

DECISION 2018 - 06 - 29
TRAVEL AGENCY COMMISSIONER - AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Creative Tours and Travels Pvt Ltd. ("The Agent")
IATA Code 14-3 3793
Mumbai, India

Respondent:

Agency Administrator, International Air Transport Association ("IATA")
Singapore.

The Case and Decision:

IATA sought a TAC review of the Agent on the grounds of the Prejudiced Collection of Funds' provisions of Attachment "A" to Resolution 818g.

IATA's concern was the fact that the Agent during May 2018 submitted consecutive "bank error" letters to excuse late BSP settlements. Further investigation revealed that over the past 12 months, 24 such bank letters had been submitted for the same purpose. These Bank of Baroda letters had been signed by 6 different managers and had concerned 5 different causes for late settlement all of which met the "bank error" conditions of Resolution 818g, Attachment "A".

The Agent received a phone call from IATA's Manager for India highlighting the unusual number of occasions on which this provision was being utilised and cautioning the Agent of the risk of ticketing authority suspension should another incident of this nature occur.

On 26 June 2018 the Agent had not remitted the full BSP settlement due on 25 June 2018 and again submitted a "bank error" letter. IATA suspended the Agent's ticketing authority and sought a Commissioner review.

In its request for the reinstatement of its ticketing capability the Agent made the following statement:

"1. Our Bank Guarantee & Insurance Guarantee is much higher than we owe to all the airlines as off today i.e. for the billing period 16-22 Jun,

2018 amount payable is INR 694,48,172/- & for the billing period 23-30Jun, 2018 amount payable is INR 371,89,808/- and our total financial coverage is INR 23,04,10,000/- , so there is no reason to stop our ticketing as no Airlines will lose any money.

2. We are in process to reduce our productivity to the extent of an amount that is below our Bank Guarantee held by IATA at all the times, now and in future so that we are not over trading.
3. We have strictly advised all our branches to ensure sales levels not more than our working capital, so there will be no need to make arrangement for cash credit at last minute in future. By doing this way, we can further assure that late payment will not occur.
4. Most of the instances are due to banking/system/internet disruption errors, so please not punish us for the reasons beyond our control.
5. Our business is suffering a lot due to deactivation of ticketing authority, so our credibility is at stake in the market. "

In considering this matter it is clear that the Agent is sincere in wishing to avoid further instances where bank error causes negative impacts on its business, therefore, to remove that possibility the implementation of a direct debit facility for its BSP settlements would be the solution. That action together with the measures proposed above to limit exposure would place the Agent in a lower risk category.

As required by Resolution 820e, the Parties were placed on notice that in the writer's judgement an oral hearing was not necessary and that this decision would be based on the written information submitted.

Therefore, based on the foregoing it is hereby decided as follows:

1. Subject to complying with the following conditions, the Agent's ticketing authority is to be reinstated without delay:
 - (a) Arranging a direct debit facility with its Bank for BSP settlements,
 - (b) Implementing the risk minimisation measures voluntarily proposed above for a period of 3 months,
 - (c) Recognising that the next incident of the nature, which initiated this review, could result in immediate ticketing authority suspension.

This Decision is effective as of today.

Decided this 29th day of June 2018 in Auckland.

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-day time frame expires on **July 14th, 2018**.

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 July 15th, 2018 I will assume that there is no objection to that action being taken.

Yours faithfully,

Jorgen Foged
Travel Agency Commissioner Area 3