all extra-EU inbound and outbound flights. With the joint processing of API data and PNR data, law enforcement authorities would be able to better track movements of known suspects or identify certain suspicious travel patterns of individual travellers that may be involved in criminal and terrorist activities. This option would have a neutral impact on convenience and facilitation of travel in the EU. Option 2.2 would in addition cover intra-EU and domestic flights, for which PNR data is collected. This option would address an important security gap and have a very positive impact on internal security. Impacts on convenience and facilitation of travel in the EU would be limited. Option 3.2 would have a clear positive impact on security. It would significantly increase the accuracy and completeness of data (Option 3.1: potential improvements, but manual entry of data from travel documents may lead to the making of mistakes on a continuous basis). The impact of Option 3.2 on air travel facilitation is deemed negative, as it would limit the means for travellers and airlines to collect and capture API data.

The **economic impacts** (qualitative and quantitative) of the options concern i) the Member States' national authorities; and ii) air carriers. Under Option 1.1, national API systems would need to be modified to process and receive additional data flows. One-off **costs** for national authorities are estimated at €13.5 million in total (Option 1.2: €67.5 million). Option 2.1 is expected to produce net (one-off investment) costs of €4.21 million (Option 2.2: €75 million) for air carriers (in case Option 1.1 is retained; no costs if Option 1.2 is chosen). In addition, recurrent costs (net transmission costs of information exclusively transmitted for law enforcement purposes for all extra- and intra-EU as well as domestic flights) are estimated at €20.35 million per year (in case Option 1.1 is retained; €16.13 million per year, if Option 1.2 is chosen). For carriers, Option 3.2 is expected to produce €50 million in one-off costs for the obligation to make available online check-in systems and collect API data using automated means only. When assessing the **benefits**, the IA expects net annual savings of €2.53 million for the airline industry, resulting from reduced data transmission costs for air carriers. In the future, API data transmission would be made to a single point: the carrier interface accompanied by an API router. eu-LISA would incur up to €34 million (one-off costs) and €1.4 million per year for building the API router capability into the existing carrier interface. With Options 3.1 and 3.2, national authorities would benefit from improved API data quality and the harmonisation of data sets. Air carriers would benefit from the collection of API data with automated means only, as it is expected to increase the efficiency of their passenger handling workflow.

In its **fundamental rights** analysis, the IA assesses all options against the criteria of necessity and proportionality. In the Charter of Fundamental Rights of the EU (CFEU), this concerns in particular [Article 8](#) (protection of personal data) in combination with the following TFEU articles: [Article 16](#), [Article 7](#) (respect for private and family life), [Article 45](#) (freedom of movement and of residence), and [Article 16](#) (freedom to conduct a business). All options have provisions on personal data processing. According to the IA, the objectives of the initiatives, namely ensuring effective border controls and combating serious crime and terrorism, are objectives of general interest in line with [Article 52\(1\) CFEU](#), which stipulates that 'any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others'.

To comply fully with fundamental rights and the rulings of the Court of Justice of the European Union (CJEU), the collection of API data on intra-EU and domestic flights for law enforcement purposes would not be systematic; furthermore, it would be **limited to the flights for which PNR**

**data is collected in the preferred option.** Further API data processing by the PIUs (i.e. joint processing of API data and PNR data) must comply with the provisions of the PNR Directive as interpreted by the ruling of the CJEU in the *Ligue des droits humains* case,<sup>6</sup> including on: the data retention period; access to data; and safeguards on the processing of data when cross-checked with other databases. In addition to all options affecting the right to personal data protection (Article 8 CFEU and Article 16 TFEU), Option 2.2 would potentially affect Articles 45 and 16 CFEU. Options 3.1 and 3.2 would affect Article 16 CFEU. The extent to which fundamental rights would be affected would be limited to what is necessary to achieve the objectives of the proposed options.<sup>7</sup>

When comparing the policy options, the IA considers their effectiveness, efficiency and fundamental rights implications. The IA presents the options in a summary table showing how the options score (from a ((++)) very positive to a ((--)) very negative impact) under the above-mentioned comparison criteria (IA, p. 42 and p. 44), which matches the IA's analysis. On the basis of its analysis and comparison of the options, the IA concludes that a combination of options is the **preferred option**:

API data collection on extra-Schengen inbound flights for external border management (**Option 1.1**), and API data collection on extra-EU inbound and outbound flights, as well as on selected intra-EU and domestic flights, for law enforcement purposes (**Option 2.2**). The obligation to transmit a complete API data set by air carriers using automated means only (**Option 3.2**) would apply for both external border management and for law enforcement purposes.

