

Annual Report of the Travel Agency Commissioners

PART TWO

Sections A to C: Individual TACs' cases

Below will be found each Commissioner's activity, starting with a summary of the Commissioners' various types of interventions aimed at solving cases in an effective and expeditious manner, without having to necessarily render a formal Decision. This section will then be followed by the reviews that were concluded with a formal Decision or by a brief summary of them. It's important to stress that all formal Decisions have been posted on the TAC's website, fully accessible by PAPGJC Members.

Section A:

TRAVEL AGENCY COMMISSIONER AREA 1 REVIEWS AND DECISIONS: AUGUST 2016 – AUGUST 2017

It must be noted from the outset, as reported last year too, that an important decrease of cases reaching the TAC1 Office has been occurring. The majority of the requests for review were solved diligently by IATA-Miami hub directly or after a brief TAC intervention. This same commentary applies to the rest of IATA-hubs, when I have interacted with them in my Deputy capacity. A more customer friendly approach from IATA's side seems to continue bearing fruits.

Highlights:

- During 2017 I was, for a short period of time, Deputy of TAC2. In that period, seven (7) formal Decisions were rendered, one of them after having held an Oral Hearing in Cairo, Egypt. Other ten (10) matters were solved without the need of a formal Decision;
- In two occasions where French speakers Agents needed some assistance (in Area 2), I have briefly intervened and, once the issues were somewhat addressed, the cases were transferred back to TAC2 for the completion of the review;

- For a short period of time I was Deputy of TAC3. During this period, two (2) formal Decisions were rendered and seven (7) cases were solved without the need of any formal Decision. Two (2) matters from that Area are still under review.
- Ten (10) formal Decisions were rendered during this time in Area 1 (as described below) and were posted in the TAC website. The rest of the matters, some of them giving rise to less formal decisions, were solved by way of emails addressing the punctual matter and solving it as expeditiously as possible: both Parties (Agents and IATA alike) were satisfied with this way of dealing with pressing issues. These decisions are not published in the TAC website nor individually described in this Report. This statement about less formal decisions applies equally to Areas 2 and 3 when I acted as Deputy for my colleagues;
- As stated in previous years, some issues were resolved with a few clarifying contacts, others took longer. Almost all the reviews could be closed, with consent from both Parties, often after IATA's own initiative to revisit its original actions after having had access to more facts and information disclosed during the TAC review. Cases were also closed when this Commissioner, after conducting a full review, found that IATA had followed proper procedures and Agents had recognised that a formal TAC Decision would not have changed the outcome of the case. Or after having conducted conference calls between the Parties, presided over by the Commissioner, and either an agreement was reached or serving a final Decision had been deemed necessary.
- Lastly, as a point of interest, I would like to indicate an increase in Member Airlines' requests for this Office's intervention, in order to either solve their disputes with Agents or to serve as a mediator amongst them, aiming at reaching an agreement presided by the Commissioner.

The total number of cases dealt with during this period was: **81**
Detailed as follows:

(a) Formal Decisions = **19**

In Area 1: 10
In Area 2: 7
In Area 3: 2

(b) Matters solved without requiring a formal decision = **57**

In Area 1: 40
In Area 2: 10
In Area 3: 7

(c) On going matters = 5
 In Area 1: 3
 In Area 3: 2

The summary of the decisions, posted on the TAC website, rendered in Area 1 is as follows:

