

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

\_\_\_\_\_)  
In The Matter of )  
 )  
Agreement Adopted by the )  
Passenger Services Conference ) Docket No. OST-2013-0048  
of the International Air )  
Transport Association as )  
Resolution 787 )  
\_\_\_\_\_)

**ANSWER OF THE AMERICAN SOCIETY OF TRAVEL AGENTS  
TO APPLICATION FOR APPROVAL OF IATA RESOLUTION 787**

Communications with respect to this document should be sent to:

Paul M. Ruden, Esquire  
Senior Vice President  
Legal & Industry Affairs  
American Society of Travel Agents, Inc.  
1101 King Street, Suite 200  
Alexandria, Virginia 22314  
Tel. (703) 739-6854  
Fax (703) 684-9185  
[pruden@asta.org](mailto:pruden@asta.org)

May 1, 2013

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

\_\_\_\_\_) )  
In The Matter of ) )  
 ) )  
Agreement Adopted by the ) )  
Passenger Services Conference ) Docket No. OST-2013-0048  
of the International Air ) )  
Transport Association as ) )  
Resolution 787 ) )  
\_\_\_\_\_) )

**ANSWER OF THE AMERICAN SOCIETY OF TRAVEL AGENTS  
TO APPLICATION FOR APPROVAL OF IATA RESOLUTION 787**

The American Society of Travel Agents, Inc.<sup>1</sup> hereby answers the application by the International Air Transport Association (“IATA”) for approval under 49 USC Section 41309 of Resolution 787 (“Application”). ASTA is filing this separate answer to supplement the answer filed by Open Allies for Airfare Transparency, of which ASTA is a member and to whose answer we fully subscribe.

**I. INTRODUCTION**

ASTA’s position is not that there are no circumstances under which a true technology standard created by IATA could be approved. But the application now before the Department, and the limited information adduced to support it, have not come close to passing the threshold

\_\_\_\_\_  
<sup>1</sup> ASTA is the world’s largest association of professional travel agencies. Its membership includes travel agency companies of the traditional, on-line and hybrid varieties, as well as individual travel agents and many others engaged in aspects of retail and wholesale distribution of transportation services.

imposed by rigorous application of the “public interest” standard that is the governing decisional criterion (a point on which we agree with IATA).

The primary public interest issue concerns IATA’s efforts to develop a system that seems designed to raise airfares, although serious data privacy concerns associated with the “New Distribution Capability” (“NDC”) must also be addressed. The documentation prepared by IATA concerning Resolution 787 and NDC gives the appearance of an unprecedented agreement among horizontal airline competitors on a new business model for the pricing and selling of airline tickets. NDC also appears to have been designed for the purpose of defeating the fare transparency that the airlines and IATA have publicly confirmed has constrained their ability to raise the prices consumers pay. Further, Resolution 787 raises a number of consumer privacy concerns arising from the intrusive personal information whose production, prior to flight search, is contemplated by NDC. Since both of these issues are presented in Open Allies for Airfare Transparency’s filing, to whose answer we fully subscribe, we refer the Department to its filing.

Beyond the consumer issues, we feel it is important to set the record straight on IATA’s claim of industry collaboration. Despite all the contrary rhetoric, the global airline industry chose a non-collaborative process on which to proceed in conceiving and developing NDC, which is the core fabric of Resolution 787. IATA spawned the NDC working initially and for many months in its inner chamber under a governance process led by “marketing executives from 11 airlines.”<sup>2</sup> IATA then restricted participation in the development process by excluding interested parties who, like ASTA, wanted to learn more about the process before forming a final judgment. When pressed by the Open Allies coalition to disclose documents from NDC’s inception,

---

<sup>2</sup> Application at 15.

documents that would have revealed the real purposes of and expectations for NDC, IATA resisted.