### SMEs/ Competitiveness

According to the IA, the initiative's measures are not expected to have a significant impact on small and medium sized enterprises (SMEs). The IA does not discuss competitiveness.

### Simplification and other regulatory implications

In light of the new '[one-in, one-out](#)' approach, the IA identifies cost impacts on businesses (IA, pp. 49- 50). It expects administrative costs for airlines to be as follows: €17.82 million in recurrent costs per year for the transmission of API data on inbound, outbound, selected intra-EU and domestic flights to the competent national authorities; an estimated €75 million in one-off costs for adapting IT systems to the task of transmitting API data; and an estimated €50 million one-off costs for the capture of API data using automated means. The initiative is expected to reduce air carriers' administrative costs thanks to a new infrastructure (i.e. the API router) for the transmission of API data (IA, p. 50).

### Monitoring and evaluation

The IA briefly explains how the impacts of the policy initiative will be monitored and evaluated. Contrary to the Better Regulation Guidelines, the IA does not present operational objectives. However, in relation to the specific objectives, it explains that the proposed API router would generate statistics that could be used for supporting monitoring and evaluation. As regards the **API instrument for Schengen external border management**, these statistics would include indicators such as: the number of passengers and the number of inbound extra-Schengen flights for which API data is transmitted; the number of API messages transmitted on time to competent national authorities; the completeness of API messages; and the number of confirmed matches against national, EU (Schengen Information System) and international databases. With regard to the **API instrument for law enforcement purposes**, the statistics of the API router would include the number of categories of passengers and the number of flights (extra-EU, intra-EU, domestic). A report on the implementation of the API instrument for Schengen external border management is envisaged to be published 4 years after the instrument becomes operational. The evaluation of the API instrument for law enforcement purposes would be part of an evaluation or report on the implementation of the PNR Directive. The IA explains that the implementation report and the evaluation would also report on any direct or indirect impact on fundamental rights.

## Stakeholder consultation

In accordance with the Better Regulation Guidelines, the IA describes the stakeholder consultations in a separate Annex 2 and provides a list of the stakeholder groups consulted (IA, p.55). The consultation on the [inception impact assessment](#) received seven responses between 5 June and 14 August 2020. The Commission launched a public consultation in the framework of the evaluation of the current API Directive from 10 September to 3 December 2019, meeting the 12-week requirement under the Better Regulation Guidelines. According to the API Directive evaluation, only 42 responses were received. The Commission therefore decided to hold targeted consultations rather than a dedicated public consultation on the IA – as is normally required – which appears not to be justified in the IA. Other consultation activities included: i) surveys for the API and PNR community (PIUs, border management authorities, law enforcement authorities) and industry; ii) targeted interviews (with EU agencies such as eu-LISA, Europol and the European Union Agency for Fundamental Rights (FRA), national authorities, industry associations; passenger associations and NGOs); iii) technical workshops with Member State representatives, Schengen associated countries, EU agencies and the General Secretariat of the Council of the EU; and iv) a targeted consultation of air industry representatives. Overall, the IA describes the stakeholder groups' views on the problems and their drivers, the objectives and the options in a comprehensive manner. It takes into account the expected impacts on the most affected stakeholder groups (passengers, air carriers/businesses, national authorities and eu-LISA. It provides a summary of the costs and benefits of the preferred option for the stakeholder groups in a separate Annex 3.

## Supporting data and analytical methods used

The IA describes the supporting data and analytical methods in a separate Annex 4. The IA is based on a publicly accessible and well-referenced external supporting study,<sup>8</sup> on the evaluation of the API Directive, as well as on desk research, reports and stakeholder [feedback](#). The result is an assessment that combines a qualitative and quantitative analysis that is based on recent data, with assumptions and estimates. The assessments, assumptions and estimates appear to be based on sound research and analysis, with clear acknowledgement of the limitations of the available data.