<u>Date & Place</u>	<u>Summary</u>	<u>Decision</u>
<p>12 October 2016 Canada A1-2016/03</p>	<p>Agent sought a review of the Respondent's Notice of Termination ("NoT") for not having submitted the financial statements ("FS") within the given time limit. The evidence on file showed that such a delay was due to a cause beyond the reasonable control of the Agent.</p>	<p>Even though the Respondent seemed to have acted in accordance with Resolutions, there was one issue that required this Office's special consideration due to its implications not only for this Agent in particular, but in general as a policy reasoning. It is about the <i>administrative fee</i> that was demanded from the Agent as a condition to grant him the requested extension. As per the evidence, the Respondent had charged the Agent with such a fee (US \$ 150.00). However, NO nowhere in IATA's Resolutions' Manual it is found a provision contemplating the Respondent's right to charge an Agent for such request, which is not the result of its negligence but rather due to a situation beyond its control. Outcome of the review:</p> <ul style="list-style-type: none"> • The referred fee was waived; • Agent was granted the extension and provided its FS were in accordance with the requirements, its temporary reinstatement in to the BSP would become permanent.
<p>30 October 2016</p>	<p>Agent sought a review of the Respondent's request to provide</p>	<p>The evidence showed that: (i) The Agent had sufficient funds to</p>

<p>Venezuela A1-2016/02</p>	<p>a bank guarantee (“BG”), arguing that the Notice of Irregularity at the origin of such a request should be voided due to an alleged <i>bona fide</i> Bank error.</p>	<p>cover the remittance in full; (ii) The Bank had received the transfer order from the Agent in due time to comply with Remittance Date; (iii) the Agent had received a confirmation from its Bank as of the transfer being made on time; yet, such a statement proved to be inaccurate since the Respondent did not receive such funds in Due Date. The Bank did not want to acknowledge the delay nor provided any explanation for such a conduct. Outcome:</p> <ul style="list-style-type: none"> • Being aware of the strict rules contained in Resolution 818g, “A”, s. 1.7.4; • Based on the evidence on file, this Commissioner considered that such a delay was certainly <i>excusable</i> (Resolution 818g, s. 13.9), since it occurred due to causes beyond the Agent’s control, and for which it could not be blamed. The BG request was expunged.
<p>2 February 2017 Panamá A1-2017/01</p>	<p>Back in early 2016, Agent sought a TAC intervention in light of her business being seized by an interim judicial order, filed against her by a governmental Plaintiff. Agent had engaged herself in a judicial procedure challenging the Plaintiff’s actions. Agent wanted to preserve her accreditation, despite being placed in default due to her lack of access to the seized funds.</p>	<p>With the Commissioner’s intervention, an Agreement was reached between the Parties. However, more than a year elapsed and the Agent remained in the same situation with frozen funds. Additionally, the Agent incurred in a breach of the Agreement; therefore, considering the Respondent’s claim, this Commissioner decided to allow the Respondent to proceed to this Agent’s termination; leaving the door open –as was also the Respondent’s intention- for future application once the</p>

		outstanding debt would have been fully paid by the Agent.
3 February 2017 Chile A1-2017/02	Agent challenged the validity of a Notice of Irregularity (“NoI”) past the 30 days time frame (Resolution 820e, s. 1.2.2.3), arguing not having received any communication from the Respondent as of the outcome of the pleaded <i>bona fide</i> bank error situation, after having made submissions to the Respondent in that regard; hence, it assumed the issue as being resolved in its favour; only to realise, fortuitously, months later that in fact the NoI was still on its records.	Based on the evidence on file, this Commissioner, on the grounds of Rule 2.2 of the Rules of Practice & Procedure of the TAC Office allowed the review. During the procedure it came to light the proofs submitted by the Agent at the time; based on which it was clear for this Commissioner that the situation that occurred at the Agent’s bank was clearly one beyond its reasonable control, and, hence, such a delay was to be found <i>excusable</i> (Resolution 818g, s. 13.8). The Respondent did not disagree with this and the NoI was voided and removed from the Agent’s records.
March 22, 2017 Bolivia A1/2017-03	Agent sought a review of the Respondent’s NoT, served against it due to the non-submission of the BG within the given time. The Agent challenged the fact of having been served with the NoI in the first place, since it argued that it did have the funds available at Remittance Date, considering that the funds were located at his own personal name Bank account, which he provided proof of.	Over the course of the review it was clarified to the Agent that it needed to have the funds available in the <u>Agent’s bank account</u> (NOT in a personal bank account), and, therefore, the NoI was rightfully served by the Respondent and its delay in providing the BG was unduly. The Respondent’s actions were confirmed. The Respondent allowed more time to the Agent for it to comply with the requested BG, after having learnt from this experience.
May 24, 2017 Brazil	Agent claimed having a societal form according to Brazilian laws, not required to have FS. The Agent claims having submitted a similar set of documents for her	Abundant evidence showed that the Agent was timely and adequately informed about the needed documents that it had to submit in order to get its

