

**DECISION 2017- 12 - 08**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

Jo Foged  
685 Remuera Road  
Remuera, Auckland 1050  
New Zealand

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**Applicant:** *Cong Ty Co Phan Dau Tu Thuong Mai Xuat Nhap Khau An Khanh*  
IATA Code 37-3 0292  
Hanoi, Vietnam

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

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**The Case and Decision:**

The Agent was placed in default as a result of not settling ADMs issued by Kenya Airways (KQ) to the value of VND 1,240,805,880 (USD 53,721.00). Being unable to raise this amount by 31 October 2017 the Agent's accreditation was terminated. The Agent disagreed with the nature of the ADMs; however, the dispute mechanism under section 1.10.5 of Attachment “A” to Resolution 818g was unworkable in this circumstance as the Agent was not able to raise that considerable amount of money for IATA to hold for 30 days while the Agent attempted to resolve the issue with the Airline.

Initially, this Office considered that sub-paragraph 4.9 of Resolution 850m prevented TAC involvement without the agreement of the Airline. However, subsequent examination of Resolution 820e identified sub paragraph 1.1.5 as a vehicle for intervention.

It reads as follows:

"an Agent who has received formal advice from the Agency Administrator of impending removal of the Agent or Approved Location of the Agent from the Agency List, or of any action or impending action by the Agency Administrator with regard to the Agent, that unreasonably diminishes the Agent's ability to conduct business in a normal manner"

The Agency had been affected by the action of the Agency Administrator by the suspension of its ticketing authority, which in turn was initiated by the burdensome

amount created by the disputed KQ ADMs. This situation could be regarded as “unreasonably diminishing the Agency's ability to conduct business”.

Under that circumstance it would be fair for the disputed ADMs to be removed from the BSP process and for the Agent to be allowed to pursue resolution of the disputed ADMs directly with the Airline.

The Parties were placed on notice that in the writer's judgment an oral hearing was not necessary and that the decision would be based on the written information submitted.

Based on the foregoing it is hereby decided as follows:

1. The KQ ADMs identified as being disputed are to be removed from the BSP billing process and be progressed through direct communication between the Agent and the Airline;
2. The Agent's accreditation is to be re-instated by IATA without delay.

**This Decision is effective immediately.**

Decided this 8<sup>th</sup> day of December 2017 in Auckland.

**Jorgen Foged**  
**Travel Agency Commissioner Area 3**

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 days time frame expires on **23 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 24 December 2017 I will assume that there is no objection to that action being taken.