

Decision 15/2019 Travel Agency Commissioner - Area 2

Andreas Körösi
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Applicant: *Scuto Viaggi*
IATA Code # 38-2 2042 0
Italy

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

NOTE:

Both Parties are hereby advised that this is a summarised decision based on the findings of the case. Below considerations and the decision itself are based on the written statements submitted by both Parties, and, according to my judgement, as allowed in Resolution 820e §2.3, I do not see the need for an Oral Hearing.

Background

In November 2019, the Agent received eighty-eight (88) ADMs from Alitalia ("AI") and asked for explanations about the reasons for AI to issue them. AI failed to satisfactorily do so and *Scuto Viaggi* disputed these ADMs.

Quoting IATA from an email dated 18 February: "*The agent disagreed from the start with that ADM and he contacted our CS Department to request clarifications on how to do the Post Billing Dispute process*"... and "... he contacted our CS support several times (around 10) in different dates and our CS colleagues tried to explain the process" and "... the dispute was answered by the Airline and from that the agent did not take any further action."

This last statement was refuted by *Scuto Viaggi* claiming: "*When I called again in order to ask why the status of the PBD was "agree to Airline" the operators said me that was normal and that I needed to wait until the resolution date. I asked specifically about this and every time the operator asked me the IATA number and she checked the PBD. Why no one said me that the status was "agree to Airline" because the reply was not correctly sent to the system.*"

Regarding not having correctly used the Post Billing Dispute ("PBD") procedure *Scuto Viaggi* also submitted: "*I answered to the Airline but someone gave me the*

incorrect information and in the subsequent calls no one corrected it Mr. Baldanza of IATA CS checked after my complaint and confirmed me that was a mistake by CS".

These statements have not been refuted by IATA.

Considerations

As stated in previous decisions from this Office, the Commissioners consider Resolution 818g "A", § 1.7.9 conclusive, in the sense that 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 *NO agreement is reached between Airline-Agent, the **ADM MUST be withdrawn from the Billing and left for bilateral resolution between the Parties and OUTSIDE the BSP.***" Clarifying further more: "... *the PBD mechanism is intended when an Agent misses to dispute in the first place.*"

In this case, both IATA and the Agent have confirmed that the ADMs were timely disputed and by that the ADMs should not have been included in the billing.

If in doubt of the ADMs' validity IATA could have kept the disputed amounts in trust for 30 days and after those 30 days credited them to the Agent since IATA without doubt had information that the ADMs were not agreed upon, which is supported by the fact that AI did not provide information to substantiate that the ADMs in the first place were issued in full compliance with Resolution 850m requirements.

Decision

Regarding the concerned ADMs:

- IATA shall allow AI 5 Business Days to "correct" on its own the situation by issuing corresponding ACMs; **should AI not do so, then,**
- IATA has, on behalf of AI, to issue ACMs corresponding to those amounts which already have been credited to AI;
- **If IATA still hold in trust the amounts paid by the Agent,** IATA has to credit any amount corresponding to these disputed ADMs to *Scuto Viaggi*.

This Decision is effective as of today.

Decided in Stockholm, on April 30th, 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 15 May 2019**.

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.