A1/2017-04	previous financial annual reviews.	financial assessment properly done. The fact that according to Brazilian Tax Laws there was no need for the Agent to have FS, is NOT a valid excuse for it not to submit other documents requested by the Respondent that would allow it to undertake the mandatory review. Respondent's actions were confirmed. Agent was mandated to submit proper documents for its financial assessment to be done.
May 27, 2017 Costa Rica A1/2017-05	Agent sought an extension of the time frame for submitting its BG, triggered by an unsatisfactory result from its annual financial evaluation.	The evidence on file showed that the Respondent had granted several extensions to the Agent prior he contacting this Office. Agent was not able to proof to this Office the need for its Bank to have more time; therefore, its request was denied and its suspension from the BSP was to remain in place until the BG would have been submitted.
June 10, 2017 Trinidad & Tobago A1/2017-06	<u>Suspended Airline situation:</u> Agent claimed (proved) having refunded its clients, once the refunds had been duly processed and approved through BSP, but prior Remittance Date and prior receiving a communication from the Respondent, instructing him about the procedure to follow in light of the suspended Airline.	As the evidence shows, the Respondent did comply with the procedure stated in the applicable rules. It also shows that the Agent had no ill intention to disregard the applicable provisions, it simply did not fully grasp them and was unable to realize that its debtor is the suspended airline, not the rest of BSP Participating Airlines, nor the Respondent itself. The Respondent's actions were confirmed.
July 10, 2017	Agent sought a review of the Respondent's NoT, served	The evidence showed that the Agent's management level had

<p>Brazil A1/2017-07</p>	<p>against it due to a failure to submit the FS within the given time frame to do so.</p> <p>The Respondent sent innumerable reminders to the Agent, aiming at its compliance and trying to avoid the consequences of a non-submission of the FS.</p>	<p>not monitored the sole email address that was on IATA's file (due to a leave of absence of the person in charge), so it did not see the Respondent's several emails alerting the submission of the FS. The Respondent's actions were confirmed. Should the Agent submit its FS and they are found satisfactory, in accordance with the Local Financial Criteria applicable in Brazil, the Agent should be reinstated in the BSP.</p>
<p>July 12, 2017 Argentina A1/2017-08</p>	<p>IATA sought a TAC review of the Agent's status, based on the prejudiced collection of funds actions that it had undertaken against Agent, based on written information received from BSP Participating Airlines' concerning bookings' manipulation.</p>	<p>During the review procedure, it came to light that such actions had indeed been undertaken by an employee of the Agent, at the Agent's back. IATA's actions were confirmed.</p>

Section B

**TRAVEL AGENCY COMMISSIONER AREA 2
REVIEWS AND DECISIONS – AUGUST 2016 TO AUGUST 2017**

I have allowed one (1) Oral Hearing in Area 2 during this period.

The Hearing was held in Amman. The Agent requesting the Oral Hearing is located in Lebanon, and the case was initiated by IATA-Singapore involving suspicion of fraudulent behaviour, in cooperation with an Accredited Agent in Australia. An amicable solution was reached as a result of this meeting.

As in the past years, the majority of reviews in Area 2 have been swiftly and cost effectively concluded without formal Decisions and are not published nor individually described in this Report. Statistics below.

Some issues were resolved with a few clarifying contacts, others needed full review. A few Agents had multiple requests for reviews. Almost all of the reviews could be closed with both Parties' consent.

