

Submissions by Travel and Aviation Risk Solutions ("TARS") in respect of an application by IATA dated 9 October 2006 for authorisation of certain proposed amendments to the IATA Passenger Agency Programme in Australia adopted by the 29th meeting of the IATA Passenger Agency Conference, Geneva 28-29 June 2006 ("PAC")

1 IATA has submitted various proposed amendments to IATA resolutions previously authorised by the ACCC as an application for "minor variation" of Authorisation A90791 under Section 91A of the Trade Practices Act 1974. IATA has also sought interim authorisation of these changes, if they are not authorised before the intended implementation date of 1 January 2007

Resolution 800f

2 In relation to the proposed amendment as to the Framework for the Development of Agents' Financial Criteria discussed below, it is the submission of TARS that authorisation be refused and no interim authorisation be granted.

4 The PAC has amended Resolution 800f to require Agents to provide a bank guarantee following reinstatement after a default. This change effectively will create a second category of Agent and carry forward a stigma for defaulting.

5 IATA has submitted to the ACCC that the change "improves the effectiveness of the reinstatement process and assists airlines to be assured of the financial stability of Agents where reinstatement is sought. The change is neutral in terms of competitive effect". As the information set out below will demonstrate, this submission is quite inaccurate and misleading.

6 To be reinstated, defaulting Agents must repay all outstanding amounts and any interest accrued. IATA provides detailed procedures in Resolution 832 for repayment and schedules of repayment.

7 Once an Agent has repaid the default amount, the Agency Administrator shall conduct a financial review of the Agent.

8 If the Agent is able to demonstrate that its financial and credit standing satisfies the criteria established under IATA's Rules, the Agency Administrator will notify airlines accordingly. If an Agent cannot demonstrate such standing, the Agency Administrator will terminate the Sales Agency Agreement.

9 Upon reinstatement once airlines so designate IATA management can redeposit ticket stock and the Agent can issue its own transportation orders. Thus the Agent is returned as a fully accredited Agent on IATA's Agency List.

10 As a final consequence of default, a re-instated Agent will have all instances of irregularity expunged from its record.

11 The proposed changes appear to be a step backward as in fact reinstated Agents will now be treated differently than an Applicant in relation to access to alternate forms of financial guarantees. IATA has not established the supposed benefit of limiting reinstated Agents to bank guarantees only.

12 A full financial review is conducted prior to reinstatement. Ticket stock is not restored to reinstated Agents until airlines confirm placement of Carrier identification Plates. Thus airlines are fully aware of the former status of the Agent and the fact that a formal financial review has been conducted. What further proof of an Agent's financial viability is required?

13 Re-instated Agents should not be further penalized by having insurance and other non-collateral options removed as options for meeting IATA's requirements. To allow IATA to implement this amendment will effectively introduce a probation period for reinstated Agents.

Such an additional requirement is not neutral in its competitive effects as bank guarantees have proven to be significantly more expensive than options without collateral.

14 In addition, this unjustified financial services limitation on Agents can be perceived as the fine edge of a wedge to exclude insurance and other financial services providers (other than banks) from participating in other elements the IATA Agency Program in the future. Such an effort to exclude vendors should be firmly opposed and not allowed to impact any Agent.

Resolution 850p

15 As to the amendments to Resolution 850p, the proposed changes are not transparent as no specific criteria are proposed. Based on our initial experience with this resolution, IATA has unchecked authority to exclude vendors on nearly any pretext. As the ACCC is aware from the ruling in the GET case by the substitute Travel Agency Commissioner (STAC), IATA has opted for a helter skelter approach when vetting none bank financial providers. The lack of specificity and commitment to a set of written criteria has the potential to limit an open competitive market in financial services to the detriment of agents, airlines and potential vendors.

16 To the best of our knowledge IATA has failed to date to develop a consistent set of guidelines for providers under Resolution 850p. IATA now proposes to be granted the same authority over provider's products. Based on our experience with IATA's vetting process, one can foresee months of delay in approving products as it took nearly a year and a lengthy and costly TAC proceeding to approve the single provider that IATA chose to review with these procedures. How many Agents have the resources to challenge IATA in the future in the TAC forum if such behaviour continues?

17 The amendments also do not provide an avenue of appeal for vendors that IATA disqualifies, essentially making IATA a law unto itself without any oversight as both agent associations and local airline panels play essentially advisory roles. If anything the proposed amendments strengthen IATA's ability to interfere in an open and competitive market.

18 The proposed introduction of annual reviews of all vendors without clear criteria, procedures or appeals process will create a quagmire based on IATA's actions to date. A careful look at IATA's actions in vetting a single financial services provider shows that IATA lacks the knowledge, expertise and systems to provide a cogent and consistent review process.

19 IATA has largely ignored the STAC's comments on their conduct and procedures. Instead IATA has opted to amend an initially flawed resolution which it has largely ignored to date in any event. The ACCC should not grant IATA additional authority nor broaden the coverage of this originally flawed resolution. The proposed changes are neither minor nor neutral in their market impact.

20 These proposed changes also does not appear to have been discussed with Agents through the consultative process and does not appear to have the support of the Agent community.

20 Collectively these so called minor amendments create significant changes in the Agency Program ensuring that their impact is far from neutral. As a minimum IATA should be asked to fully justify such changes and then discuss such proposed changes through the consultative process with agent associations before putting them into full force.

21 TARS submits that no interim or final authorisation should be provided by the ACCC in respect of the submitted amendments to IATA Resolution 800f and Resolution 850p.