

Decision 12/2019

Travel Agency Commissioner - Area 2

Andreas Körösi
P.O. Box 5245
S-102 45 Stockholm, Sweden

Applicant: Key Tours
IATA Code # 22-1 0283
Albania

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

Key Tours requested a review claiming, and not refuted by IATA, that they had been served a Notice of "non payment" default and consequently an updated risk status entailing an increase in BG with € 57,000 (new total € 106,000), due to 178 ADMs issued by Alitalia ("AZ") representing a total claim of € 65,860.

After having allowed IATA to comment about possible risk for prejudiced collection of funds, an Interlocutory Relief ("IR") was ordered by this Office so the Agent could be reinstated without further financially damage to its business.

Key Tours has presented evidence of having disputed the ADMs as of November 2018, right after the ADMs were issued. They have also been timely and properly disputed in the BSP system. This has been confirmed by IATA.

Considerations and Decision

IATA has not refuted the above claims, but does state that the Post Billing mechanism as described in Resolution 812 § 6.10.1.2: *"All Dispute will continue to form part of the Billing and the Agent must remit the disputed amount to the BSP on the Remittance Date notwithstanding the existence of the dispute"* should prevail over Resolution 812 § 6.6.7.3: *"... when an ADM is disputed prior*

*to it being submitted to the BSP for processing, it will be recorded as disputed, **and will not be included in the billing.***"

The TACs, as in numerous cases before this review, do not agree with IATA SOP about the procedure to include ADMs in billings after an ADM has been properly disputed by an Agent.

The TACs consider Resolution 818g ("A" 1.7.9. and Resolution 812 § 6.6.7.3) **conclusive and definitive**. If *".... NO agreement is reached between Airline-Agent, the **ADM MUST be withdrawn from the Billing** and left for bilateral resolution between the Parties and OUTSIDE the BSP.*

The TACs consider the PBD mechanism to be intended as the term "Post Billing Dispute" actually indicates; namely, a "second chance" for an Agent when an Agent misses to dispute an ADM before it is included in the billing.

Decision:

- The "Non Payment default" and its consequences shall be withdrawn;
- The temporary (due to the IR) reinstatement has to be permanent;
- All Ticketing Authorities as prior to the default reinstated;
- The "Irregularity" stricken from **Key Tours** Records;
- The issued ADMs have to be resolved bilaterally.

Please note: This decision **does NOT take a stance in respect to the validity of AZ claims**; it only states that the dispute has to be settled bilaterally and outside the BSP.

This Decision is effective as of today.

Decided in Stockholm, on 24th March, 2019

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 8th, 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.