The amount of reviews in Area 2 have been fairly constant compared to the past 2 reporting periods.

There has been a notable increase in reviews pertaining “commercial issues” where Agents and an increasing number of IATA Member Airlines directly have approached this Office without the need to involve IATA.

In numbers, a total of 380 cases in Area 2 can be summarised as follows:

- **298 cases closed without a formal Decision** (10 handled by TAC1)
- **64 cases closed with a formal Decision** (7 of them handled by TAC1)
- **18 on going cases**

The 64 cases closed with formal Decisions are published on the secured part of the TAC’s website. In order to cost-effectively cope with the amount of reviews, and, at the same time, secure the Parties’ right to Due Process, the actual Decisions have been written in a “condensed and summarised” way. I am available for “clarifications” should any of the Stakeholders wish a more detailed background in regards to a specific review, which might only be totally understood once reading the entire case.

Fully understanding that the amount of cases which have been brought to my attention constitute a very small portion of the total amount handled by IATA, I want to acknowledge the professionalism and good spirit of cooperation demonstrated towards this Office by IATA staff in all 4 hubs.

Having said the above, it has to be mentioned that in the past 4 to 5 months, there has been a notable amount of “complaints” about response-time from IATA to Agents. I attribute these complaints to the internal changes consolidating Amman and Madrid hubs.

Section C

TRAVEL AGENCY COMMISSIONER AREA 3 REVIEW DECISIONS – AUGUST 2016 TO AUGUST 2017

General

Due to the number of formal Decisions rendered, 49, this report condenses these into categories as follows:

- A. Additional time granted in order to submit financial statements = 6

These emanated from the following countries:

Australia - 2
Indonesia - 1
Malaysia - 1
Singapore - 2

B. Additional time granted in order to submit a financial security = 9

These emanated from the following countries:

Australia - 4
Hong Kong - 1
India - 2
New Zealand - 1
Singapore - 1

C. This leaves the following formal Decisions to be briefly summarised. Full details are published on the secure part of the TAC website accessible by PAPGJC members.

Please note that all reviews in Area 3 were conducted based on the documentary evidence alone.

1. Four Agents were reviewed under sub paragraph 1.3.11 of Resolution 820e "*persistently failed to settle ADMs*" - three ruled in favour of Airlines, one ruled in favour of the Agent.

INDIA 1/PAKISTAN 3

2. Agent unclear on accreditation voluntary relinquishment process - objective achieved.

SINGAPORE

3. Agent failed to settle 5th instalment of a repayment agreement on time. Termination suspended subject to Agent settling 6th instalment on time.

INDONESIA

4. Agent settled all outstandings and, hence, granted short extension to submit financial security.

PAKISTAN

5. Agent persisted with getting default protection insurance instead of a bank guarantee as required by IATA in order to cover 50% of outstandings. Terminated in order that IATA could claim against available financial security within the time limit allowed.

PAKISTAN

6. Agent issued with an NoI as its cheque returned by bank. Investigation proved return due to over officious banker as "no company stamp" on cheque - stamp not required, ample funds in Agent's account and NoI expunged.

SRI LANKA

7. Agent confused over validity period of its financial security and accreditation terminated. Granted final opportunity to submit financial security in order to be re-instated.

INDIA

8. Due to poor understanding of English by Agent repayment options were ignored and termination was effected. Agent continued to make payments post termination and settled all dues. Due to that perseverance Agent was granted re-instatement subject to settling all fees associated therewith.

INDIA

9. Agent's accreditation was terminated for failing to settle an administration fee of USD 59.13. Agent was involved with Haj and Umrah pilgrimage activity and did not issue tickets, hence, did not monitor any BSP notices. Amount was paid and as no wilful behaviour evident and procedure introduced to preclude repeat Agent was to be re-instated subject to paying fees associated therewith.

INDIA

10. Agent defaulted due to cutting time fine in arriving at bank, and, hence, payment made after 3.30pm cut off time. Despite its self-righteous attitude but having learned a lesson, Agent was granted another chance subject to paying any fees associated with having its ticketing authority re-instated.