## Follow-up to the opinion of the Commission Regulatory Scrutiny Board

The Commission's Regulatory Scrutiny Board (RSB) gave a positive [opinion](#) on a draft IA report on 30 September 2022. It considered that the report should: i) present more specific evidence about the border control problems and the security gap relating to the current EU legal framework and Member State practices on the collection and use of API data and PNR data; ii) provide a full overview of the costs and benefits for all key stakeholders, while also better demonstrating the proportionality of the preferred option. It appears that the RSB's considerations for improvements were taken into account.

## Coherence between the Commission's legislative proposal and IA

Both proposals appear to follow the preferred policy option of the IA.

The IA examines the nature and scale of the problems sufficiently (the fact that not every person crossing the Schengen external borders is pre-checked with API data and that there are security gaps in the processing of air passenger data for law enforcement purposes). The IA provides a comprehensive description of the options. The sub-options under each of the intervention areas identified are limited and mostly cumulative; the range of alternative options therefore appears limited. The assessment of the options' impacts (social, economic, fundamental rights) is qualitative and quantitative. It appears to be based on sound research and analysis, with clear acknowledgement that available data is limited. The IA provides a comprehensive summary of the costs and benefits of the preferred option for the affected stakeholder groups. Stakeholder views are reflected consistently throughout the IA. However, the Commission decided to carry out targeted consultations rather than a public consultation on the IA – as is normally required – which appears not to be justified in the IA.

## ENDNOTES

- <sup>1</sup> When a passenger buys a ticket with an air carrier, the carrier's reservation system will generate a PNR, including some personal data, but also the complete itinerary, payment and contact details of the passenger. This PNR data is sent to the Passenger Information Unit (PIU) of the country of destination and often the country of departure (IA, p. 5).
- <sup>2</sup> See M.-A. Huemer, Revision of Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data, [Implementation Appraisal](#), EPRS, European Parliament, 2022.
- <sup>3</sup> The PIUs are responsible for collecting PNR data from air carriers, storing and processing this data and transferring this data or the result of their processing to the competent national authorities.
- <sup>4</sup> The machine-readable zone (MRZ) is a standard of the International Civil Aviation Organization ([ICAO](#)). It provides a set of essential data elements in a standardised format that can be used by all receiving states regardless of their national script or customs. [Council Regulation \(EU\) 2252/2004](#) provides that passports and travel documents issued by the EU Member States contain machine-readable biographic information in compliance with ICAO standards.
- <sup>5</sup> EU Agency for the Operational Management of Large-Scale IT systems in the Area of Freedom, Security and Justice.
- <sup>6</sup> In [Case C-817/19](#), the CJEU considered that the (possible) collection of PNR data on intra-EU flights by Member States should not go beyond what is strictly necessary. 'PNR data collection on **all** intra-EU flights is only possible where a Member State establishes that there are sufficiently solid grounds for considering that it is confronted with a genuine and present or foreseeable terrorist threat. Such collection should be limited in time and the decision taken by a Member State to collect PNR data on all flights must be open to effective review (by a court or by an independent administrative body). In the absence of a genuine and present or foreseeable terrorist threat, Member States may not collect PNR data on all intra-EU flights. In such cases, PNR data collection for those flights is possible on selected intra-EU flights relating, for example, to certain routes or travel patterns or to certain airports for which there are, according to the assessment of the Member State concerned, indications that would justify that application' (IA, pp. 22-23).
- <sup>7</sup> For instance, i) Option 1.2 did not pass the necessity test, because the full API data set is generated once the passengers are on board of a plane on outbound flights. Border guards would therefore only receive the API data after the physical exit checks of the travellers and the examination of their passports, and hence too late to support their work; ii) processing of API data by PIUs would be restricted to a closed and limited list of API data from air carriers for the purpose of fighting terrorism and serious crime; iii) the obligation for the air carrier to collect and transmit API data would not be systematic for all intra-EU and domestic flights, but would be limited to flights for which PNR data is collected; iv) airline staff would be available to use automated means (smartphone, webcam reading the MRZ) on behalf of the passenger for the purposes of collecting API data; this would address any inequality in the treatment of passengers who do not have access to smartphones; v) the financial burden on air carriers resulting from the interference in Option 3.2 would be marginal compared to their revenue and hence proportionate without affecting the essence of the freedom to conduct business (IA, pp. 35-41).
- <sup>8</sup> See supporting [study](#) on potential effects of different possible measures on advance passenger information, Bender, G., Vasileva, V., Boomer, G., et al., 2021.

This briefing, prepared for the Committee on Civil Liberties, Justice and Home Affairs (LIBE), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

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