

TRAVEL AGENCY COMMISSIONER
AREA 1 – DEPUTY TAC 2
VERÓNICA PACHECO-SANFUENTES
110 – 3083 West 4th Avenue
Vancouver, British Columbia V6K 1R5
CANADA

DECISION I. – December 19, 2017

In the matter of:

Prestation de Service et de Voyages (“PSV”)

IATA Code 51-2 1005 1
Immeuble Al Khaima City Center
BP 2324 Nouakchott, Mauritanie
Represented by counsel Mr. Frédéric SELNET

The Applicant

vs.

International Air Transport Association (“IATA”)

Torre Europa
Paseo de la Castellana, número 95
28046 Madrid, Spain
Represented by Ms. Dania AL-ABBADI, Middle East and Africa
Accreditation Manager

The Respondent

and,

Turkish Airlines (“TK”)

Türk Hava Yolları A.O Atatürk Hava Limanı, Özel Hangarlar
Bölgesi
Beşyol Mah. İnönü Cd. No:10 34295 Sefaköy, K.Çekmece
Istanbul, Turkey
Represented by its Sales Data Control Manager, Mr. Sinan KIRIŞ

The Airline

I. The Case / This Decision

The Applicant sought a review of the Respondent’s default actions undertaken against it due to a non-payment of Agency Debit Memos (“ADMs”), which had been timely disputed by the Applicant.

Those ADMs had been issued by TK, on the grounds of supposed system’s abusive practices attributed to the Applicant.

Telephone: + 1 (604) 742 9854
e-mail: Area1@tacommissioner.com / website: www.tacommissioner.com

In light of the complexity of this matter and the multiparty nature of the review process, this Commissioner has decided to fraction the case in two parts; each part will be served with a separate decision. One decision will be about the Applicant's suspension from the BSP, triggered by the inclusion of the disputed and unpaid ADMs; and, another decision will cover the validity of the ADMs' itself.

The current decision will cover the first scenario, meaning the suspended condition of the Applicant in light of the Respondent inclusion of the timely disputed ADMs in to the Applicant's BSP Sales Billing Report.

II. Background

The Responded did not contradict the fact that all the ADMs were timely disputed by the Applicant.

In fact, on October 16, 2017, the Respondent, when replying to this Office's question regarding how one should understand the statement that a document (meaning an ADM) had been:

<<History of ADM 6423500328
ON 2016-09-09 12:29:21 document issued
OPERATION COMPLETED ON 2016-09-11 22:10:02 Disputed Document
OPERATION COMPLETED ON 2016-11-11 00:04:49 **document deleted
by the systems because no action was taken**>>

The Respondent specifically stated that, I quote:

<<As far as we know when BSPlink indicates in the history that a document such as an ADM is deleted, it means that the latency period of 60 days has passed and because the airline has not replied to the agent's dispute, the resolution of it goes in favor of the agent, the document disappears and it should never be included in a billing>> (emphasis mine)

This condition, as shown in the referred evidence, is found in the ADM 6423500328 and in the ADM 6423500347.

Furthermore, the evidence provided to this Office by the Respondent itself on October 12th, 2017 clearly proves the following facts:

- (1) That all the ADMs¹ were timely disputed by the Applicant;

¹ Namely 6423500328, 6423500329, 6423500337, 6423500338, 6423500338, 6423500347, 6423500354, 64235500355 and 6423500356

- (2) It also shows that most of those disputes were not agreed by the Airline during the 60 days period stated in Resolution 818g, Attachment "A", s. 1.7.9; and,
- (3) That in respect to ADM 6423500328 and ADM 6423500347, as stated by the Respondent itself, in light of lack of timely response from the Member Airline <<... *the resolution of it goes in favor of the agent, the document disappears and it should never be included in a billing*>>.

III. Conclusions

Therefore, based on the evidence in front of me, as well as pursuant the applicable Resolutions, I hereby decide:

- All the *supra* identified ADMs must be **removed** from the Applicant's BSP Billing and left <<*for bilateral resolution between the Airline and the Agent*>> as mandated by Resolution 818g, Attachment "A", s. 1.7.9.7;
- Consequently, provided no amounts are owed by the Applicant to any BSP Participating Airline, **the Applicant must be immediately reinstated in to the BSP system**, without having to meet any further condition;
- The validity of the referred ADMs will be reviewed by this Commissioner, during the time that it will take to render such decision, the Applicant must remain connected to the BSP, unless a non-compliance with the applicable Resolutions could be imputable to it.

This Decision is effective immediately.

Decided in Vancouver, the 19th day of December 2017



Right to ask for interpretation or correction

In accordance with Resolution 820e § 2.10, any Party may ask for an interpretation or correction of any error, which the Party may find relevant to this decision. The timeframe for these types of requests will be 15 days after receipt of the electronic version of this document (meaning no later than **January 3, 2018**).

Both Parties are also hereby 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.

Right to seek review by Arbitration

If after having asked for and obtained clarification or correction of this decision, any Party still considers aggrieved by it, as per Resolution 820e § 4, the Party has the right to seek review by Arbitration in accordance with the provisions of Resolution 824 § 14, once the above-mentioned time frame would have elapsed.