PAKISTAN

11. Agent was issued with an NoI due to internal confusion with regard to a payment mode agreed with IATA. Funds were available and due to the Agent's keen desire not to have any "marks" against it and as it had introduced procedures to avoid a reoccurrence the NoI was expunged with the Agent paying any administrative costs.

MALAYSIA

12. Agent's accreditation was terminated as a result of failing to settle the Annual Agency Fee of USD 239.00. The Agency's owner was absent dealing with a third party fraud issue and was not alerted to the problem by his staff. On being advised the fee was paid and as a consequence the Agent was to be reinstated subject to settling any fees associated therewith.

PAKISTAN

13. Agent was issued with an NoI for failing to settle on the due date. Agent advised that courier had altered information on bank deposit slip which prevented bank from processing cheque for 3 days. Evidence submitted which showed ample

funds in its account. Agent did not consider itself responsible for the delay and sought removal of the NoI which was accepted.

PAKISTAN

14. Agent was issued with an NoI and ultimately declared in default. The issue arose as a result of complications experienced with an Airline-issued ACM. Agent demonstrated its determined action in attempting to resolve the issue and the NoI was expunged and ticketing authority restored.

PAKISTAN

15. An Applicant for accreditation was disapproved under "*Trading History*" of Resolution 818g. The owner had been involved with an Accredited Agent which had been terminated due to an internal ownership dispute but all dues had been settled. Clear evidence showed that the owner was not responsible and as IATA preferred the TAC to exercise sub-paragraph 2.1.9 of Resolution 818g the application was to move forward.

INDIA

16. IATA sought a review of the Agent whose sales had spiked by 533% in excess of its financial security. That situation was caused by an Agency staff member who had issued 200 tickets on one day and then absconded. The Agent had done all that was possible to minimise its exposure with mixed success but it clearly was liable for the acts of its staff. The Agent's ticketing authority was to remain suspended while dues remained outstanding, a financial security was to be submitted to an amount determined by IATA who was requested to assist the Agent in any practicable manner to reduce its exposure.

MALAYSIA

17. An Applicant's application was disapproved on the grounds that it had not submitted its financial security by the deadline date. It was proven that reasons beyond the Applicant's control had caused the delay and the application was progressed.

PAKISTAN

18. The Agent was placed in default and its ticketing authority was suspended. It transpired that the Agent had written an incorrect IATA code on the bank deposit slip and, hence, the payment had been credited to another agency. This was a clear case of "*excusable human error*" and the Agent's ticketing authority was restored.

BANGLADESH

19. The Agent was confused on the disputed ADM procedure and was consequently terminated. Based on the principle that a lesson was learned and the outstandings would be held by IATA for 60 days while the dispute was resolved, the Agent was to be reinstated.

PAKISTAN

20. The Agent was terminated for failing to settle 5 IATA invoices for administrative charges. The Agent claimed that IATA had been using a dormant email address; however, it was the same as was being used presently by the Agent during the course of the case. The Agent wished to satisfy itself that the charges were accurate which IATA confirmed and the fees were paid. The Agent was to be reinstated subject to paying all charges related thereto.

INDIA

21. The newly accredited Agent was duped by a credit client who initially met all payment conditions but gradually the amount of ticketing held on credit increased until when it had reached a significant sum the client failed to pay and the Agent could not meet its BSP billing. The Agent made life style sacrifices to pay its debt and a unique repayment plan was agreed. The Agent was to be reinstated subject to paying all dues, submitting a new financial security and paying all IATA fees and charges.

PAKISTAN

22. IATA disapproved an Applicant's application for a Head Office location for an "Online Agent" on the grounds that the Applicant did not physically exist at the location specified. On examination that decision was endorsed and the request for a review declined.