There can be no plausible denial, as Open Allies' answer details, that IATA's approach to creating and presenting "authenticated shopping" has led to many internally contradictory statements about the purposes and likely effects of NDC. This has led to opposition around the world from consumer protection organizations and industry associations with expertise about the potential effects of a global agreement on what appears to be a single business standard for distribution of air travel. IATA's approach to NDC has left so many unanswered questions that responsible parties have had no choice but to oppose the application.

## **II. ASTA AND ITS MEMBERS SUPPORT INNOVATION AND CHANGE IN THE RETAIL TRAVEL SECTOR.**

We begin by disposing of one of the mythologies surrounding the present state of the travel agency industry and its relationship to innovation and change. In a world driven by rapid technological progress it has become commonplace in many quarters to denigrate firms that occupied central roles in the "pre-revolution" economy as "vested in the past" and "clinging to existing ways." While there is little doubt that many U.S. travel agencies confronted with new forms of competition from well-funded Internet-based firms have left the industry, it is also a fact that many remain – and they do a robust business by continuing to deliver needed expertise and advice to millions of travelers every year, using a combination of new and old technologies. As of yearend 2012, there were close to 8,000 travel agency firms in business, who, in 143 million transactions, sold \$74.8 billion in air transportation. Those are big numbers.

Travel agencies today exhibit a mix of business models, serve larger geographical markets than ever before (enabled by Internet communications), are intensely competitive and, for the most part, are quite successful despite continuing low margins. Popular myths

notwithstanding, most agencies do not depend on incentive payments from Global Distribution Systems (GDSs) and are not “wedded” to one way of doing business. If they had been, there would be far fewer of them surviving the waves of challenges that have occurred since commission caps in 1995 – including the total collapse of travel after the Sept. 11 attacks, the 2009 global economic collapse, the 2010 volcanic ash cloud and many others.

The essential fact on incentives is that 79 percent of agencies earn net GDS incentives (incentives deducted from fees owed) in a range from plus \$5,000 a year to minus \$2,500 per year. Further, among agencies that considered non-renewal of their GDS contract in 2012 but finally renewed, the primary motivators were: ease/speed of booking, no viable alternatives, better selection of travel options and better for corporate travel. The option “GDS segment incentives still significant” came in fifth place.<sup>3</sup> These findings belie any notion that agencies are slaves to GDS incentives.

Travel agents that have survived well into the 21<sup>st</sup> century understand that their ability to continue doing business requires that they keep pace with technology, if for no other reason, and there are many, because their clients are adopting new technologies at a rapid rate. If an agency business cannot keep up, it will likely be destroyed and certainly will be marginalized. To borrow an apt phrase from science fiction, resistance is futile.

At the same time, travel agencies are attracted to what is known to actually work in the efficient delivery of services to their clients. This is so because while change is occurring, business must still be conducted. Consumer expectations and needs for travel information and service must be met. The repeated dysfunction of airlines in mergers trying to combine their

---

<sup>3</sup> Data from ASTA 2012 GDS Survey, Slides 46-49.

reservations and other management systems is an object lesson for anyone who thinks that change is just unplugging one device in favor of another.

An insightful article published last fall,<sup>4</sup> based on ASTA's 2012 GDS survey, sets out a number of related and salient points:

- (1) "the number of agencies using a GDS continues to shrink"
- (2) "Any good, strong GDS agent can sit side by side next to anyone who does GUI point-and-click [booking] and just wipe them out,"<sup>5</sup>
- (3) "Joe McClure, president of Montrose Travel, a \$135 million agency ... said the most important attribute of the GDSs is their role as industry aggregators.... McClure said the GDS was essential for comparison shopping, and ... being able to shop multiple airlines and hotels enables the agent to offer real value to a customer."
- (4) "When [Heather] Dolstra's<sup>6</sup> customers call her to book air, she said it's because Amadeus gives her a selection of choices in a fraction of the amount of time it takes her clients to do it online."

