

## Decision 21/2018 Travel Agency Commissioner - Area 2

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**Applicant: *Continental Tours*** ("The Agent")  
IATA Code # 08-2 0210 6  
Belgium

**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 requests it, a copy of such clarification will be sent to her/him.

### Background

The Agent received an ADM (nr. 0062320048; EUR 5,688) for alleged CIP violation issued by MH (*Malaysia Airlines*) via its Belgium GSA (*Avia Reps*). The ADM was immediately disputed via *BSPlink* and the dispute rejected by MH.

*Continental Tours* had numerous contacts after the rejection with MH, insisting on this ADM's dispute, without receiving any response.

Additionally, IATA's "Agent Customer Service" was on numerous occasions consulted by the Agent and informed about its willingness to contest the nature and validity of the ADM and its insertion in the BSP system for billing.

IATA followed procedures as mandated by Resolution 818g Attachment "A" § 1.10.5 and the money was held in trust by IATA for 30 days before it was "forwarded" to the Airline since *Continental Tours* formally: **"did not dispute A SECOND TIME through *BSPlink*".**

Troublesome is what IATA failed to do, meaning failed to act, at least according to what is on record. IATA's "Agent Customer Service" was notified and fully aware of the Agent's wish and situation **without informing the Agent** of the need for a "second dispute" notification through BSP to avoid the transfer of the funds to MH.

Resolution 850m and all "supporting Resolutions" are very clear in the sense that ADM disputes have to be solved outside the BSP unless the Parties agree upon the validity of the ADM.

### **Considerations and Decision**

Taking into consideration MH's unwillingness to engage in a "post billing discussion" and also considering the obvious wish demonstrated to "IATA Agent Customer Service" by the Agent, in accordance with the spirit and intention of Resolutions to solve ADM disputes bilaterally, it is this Commissioner's decision that:

- The equivalent of the ADM amount (nr. 0062320048) forwarded to MH has to be withdrawn and forwarded to the Agent
- That the ADM (nr. 0062320048) as of now has to be resolved bilaterally between MH and the Agent.

*Please note, the decision above is of an administrative nature and **does in no way take a stand** regarding the validity of the alleged CIP violation. This has to be discussed bilaterally between Continental Tours and MH.*

Should no bilateral agreement be reached, and provided both Parties agree, then please feel free to approach this Office and I will mediate or make a ruling on the validity of the ADM itself, pursuant to Resolution 850m § 4.9.

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

Decided in Stockholm, on 26<sup>th</sup> of April, 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 May 11<sup>th</sup>, 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.