

**DECISION 2019 – 08 - 20**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

Jo Foged  
685 Remuera Road  
Remuera, Auckland 1050  
New Zealand

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**Applicant:**

***Yasin Yousaf Travels (Pvt) Ltd.*** (“the Agent”)  
IATA Numeric Code 27-3 2293  
Rawalpindi, Pakistan

**Respondent:**

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

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**The Case and Decision:**

The Agent received an IATA invoice for USD 1,557.00 designated as a "Late Notification Fee". In its request for a review the Agent stated that in October 2017 the shareholding was amended from Partner 1 = 90%, Partner 2 = 10% to Partner 1 = 99.9%, Partner 2 = 0.1%. The Agent went on to say: "at that point due to certain misunderstanding and confusion I did not report the change in shareholding as directors remain the same."

In June of this year Partner 2's shareholding was transferred to a new Director and IATA was advised within the 30 day time frame. That change triggered an IATA query into the earlier change and subsequently the Late Notification invoice was issued. The Agent was apologetic and cited the later change notification as a demonstration that a lesson had been learned and requested that the Late Notification fee invoice be withdrawn.

IATA's summary of events confirmed the Agent's description and repeated the need for the fee to be paid in light of the unnotified change in October 2017.

In considering this matter, while it is clear that the minor change in shareholding should have been notified to IATA in October 2017, the reality is that the "change" did not affect the control of the company, which continued to be in the hands of Partner 1.

In light of a precedent established by another decision, which remains unchallenged, this Commissioner has adopted an interpretation on this issue, which differs from that previously espoused.

The principle that has been set is that the fee, if any, is the one applicable at the time that the change took place i.e. October 2017. The Late Notification fee was introduced in Attch D to Resolution 818g from 1 June 2018. In the absence of an express provision that states otherwise, any fee is the one effective in October 2017. The actual change was of an administrative nature that did not affect any Airline or jeopardised any funds being the property of those Airlines.

Consequently, it is incumbent on IATA to charge any fee that applied to the situation described herein at the time the oversight occurred

It should also be said that the fee in question is labelled an "Administrative Fee". It would be hard to imagine that the late notification of the change that took place incurred administration costs to IATA to the tune of USD 1557.00. One could be forgiven for considering the fee to be punitive rather than being of a cost recovery nature.

The parties have complied with the terms of Resolution 820e and were placed on notice by the writer that in his 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. the fee, if any, applicable to the Agent's late notification of its change of shareholding must be that in effect in October 2017.

Decided this 20<sup>th</sup> day of August 2019 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 5<sup>th</sup> September 2019.

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 6<sup>th</sup> September 2019, I will assume that there is no objection to that action being taken.

Yours faithfully,

**Jorgen Foged**  
**Travel Agency Commissioner Area 3**