The Department should therefore view with deep skepticism claims that travel agencies are not willing to change, are tethered to their GDSs for inappropriate reasons and are *per se* opposed to innovations. IATA comes before the Department with a "plan" for massive change in air travel distribution that will, one way or another, affect every retail and wholesale seller of that travel as well as every person engaged in those businesses. These effects are significant because they in turn will impact millions of consumer of air travel, consumers whose interests are the primary concern of the Department in determining the public interest.

The burden of justification is on IATA as the proponent of the Application to establish clearly that this unprecedented intrusion into the market by the global airline industry acting essentially as a single firm is in the public interest. IATA should be required to respond to all of

---

<sup>4</sup> "GDS is still the ticket for most agencies," Kate Rice, November 12, 2012, at <http://www.travelweekly.com/print.aspx?id=243687>.

<sup>5</sup> Quoting Susan Garza, assistant vice president of operations for the host agency Uniglobe Travel Center.<sup>5</sup>

<sup>6</sup> Democracy Travel in Washington, DC

the many questions being raised about the project to show not what might happen, but to prove to reasonable minds that the benefits claimed are at least highly probable. IATA bears the burden of proving NDC is true innovation and not a scheme to undermine fare and fee transparency at the expense of the traveling public. In thinking about this, the Department should bear in mind the observation of Jeremy Wertheimer of Google, which has participated in the NDC development meetings:

“We send people, but they walk in and the decisions have been made and the performance is dead on arrival.

“To make technical decisions you need more than just airline distribution heads.”<sup>7</sup>

### **III. THE COLLABORATIVE PROCESS CLAIMED BY IATA IS A FICTION.**

Since IATA has made so much of its asserted collaboration with all stakeholders in the industry,<sup>8</sup> including a representation that it worked with “travel agents and their associations,”<sup>9</sup> including ASTA, we must explain to the Department what actually occurred.

Reports of IATA’s work on a new set of standards related to distribution communications surfaced in March 2012,<sup>10</sup> implying conflict between IATA and other industry standards bodies also controlled by airlines. Hearing nothing from IATA, ASTA initiated contact regarding NDC on June 25, 2012 in a letter from ASTA’s Chief Executive Officer. The letter was a “request for more information” about NDC and “as expressed in your Global Media Day presentation that indicated IATA is “involving the entire distribution stakeholder supply chain,” including travel

---

<sup>7</sup> [http://www.tnooz.com/2013/04/15/news/google-chimes-in-on-airline-distribution-changes-criticises-closed-shop-and-speed-issues/?utm\\_source=Tnooz+Mailing+List&utm\\_medium=email&utm\\_campaign=8fce52cac3-RSS\\_EMAIL\\_CAMPAIGN](http://www.tnooz.com/2013/04/15/news/google-chimes-in-on-airline-distribution-changes-criticises-closed-shop-and-speed-issues/?utm_source=Tnooz+Mailing+List&utm_medium=email&utm_campaign=8fce52cac3-RSS_EMAIL_CAMPAIGN)

<sup>8</sup> Application at 14-17.

<sup>9</sup> Application at 16.

<sup>10</sup> The Beat, March 21, 2012.

agents, I ask that you include ASTA on any committee assigned to develop new standards.”<sup>11</sup>

The letter also noted –

“As the association representing the travel agencies that sell the majority of air travel in the U.S., ASTA has a substantial interest in IATA’s initiative to set new standards.”

Unaware that an IATA development meeting had been held in Geneva on July 13, ASTA, on August 10, reiterated the call for “participation throughout the process.”<sup>12</sup> ASTA also asked to receive the working papers for the development meeting that we did know about, to be held in Montreal on November 27, 2012, and also to “send a small staff delegation to the meeting and any future meetings on this subject.”

IATA’s response this time was a clear opening of the door into the development process, in an email said IATA was “very pleased to engage ASTA in development of the NDC capability.”<sup>13</sup> ASTA responded by inviting IATA to participate in a session on NDC at its annual meeting in Los Angeles. IATA sent a representative who addressed an overflow crowd and answered questions, later thanking ASTA for “great feedback.”<sup>14</sup> Yet on September 25, 2012, IATA rescinded its offer for ASTA to attend the Montreal meeting.

