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Brussels, 24 March 2020

Dear Vice-President, dear Commissioners,

Re: Air ticket settlement system about to collapse – billions of Euro in entitled refunds at risk

In light of the unprecedented coronavirus crisis, Europeans are no longer able to travel. Thousands of planes in Europe are grounded – the sale of air tickets has come to a nearly complete stop!

About half of all flight tickets in Europe are sold in indirect channels (travel agents – online and offline, tour operators). The sale as well as refund of these tickets are settled through a central system – the so called “Billing and Settlement Plan” (BSP) run by IATA. According to the rules, IATA accredited agents (travel agents and tour operators) transfer monies due to all airlines through the BSP, which is then redistributed to each individual entitled airline. Refunds from all airlines are supposed to be deducted from outstanding sales or, in case of higher refunds than sales, transferred to the respective accredited agent in order to refund the customer.

Today this air ticket settlement system is about to collapse.

Massive cancellations have taken place since February and March, representing billions of Euro worth in refunds that are supposed to be refunded to IATA accredited agents to allow them to pay back the customers. For customers are entitled to refunds for cancelled flights under EU passenger rights legislation. However, **in light of their precarious economic situation, airlines unilaterally decided to stop the automatic refund process . As a consequence, travel agents and tour operators are themselves unable to refund their customers.**

At the same time, IATA accredited agents are still forced to pay outstanding amounts into a system that prevents the refunds and that does not even allow to offset the amount due with the amount for flights already cancelled

that is entitled for refund in the next period. In practical terms, if IATA remains allowed to require payment in cash on 31 March for all tickets issued, including those in the meantime cancelled or in the process of being cancelled (as a result of a decision of the airlines or of the governments), accredited agents will only, if at all, obtain a credit in a distant future BSP remittance. Many Online Travel Agencies (OTA) using credit cards of their customers while paying cash into the BSP are facing similar problems with charge back procedures. **Contrary to what everyone tries to make consumers believe, agents, and therefore customers, will never be reimbursed. This would leave customers with unpaid refunds worth billions of Euro, that they are entitled to.**

As the rules that regulate the BSP are dictated by airlines only, agents have no trust in the money flows of the BSP: money has to be remitted, even though refunds are not processed. In addition, while agents have to provide financial guarantees to IATA for their participation in the BSP, airlines do not. **Therefore, there is no guarantee or insurance in the BSP system that protects the money that airlines hold for unflown tickets. This is not the case for travel agents and tour operators, which are obliged to provide this guarantee to the BSP.**

In addition, today airlines are not only not respecting the obligations as members of IATA, they even refuse to apply the Regulation 261/2004 on air passenger rights and the obligation under Article 8 to refund the air ticket and issue non-refundable vouchers instead (some examples are annexed). The latter being with no guarantee for the costumers. There are no reasons for airlines to breach the law: all companies in the travel industry are fighting hard to survive this crisis that will last months. We welcome the support of airlines and want to see airlines survive, but this support must also get to the rest of the travel industry value chain as well as consumers.

Already in non-crisis times, agents learned their lessons from numerous airline bankruptcies. In the current environment the mistrust of accredited agents in the BSP has reached a new level. Despite our repeated requests, IATA seems not to understand the dimension of the crisis. Without any guarantee that allows to process refunds, the current BSP will simply collapse.

This is the reason why ECTAA has no other option but to call on the European Commission to

- **urgently request IATA to exceptionally postpone the next remittance deadline of 31st of March (as it has happened in the past for some markets)**
- **provide a guarantee (state aid) for all entitled refunds in the BSP in order to allow airlines process refunds**

Only this will

- **help customers to get the refund of flights that no longer take place,**
- **alleviate, at least temporary, the burden on the shoulders of travel agents and tour operators, which are mostly SMEs**

The European Union has recently taken challenging and ambitious decisions to help the European economy to overcome the crisis. It is urgent to act the same way for the travel industry, recognised by the communication of 13 March as one of the most adversely hit sector so far.

We remain available for a with you or your cabinet to provide any further information you may need.

