

DECISION 2017- 11-29
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant: *Travel Line*

IATA Code 27-3 1331
Peshawar, Pakistan

Respondent:

Agency Administrator, International Air Transport Association (“IATA”)
Singapore.

The Case and Decision:

The Applicant was issued with a Notice of Irregularity (“NoI”) on 31 October 2017 for submitting incomplete/inaccurate audited financial statements.

In its request for review the Applicant stated that it had submitted its financial statements on 21 October 2017. On 30 October 2017 it had received a message from IATA advising that its global assessor had rejected the documentation due to incorrect fiscal year and could the Applicant submit the financial statements for year ending 30 June 2017 by the end of 30 October 2017.

The Applicant stated that it had not sighted this message until 31 October 2017 on which date it submitted the same documentation again. The Applicant contends that IATA should have accepted the first upload as it was for the correct year and the second upload was promptly made on IATA's instructions and the NoI was not shown on the IATA portal until 4 November 2017 and for these reasons the NoI should be removed.

In its response IATA stated that it had given the Applicant the opportunity to rectify the situation on 30 October 2017 on which date it could have issued the NoI. It was not served until 05:1p.m. on the 31st. The Applicant corrected the situation at 06:42 p.m. on the 31st, more than 27 hours after being informed of the incorrect submission and nearly an hour after the NoI was served.

To this the Applicant considered IATA's action unfair and harsh and that the few hours delay should have been acceptable. Conditions in Pakistan were such that power outages, internet connection failures and law and order problems were so

frequent that they were considered routine. They could not recall the issue that caused them not to sight IATA's message until the 31st.

IATA's response to that point of view was that there was sufficient time for the Applicant to upload the financials or to contact them to explain the situation and went on to state:

"In addition, if they wanted to contest the NoI, they should have done it before uploading the correct document. Agents are aware that the first upload will not be available after they upload the new copy, even if they did not delete the first copy at the time of their second upload.

The claim by the agent that IATA has been too harsh is unjustified, especially in this case because IATA served the NoI nearly 24 hours after the deadline we had given, not as soon as the deadline expired."

There were further message exchanges, which are not critical to the case outcome.

In considering this matter the writer has decided to grant the Applicant the assumption that the local situation on the 30th prevented action being taken to comply on that date. The Applicant had initially uploaded its documentation before the given deadline, thus, demonstrating its keenness to meet IATA's requirement. There are conflicting positions by the Parties as to whether the documentation originally submitted related to the correct fiscal year, with the Applicant insisting that it was.

I do not detect that there was any ulterior motive in the Applicant not acting on the 30th.

Based on the foregoing therefore it is hereby decided as follows:

1. The Notice of Irregularity served on the Applicant is to be expunged with all Parties alerted to its issuance being advised of same.

Decided this 29th day of November 2017 in Auckland.

This Decision is effective immediately.

The following sub paragraph of Resolution 820e is brought to the attention of the Parties:

"2.10 - within 15 days after the receipt of the decision, a Party, with notice to the other Parties, may request that the Commissioner gives an interpretation of the decision or correct in the decision any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the Commissioner considers that the request is justified, he shall make the interpretation or correction within 15 days of receipt of the request. The interpretation or correction shall form part of the decision."

In this particular case the 15-day time frame expires on **14 December 2017**.

If after having pursued this process a Party still considers itself aggrieved by this Decision, the Party has the right to seek review by arbitration as detailed in Resolution 824, Section 14.

Finally, I seek your authority for this Decision to be posted on the private pages of the Travel Agency Commissioner website which can only be accessed by the 3 TACs and the 12 members of the Passenger Agency Programme Global Joint Council. In the absence of advice to the contrary by 15 December 2017 I will assume that there is no objection to that action being taken.

Yours faithfully,

Jorgen Foged
Travel Agency Commissioner Area 3