Jumping ahead, and sparing the Department further details of the back-and-forth, there have been a stream of public relations statements from IATA claiming that it is in fact fully collaborating with industry associations, including ASTA specifically. This quite simply has not happened. Whatever may occur in the future, the record is clear that there has been no meaningful collaboration with the retail distribution system to date. The Department should not

---

<sup>11</sup> Letter dated June 25, 2012 from Tony Gonchar, ASTA CEO to IATA.

<sup>12</sup> Email, August 10, 2012, from Paul M. Ruden, ASTA Senior Vice President, Legal & Industry Affairs, to IATA.

<sup>13</sup> Letter dated August 13, 2012 from IATA to Paul M. Ruden.

<sup>14</sup> Email from IATA to Paul Ruden, September 10, 2012.



accept any suggestion or implication that Resolution 787 bears the handprints and consent of the retail travel sector.

#### **IV. WHAT REAL COLLABORATION WOULD LOOK LIKE.**

If IATA had been serious about full collaboration with the distribution system about NDC, it would have engaged associations like ASTA at the outset of discussions of the concept of NDC. Association representatives would have been invited to the development meetings as well, not to the exclusion of others but in addition to individual agency firms that might be willing and able to attend the meetings held around the world. IATA would have set out the purposes of NDC and shown how the various elements relate to that purpose. And, of course, to the extent there were concept documents or working papers related to the idea, they would have been shared soon after creation. After-the-fact claims that NDC's primary purpose is to give travel agents access to ancillary fees should not be credited when there is superior, but withheld, evidence available as to the purpose.

Instead, IATA has operated mostly out of radar range for most interested parties. It is true that a couple of agencies were present, but in no sense can they be said to represent the industry or necessarily have an industry overview and perspective on the program. ASTA's expertise would have been additive to that brought to the table by individual agencies. And, as noted earlier, those few who have been admitted to the inner sanctum have come away with the feeling that their input really didn't matter.

The inaccurate claims of full and open collaboration by IATA, when matched against the reality, have served only to exacerbate the skepticism of those, like ASTA, viewing NDC development from out in the hall. The seal was put on the conflict when IATA refused to release documents related to the non-public period prior to presentation of Resolution 787 in Abu Dhabi

in October, 2012, as called for by the Open Allies Coalition. The problem here is, therefore, of IATA's own making.

IATA has the burden of proof here, especially with regard to satisfying the "public interest" standard that is the governing decisional criterion. As detailed in the parallel comments of the Open Allies Coalition, serious consumer pricing and data privacy concerns remain unanswered. Further, the mass of contradictory documents and conflicting public statements surrounding NDC should lead to the withdrawal of the instant application, return to the proverbial drawing board for a process of real industry collaboration and a restart on a resolution that truly represents a technical standard. Absent such steps, the Department should disapprove the Application in its entirety.

Respectively submitted,

A handwritten signature in blue ink on a light pink rectangular background. The signature is cursive and appears to read "Paul M. Ruden".

Paul M. Ruden  
Senior Vice President  
Legal & Industry Affairs

## CERTIFICATE OF SERVICE

I hereby certify that I have this 1<sup>st</sup> day of May, 2013, served, by electronic transmission, a copy of the foregoing Answer of the American Society of Travel Agents upon counsel for the International Air Transport Association as set forth below:

Douglas Lavin  
Regional Vice President – North America  
International Air Transport Association  
1201 F Street, NW, Suite 650  
Washington, D.C. 20004  
(202) 628-9292

Bert W. Rein  
Bruce L. McDonald  
Wiley Rein LLP  
1776 K Street, NW  
Washington, DC 20006  
202-719-7000

A handwritten signature in black ink on a light pink rectangular background. The signature appears to read "Paul M. Ruden".

---

Paul M. Ruden