Yours sincerely,



Pawel Niewiadomski
President

Annexes:

AAC warns government of 'unacceptable' airline refund policies

23 Mar 2020 by Franki Berry

The Association of Atol Companies (AAC) has alerted the government to the “unacceptable practices” of some airlines during the coronavirus outbreak.

Alan Bowen, secretary and legal advisor at AAC, wrote to Grant Shapps, secretary of state for transport, to highlight the refunds policy of some airlines during a “cataclysmic collapse in demand”.

Although he encouraged the government to support the industry during this pandemic, it should only come if “airlines treat their agents and passengers with equal respect”.

He said there are cases where carriers have refused to refund tickets, even if the destination is closed to UK passport holders and the airline would be fined for allowing the passenger to fly.

“This is clearly totally unacceptable, and an unsustainable position at present, and we therefore request that any financial offers made are dependent on airlines following the guidelines issued this week by the European Commission (confirming the absolute right to refunds where flights are cancelled), as well as the basic contract law that where a contract cannot be fulfilled, the innocent party is entitled to a full refund,” said Bowen.

Bar UK (Board of Airline Representatives) has been contacted for comment.

https://www.ttgmedia.com/news/aac-warns-government-of-unacceptable-airline-refund-policies-21989?utm_source=newsletter&utm_medium=email&utm_campaign=Midday%20Bulletin

Published on Monday, March 23, 2020

ABTA tells airlines they must follow refund regulations

ABTA is reminding airlines that refunds must be paid in line with EU Regulation 261 and contract law, amid multiple flight cancellations arising from the COVID-19 pandemic.

ABTA chief executive Mark Tanzer said "These are unprecedented times in the travel industry, and for the sector to come through it is vital that all parts of the chain respect their obligations

"Governments have rightly identified the aviation sector as requiring emergency support, but funds provided must find their way to the passengers and corporate partners of the airlines - tour operators and travel agents - or the problem is simply moved down the chain.

"[The CAA and IATA have issued guidance](#) reminding airlines of their obligations to provide refunds on cancellation and these obligations can be enforced by the Regulatory Authority, and, if necessary, at law.

"This will be to the detriment of the whole travel and tourism sector, and their customers, at a time when co-operation is essential.

"ABTA is asking its members to notify them of any airline refund policies that do not comply with the law."

Meanwhile, pilots' union BALPA warned the UK industry will collapse while it is waiting for the dedicated support promised by the Chancellor and the Secretary of State for Transport.

BALPA General Secretary, Brian Strutton, said: "Aviation has been hit first and hardest. It's disgraceful that the Government keeps promising to help but is still sitting on its hands while airlines are shutting down.

"Airlines can't survive with no revenue coming in and are already cutting wages and jobs.

"Unfortunately, the rescue packages put together [on Friday] are not ready yet but airlines are in crisis now and need help immediately.

"State investment in UK airlines, as other countries are doing, is essential as a matter of urgency before it's too late."

https://www.travelmole.com/news_feature.php?c=setreg®ion=2&m_id=rvdm_r_r&w_id=37343&news_id=2041973

Flight cancellation - Travel agencies desperate because of missing refunds

by Oliver Graue - Monday, 23 March 2020

Customers want their money back for cancelled flights - but more and more airlines are only refunding it in the form of vouchers. Travel agencies do not know how to react.

Many airlines cut their entire flight operations to only five to ten percent of the normal amount. Many services were cancelled due to the Corona pandemic. But not only the airlines are cancelling routes - customers are also cancelling flights on their own initiative because they no longer want to take them in view of the dramatic situation.

This is putting more and more travel agencies in a difficult situation: On the one hand, many airlines no longer provide them with information about emergency flight plans. Airlines such as Lufthansa, Emirates or Air Canada are repeatedly cited as examples of very positive communication. "On the other hand, you don't hear anything from others," one shipping agent told fww.

On the other hand, airlines leave them in the dark about how to deal with customers who demand a refund for cancelled flights - in the form of cash, remittances, or similar. More and more often, this is not possible because the agencies are not provided with appropriate refunds: The airlines simply issue the corresponding functions in Amadeus and the other reservation systems.