AUSTRALIA

23. The Agent's accreditation was terminated for failing to settle two minor ADM amounts. The Agent claimed that it could not access *BSPlink*, hence, was not aware of the issue. IATA was to investigate that the rules were applied with regard to that access. During the course of the case it was discovered that a change of shareholding had occurred. The amount due was settled and subject to the change being approved the Agent was to be reinstated.

PHILIPPINES

24. IATA suspended an Agent's ticketing authority and sought a review on the grounds that it had allegedly misused a ticketing system by adopting manual pricing for 150 tickets and causing serious loss to an Airline.

The Agent had fired the two employees guilty of the malpractice and had met with the Airline and had paid it a substantial amount for any losses incurred which was accepted by the Airline. On that basis the Agent's ticketing authority was to be reinstated.

PAKISTAN

25. The Agent was placed in default; however, it could not meet the percentage deposit amounts required under the options available and was terminated. It made a number of payments and was keen not to have its financial security encashed. It made full payment post termination and IATA did not claim against the security and as a consequence the Agent was to be reinstated.

BANGLADESH

26. The Agent's accreditation was terminated for failing to submit its audited financial statements by the deadline date in connection with a change of ownership and name. IATA had sent several alerts to the Agent without success. The Agent submitted evidence of a communication system flaw and IATA confirmed the belated receipt of the required documents. Subject to IATA approving the change, the Agent was to be reinstated.

INDIA

27. The Agent's accreditation was terminated as a result of not settling BSP billings and failing to meet the 50% deposit recorded in the repayment plan. Subject to a TAC decision, IATA would hold off claiming against the Agent's financial security (FS) if it settled the 50% and advised how it intended to pay the balance. It would also need to increase the amount of its FS. The conclusion was that the Agent was to settle all debt by a fixed date or to extend its FS to cover the period of the repayment plan. Subject to fulfilling the chosen condition it was to be reinstated.

PAKISTAN

28. IATA sought a review of the Agent on the grounds that it had submitted a fraudulently issued letter from its bank purporting to record a "*bona fide* bank error" in order to have an NOI removed. On being accosted the Agent admitted ownership of the fraud "as a last resort". Four major Airlines withdrew their appointment of the Agent which would cause considerable income loss. While termination was a tempting option, the Airlines' action moved the decision to be suspension of the Agent's ticketing authority for 2 weeks.

PAKISTAN

29. The Agent's accreditation was terminated as a result of it not settling an IATA administrative charges invoice for USD 238.00. The Agent had not alerted IATA to a new contact address and, hence, was ignorant of the charge. If reinstated the Agent was to submit an FS for a specified amount. The Agent should not lose its main business tool over a minor amount and, subject to complying with IATA's requirement, should be reinstated.

INDIA

30. The Agent was terminated for failing to submit its audited financial statements by the deadline date. As this was the first experience of such a requirement, the Agent was sceptical of its authenticity. It had sought advice from IATA, but the slow response time ate into the time available and its lack of familiarity with the IATA portal was another issue. Clearly the Agent was struggling with coming to grips with technology and subject to IATA approving the statements submitted, the Agent was to be reinstated.

BHUTAN

31. The Agent's accreditation was terminated for failing to settle an IATA administrative charges invoice for USD 128.22. The Agent claimed that it had not

received any emails and the couriered hard copy termination letter had taken 17 days to arrive. There was clearly an issue with email communication but an Agent should not be terminated permanently for the sake of a minor amount. Subject to the Agent paying the invoice, the Agent was to be reinstated.

INDIA

**TRAVEL AGENCY COMMISSIONER AREA 3
MATTERS THAT DID NOT GIVE RISE TO REVIEW
AUGUST 2016 TO AUGUST 2017**

General

Due to the number of cases handled, 68, this Report condenses these into categories as follows:

- A. IATA's decisions upheld = 31
- B. Intervention of TAC produced satisfactory outcome without need for a formal Decision = 28
- C. Dismissed as application for review made outside 30 day time limit = 6
- D. ADM issues where Airline did not agree to TAC involvement = 3