

Decision 17/2019

Travel Agency Commissioner - Area 2

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

Applicant: *Golden Travel Ltd.*
IATA Code # 02-2 1044 5
Albania.

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, since according to my judgement, as allowed in Resolution 820e § 2.3, I do not see the need for an Oral Hearing.

Background

On March 6th, 2019 this Office was approached by *Golden Travel* claiming that a large number of ADMs have been processed through BSP issued by Alitalia ("AZ"). Since AZ had removed the ticketing authority ("TA") already in June 2017 and the tickets corresponding to the ADMs were issued by AZ representatives at Tirana Airport, *Golden Travel* asked this Office to intervene. The ADMs were issued **as of at least** November 2018 and onwards. *Golden Travel* has disputed them directly to AZ and informed IATA accordingly by BSP dispute. Most of the ADMs have been deposited to IATA via BSP and some are still held by IATA as deposit.

The above statements done by *Golden Travel* have not been refuted by AZ, nor has IATA commented the issue other than they have followed requirements of ADM Post Billing Disputes ("PBD"). IATA has also confirmed that the value of the ADMs have been "deposited" to IATA and since the PBD has not been properly done for all ADMs, most of the funds have been forwarded to AZ so it is up to the Agent to resolve the issue directly with AZ.

This Office has allowed AZ the possibility to respond and explain mainly the "reasons why the ADMs have been issued to an Agent when the issuing was not done by that Agent", but no response has been received until this date. AZ has not even responded to an email sent by IATA, dated 22nd April, asking for cooperation.

Considerations

Having carefully read all statements, it is obvious that AZ has not followed Resolution 850m Attachment "A" requirements. Valid specifications (§1.3 requirement) on some of the ADMs are missing nor has the dispute been "handled in a timely manner", as requested in §1.7. Furthermore, best of my understanding, nowhere in Resolutions is there a right for a BSP Participating Airline to issue ADMs corresponding to one Agent's TA to an Agent not having issued tickets on AZ designated plates. Even if the reason for the ADMs, as presented on some of them, is "*space allocation on closed booking class*" should turn out to be valid - any ADM should be issued towards the Agent trusted with AZ's TA and not a "third party".

As stated in previous decisions, once an Agent properly has disputed an ADM (Resolution 818g "A" § 1.7.9.) and no bilateral agreement is reached, that ADM (latest after 60 days) **must be withdrawn from the Billing and left for bilateral resolution between the Parties.**

The PBD mechanism is "a second chance" for Agents to dispute should an Agent for any reason has missed to timely dispute and consequently that ADM was included in the Billing.

Decision

- *Golden Travel* is to specify the ADMs concerned, both already paid and forwarded to AZ and those still kept as deposit by IATA;
- After evaluation of the specific ADMs not related to IATA numeric code 02-2 1044;
- IATA shall issue corresponding ACMs on behalf of AZ; and,
- IATA shall credit to *Golden Travel* the amounts held as deposit for those ADMs affected by this decision.

Important to note: this decision only deals with procedural matters related to these ADMs and does NOT take a stand regarding the reasons why they were issued. The "dispute" has to be settled outside the BSP system.

This Decision is effective as of today.

Decided in Stockholm, on May 10th, 2019

In accordance with Res 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 27 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.

Best regards,

Andreas Körösi
Travel Agency Commissioner
for Area 2