

Decision 13/2018

Travel Agency Commissioner - Area 2

Andreas Körösi
P.O. Box 5245
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Applicant: *Travel Design*
IATA Code # 80-2 2754
Sweden

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

NOTE:

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

Background:

In a Notification dated **05 March 2018**, IATA informed *Travel Design* about a request for a Financial Security ("BG") of 4,7 mil SEK.

Reason being Resolution 812 - **which was going to become effective on 18 March 2018** - requests a BG for 24 months when the Agent's risk status is B.

In this case, even though the **financial assessment is satisfactory**, due to a Change of Ownership ("CoO"), the "**Risk History Assessment result**" was: **Fail**, due to a change of shareholding of more than 30% exactly 1 year prior of the implementation of Resolution 812.

Travel Design approached this Office explaining that the 50/50 partnership between the founder/CEO and a "silent partner" was ended, in the benefit of the company, by the CEO having bought the shares of "a sleeping partner who had lost interest" in the company.

It is important to mention that the CoO was communicated in due time to IATA and **approved by IATA with effectiveness as of 08 April 2017**.

Considerations and Decision:

The main initial consideration for this Office was to determine if an event more than 1 year prior to implementation of a new provision in Resolutions can be invoked by IATA to "make the current risk assessment" and assign a higher "risk status" which was not foreseeable when the CoO happened.

This consideration is still pending, and under discussion between the TACs and IATA, but in this case, the New Resolution 812 is applicable.

Based on Resolution 812 § 10.3.1:

*<<(iii) the disposal or acquisition of shares representing more than 30% of the total issued share capital of the Agent by any Person, **that has the effect of vesting the control**, as defined in applicable local law, of the Agent in a person in whom it was not previously vested>>*

It is obvious that the CoO **did not have** the effect that "*control was vested in a person whom it was not previously vested in*", hence, this Commissioner decides as follows:

- Since the Agent's Risk History Assessment has to be considered "satisfactory" and not as "failed",
- **The request for a financial Security has to be withdrawn**

This Decision is effective as of today

Decided in Stockholm, on April 11, 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 April 26th, 2018**.

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.