

Annual Report
Travel Agency Commissioners' Office
August 2016 to August 2017

PART ONE

I. Introduction

The current Travel Agency Commissioners ("TACs") are:

- Mrs. Verónica Pacheco-Sanfuentes Area 1
- Mr. Andreas Körösi Area 2
- Mr. Jo Foged Area 3

This year the Commissioners held their annual meeting in March in Queenstown, New Zealand.

The following pages detail the cases that have been dealt with since the last Annual Report, with the period covering from August 2016 to August 2017. Due to the number of cases reviewed during this period, and in order to ensure an accurate method of recording the result of our work, this Report has been divided into two parts:

Part ONE covers an overview of the matters dealt with, as well as some observations derived from them; and,

Part TWO covers the summary of cases reviewed by the Commissioners, whether they led to formal Decisions or not, and, whether or not a full review was necessary in order to resolve the matter at hand.

II. Work Handled

Please note that this year's Report also includes August 2016, since the Report for 2015 - 2016, due to the PAPGJC 2016's timing, only allowed us to cover 11 months' work.

The total number of cases (including posted formal Decisions and reviews finalised without formal Decisions) dealt with during this period by the Commissioners was:

Area 1 reviews in total: **55** including

- **2** cases handled by TAC2, as Deputy TAC1,
- **10** cases where formal Decisions were rendered
- **3** pending cases

Area 2 reviews in total: **380** including

- **17** cases handled by TAC1, as Deputy TAC2,
- **64** cases where formal Decisions were rendered, and,
- **18** pending cases

Area 3 reviews in total: **131** including

- **11** cases handled by TAC1, as Deputy TAC3,
- **3** cases handled by TAC2, as Deputy TAC3, and,
- **10** Pending cases

These numbers are categorised in each Commissioner's Report.

During this reporting period two oral hearings (Amman & Cairo) were held. In the remaining cases, sufficient written evidence was available and both Parties had agreed that a Decision could be rendered without the need for oral hearings or it was decided so by the Commissioner with the Parties' consent. When considered appropriate by the Commissioners, scheduled conference calls were arranged for the Parties to reach an agreement or for the Commissioner to render a Decision without holding an oral hearing with the Parties' consent.

As it is customary, the Commissioners have kept their website updated. They have also modernised its domain name, changing it to: www.tacommissioner.com, making it more accessible in a user friendly fashion. It is available in both English and Spanish, in addition to some Decisions in French when that has been the language used during those procedures and a translated version of the Decision has been requested by a Party. Formal Decisions are, once posted in the secured part of the Commissioners' website, available only to PAPGJC Members.

III. Observations

(a) Preliminary comments:

Before bringing any observation to the Stakeholders' attention, the Commissioners would like to point out that we have closely followed the laudable efforts made by all the Parties involved in updating the Agency Programme with the NewGen ISS Resolution. We look forward to having an opportunity to be fully educated on the Programme, in addition to see its implementation. We firmly believe that it will result in fewer requests for review by Agents due to "*administrative irregularities*".

We also anticipate that the introduction of “*New Agency Models*” and the implementation of features such as “*Easy Pay*” and the “*Remittance Holding Capacity*” will reduce the amount of TAC’s reviews, particularly in situations where Agents have been removed from the Agency List, as well as when Agents would have *voluntarily* relinquished their Passenger Sales Agency Agreement, due to problems to supply the required financial security.

Notwithstanding the above, one predictable concern, which most likely will lead to requests for reviews at the TAC Office, based on the information received so far, is IATA’s distinction between what will be considered a “*credit risk event*” and what can be handled as an “*administrative non-compliance*” issue.

There is, of course, no **one-size-fits-all** interpretation, and recent cases demonstrate the difficulty in the *choice* between a “*credit risk*” and an “*administrative non-compliance*” situation.

Just to mention one recent case illustrating the above difficulty:

- *An Agent, notified by IATA of an Airline being suspended from BSP, having the previous day already sent the payment order to the bank and, by that, it missed to oblige IATA’s instructions to deduct on Remittance Date (one day later) an approved refund (USD 300) from the suspended Airline.*

IATA, when asked by the TAC, as a tentative question, whether that incident would be considered a “*credit risk*”, categorised indeed the above incident as one.