"Violation of the German Civil Code"

"This means that despite 'UN' in the booking - i.e. flight cancelled by the airline - the ticket cannot be refunded and the customer or the travel agency does not receive a refund of the flight price", says Bernd Hammermayer of First Business Travel Frundsberg Reisen (Mindelheim) on behalf of many agencies. "For me, this is a clear violation of applicable law and is unacceptable". Hammermayer and his colleagues refer in unison to paragraph 651 of the German Civil Code.

Instead of refunds, the airlines only offer vouchers. And this despite the fact that, unlike in Italy or Belgium, there is no governmental decision in Germany (yet) that declares vouchers to be legal replacements. As reported, Italy and Belgium allow vouchers - for package tours with automatically included insolvency insurance.

The vouchers can be used for rebooking within one year. "Basically, that's not a bad thing," says a shipping agent, "because the airlines don't lose any more liquidity, and we as sales people keep our commission.

However, several customers refused to accept such a voucher and insisted on being repaid in cash. "We are then the ones who are reviled," says another shipping clerk. "And we don't know how to argue with our customers."

The problem arises not only in the case of general cancellations, but also if customers are rebooked on one of the remaining connections in the emergency flight schedule because of the radical cutback in flight schedules, but - for example in view of the worldwide travel warning - also refuse to do so and instead demand their money back.

Legally, we will probably have to wait for a completely new regulation. The EU Commission made the last decision on this on 18 March 2020. In a "Communication from the Commission" it says literally: "If the airline proposes a voucher, this cannot affect the passenger's right to a refund".

"Vouchers would have to be valid for longer"

According to the dispatch clerk, "We would therefore like the airlines to provide us with clear information on emergency flight plans and to provide us with a tool to help us argue with customers when they receive a voucher instead of money".

The validity of the vouchers must also be extended. Anyone who has already booked their current flights in mid-2019, for example, can only use a one-year voucher until mid-2020 - although it is not certain that they will be able to travel again by then.

The whole thing proves to be just as problematic for small operators. They have to cancel their bundled trips, but they also receive a voucher from airlines instead of a refund of the airfare. Customers, however, demand the price of the entire package tour back - which the organisers cannot afford, because otherwise they would even go into the red.

<https://www.fvw.de/reisevertrieb/brennpunkt/flug-stornos-reisebueros-verzweifelt-wegen-fehlender-refunds-207381>

Comments from a member:

Dear Airline xx,

in this crisis situation, never experienced in this form before for all of us, we have decided to come directly to you.

We are all aware that all companies in the tourism industry and increasingly in other sectors are struggling and it is uncertain how long this struggle will have to continue.

We are of course in close contact with the tour operators of the XX Group, but also with our many other tour operator and travel agency customers, all of whom without exception are facing challenges, both professionally and privately, the extent of which no one can currently estimate.

Every day we receive countless requests for refunds from our customers. Unfortunately, we are currently unable to process them satisfactorily, as the conditions originally agreed upon for a refund of the respective ticket have largely been cancelled and replaced by voucher solutions, which also vary from airline to airline. Regardless of the fact that we, as a consolidator, do not always have the possibility to implement these voucher solutions (travel vouchers) for our customers, the majority of our customers are definitely not interested in a voucher solution.

We are exclusively B2B and a large part of our customers are tour operators. This means that they cannot simply hand over a flight voucher to their end customers, but they cannot use the flight voucher themselves, as it is personalised to the respective passenger.

From our point of view, it is therefore imperative that our IATA numbers are excluded from this procedure and await your confirmation.

We therefore suggest: The booking (PNR) and thus the ticket must remain open or active with a keep / memo element, i.e. the booking may not be cancelled by you as the airline! Furthermore, we must have the possibility to change the booking free of charge until 31.12.2021 and - in case of an involuntary refund - to definitely make the refund without using the Travelvoucher-Procedure.

As this affects the entire industry, there is no way around a general solution. We therefore ask you to take up this issue together as IATA and not as each member individually and to consider alternative solutions.

We are confident that together we can find a way out of the crisis and remain

An email we received from one of our members' member