

**Decision 8/2018**  
**Travel Agency Commissioner - Area 2**

Andreas Körösi  
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**Applicant: *Sam Smith Travel***  
IATA Code # 91-2 3913 1  
United Kingdom

**Respondent: International Air Transport Association (IATA)**  
Torre Europa  
Paseo de la Castellana, número 95  
28046 Madrid, Spain

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**NOTE:**

This summarized decision is being posted as the Parties have received it. Occasional requests for clarification are not posted. However, should any Stakeholder ask for it, a copy of such clarification will be sent to her/him.

**Background:**

As submitted by the Applicant, the crux of the matter is that IATA has decided to request for an increase of the Applicant's current bond, from £ 25,000 to £ 42,000 because of 3 months high-ticket sales.

The Applicant argues that it has explained to IATA that these were extraordinary events, which will not be repeated. IATA in turn says that they are bound by rules and cannot vary them.

The Applicant disagrees with such position and claims that in all its *<<18 years of membership nothing like this (especially since we are now paying weekly) has happened before>>*.

Furthermore, the Applicant argues that *<<... looking at our average monthly expenditure, an increase based on the 3 biggest months we have recorded seems unreasonable as of course the bond is meant to cover what we will be doing in the future rather than what we have already done. Therefore, I believe my argument is a reasonable one>>*.

## Considerations:

This Commissioner deems the Applicant's arguments reasonable by all means, but the Local Financial Criteria applicable to the United Kingdom ("UK LFC") is clear.

### <<**Agents accredited for more than two years**

*4.15 The amount of the Financial Security, if required, must cover at a minimum, the higher of:*

- 1. 4.15.1 the Amount at Risk calculated as per Sections 4.3 & 4.4 above, using the cash turnover amount of the 3 month highest BSP net to be paid turnover in the previous 12 month period, or*
- 2. 4.15.2 GBP 25,000, in order to continue to be accredited>>*

Obviously a bond is for future sales, and it is also logic that it is based on "historic" sales instead of "budgeted" sales.

The LFC is negotiated with the Association of British Travel Agents ("ABTA") being one party, and since the Applicant is a Member of ABTA I hereby recommend the Applicant also to turn to them and ask them to raise this issue, because nowhere in the LFC is discussed what to do when **extraordinary sales** in a "**abnormal**" year result in a request to increase an Accredited Agent's financial security for next year.

Nonetheless, this Commissioner, in an attempt to find a justification to apply an exception to the UK LFC, asked the Applicant to:

- (i) Provide a breakdown of its total BSP sales for the past 5 years, and also the forecast (on a monthly basis) for 2018; and to,
- (ii) Further elaborate on the reasons why, from its perspective, another sales increase was not foreseeable.

As of the first requirement, the Applicant provided a list of its annual turnover with IATA by quarter since 2013 and an estimated turnover for 2018 (with details). This information was deemed valid and sufficient by this Commissioner.

As of the second requirement, the Applicant stated:

*<<We specialise in Rugby tours following the Welsh Rugby Team and in 2018 there are none planned although we are taking a tour to Argentina, the tickets for which will be issued through a Consolidator and not using IATA/BSP. The only other trips involve the charter of aircraft; therefore, not IATA ticketing. In 2019 we likewise have only one non-charter trip,*

*which will again be through a Consolidator, so 2017 was indeed a 'one off' because of the two major rugby trips involved>>.*

## **Decision**

Having analysed the Applicant's submissions and having carefully looked at IATA's submissions and the applicable Resolutions, I came to the following conclusions:

- I cannot see grounds to grant an exception from the UK - Local Financial Criteria;
- I hereby confirm IATA's actions and their decision stands.
- The Applicant is to provide the bond increase by March 31<sup>st</sup>, 2018
- However, should the Applicant's bank require a few more days, out of administrative reasons, then please ask them to do it in writing to IATA with copy to me, and an extension of the referred time frame will be granted.

Lastly, taking the Applicant's trading record into consideration, I want to reiterate what Ms. Dovgan, representing IATA, stated in her email dated February 14<sup>th</sup> 2018, in the sense that the Applicant may *<<request to review his financial security amount, for example in 4-6 months' time, taking into account its recent sales volume">>*. In which case, should the sales' level be as budgeted and on the same level as the years prior the *extraordinary* sales one, the bond will be adjusted accordingly.

**This Decision is effective as of today.**

Decided in Stockholm, on February 21<sup>st</sup>, 2018

Andreas Körösi  
Travel Agency Commissioner  
IATA-Area 2

In accordance with Resolution 820e § 2.10 any Party may ask for an interpretation or correction of any error in computation, any clerical or typographical error, or any error or omission of a similar nature which the Party may find relevant to this decision. The time frame for these types of requests will be maximum 15 calendar days after receipt of this decision. Meaning as soon as possible and **not later than March 7<sup>th</sup>, 2017**.

Please also be advised that, unless I receive written notice from either one of you **before** the above mentioned date this decision will be published in the Travel

Agency Commissioner's secure web site, provided no requests for clarification, interpretation or corrections have been granted by this Commissioner, in which case the final decision will be posted right after that.

Please note that if after having asked for and obtained clarification or correction any Party still considers aggrieved by this decision, as per Resolution 820e §4, the Party has the right to seek review by Arbitration in accordance with the provisions of Resolution 824 §14.

Please let me know if any of the Parties requires a signed hard copy of this decision and I will send one once the time for "interpretation or correction" has elapsed.