TAC’s reflection:

- Considering the short time existing between Remittances (one week), a payment order could not be withdrawn without risking to miss the payment on Remittance Date;
- Considering the relatively small amount, paid on next week’s Remittance or;
- Considering even an “additional” payment done the day after by the Agent, The TACs deem the above incident being an “*administrative non-compliance*” incident rather than a “*credit risk*” event. Mainly also because the incident does not put any BSP Participating Airline’s funds at risk.

The TACs would appreciate a dialogue with IATA to exemplify and determine cases, **where there is no risk for Member Airlines’ funds** despite money being involved, which should be considered as *administrative non-compliance* instead of *credit risk events*.

(b) Observations: (not listed in order of importance)

The Observations below are intended to invite the Stakeholders, and in some cases to PACONF Members in particular, to ponder the possibility of amending the Resolutions’

texts that are creating the referred situations or to correct/improve some actions that are occurring on the grounds:

- Cases have shown the need for IATA to better explain to Agents the fact that during a period of **45-days, AFTER default**, Agents are still able -mandated- to **monitor their billings** (ADMs and refunds included) through *BSPlink*.

This possibility should be more clearly pointed out by IATA in all Notices entailing suspension from the BSP. Reality demonstrates that many Agents are ignorant about this possibility and, hence, they are unable to mitigate their losses by, as per example, contacting the Airlines and dealing directly with them potential refunds.

- The possibility for Agents, after having their ticketing authority suspended, to **monitor existing bookings**, without having their ticketing capacity restored.

Multiple cases have shown that denied access to monitor existing bookings, and by that to mitigate damages for Agents and Airlines alike, suggest that this should be considered. For example, in cases where the Agent's staff, Sub-Agents and, in one case, staff from a GDS provider, maliciously misused the Agent's access to ticketing, demonstrate the need for this feature to be present even under a suspended status.

- PACONF should grant IATA the right to reinstate Agents' ticketing authorities in full after default action was initiated by IATA, **but immediately withdrawn** when IATA has been made aware of facts fully exonerating Agents from the irregularity.

We would like to pursue this issue once more, since it is a constant struggle for Agents, IATA staff and TACs alike, especially considering, as it has been proven, that full reinstatement of individual Airline's appointments can take months.

TACs' recommendation: IATA **shall suspend Agents** as it does today, **but it should delay the communication to the market**, allowing reasonable time to learn the true cause of the non-compliance, before notifying BSP Participating Airlines, as mandated by Resolution 818g, Attachment "A" § 1.10.1. Alternatively, IATA shall notify immediately but when the "new notification", exonerating Agents from any wrongdoing is done, IATA should be able to **reactivate their ticketing authorities as they were before the *premature* suspension**. This does not impede Member Airlines, at their own discretion, to individually: <<... *withdraw its appointment...*>>, as allowed in Resolution 824 § 13.1.1.

- Requests for reviews regarding ADM issues are increasing. Noteworthy is that Resolution 818g, Attachment “A” § 1.10.5 is not in complete harmony with Resolution 818g, same Attachment “A”, **entire** § 1.7.9 specifically dealing with ADMs.

Mail vote A283 approved this change, effective as of 01 April 2017, but there is no reference to ADMs in that Mail vote either.

- The issue of allowing *Business Days* instead of *Calendar Days* to comply with Resolutions’ requirements is still very current. There have been numerous cases where public holiday, government restrictions towards financial institutions and other impediments out of the Agents’ control have made compliance with the mandated “*Calendar days*” extremely difficult, resulting in requests for TAC’s reviews.

A change in Resolutions to generally allow ***Business Days*** when there is a time restriction to comply would ease this situation. It is noteworthy that Resolution 818g § 3.2.5 mandates IATA to: <<... *consider each application and supporting information and any other information brought to his attention and decide within 15 working days of the application...>>.*