



ASSOCIATION OF
SOUTHERN AFRICAN TRAVEL AGENTS

P O Box 650539

Benmore
2010

Tel: + 27 11 293 0560/1

Email: general@asata.co.za

Website

www.asata.co.za

President Cyril Ramaphosa
Office of the President

Minister Naledi Pandor
Department of International
Relations and Cooperation

Minister Tito Mboweni
Department of Treasury

Minister Pravin Gordhan
Department of Public Enterprises

Minister Mmamoloko Kubayi
Ngubane
Department of Tourism

By email: 1 April 2020

Dear President Ramaphosa,

RE: Airlines flouting Consumer Protection Act and travel agents taking the blame

Dr Naledi Pandor made a public statement in yesterday's inter-ministerial briefing calling on travel agents not to "exploit" travellers during the COVID-19 crisis.

As the body representing over 90% of South Africa's retail travel community, we wish to highlight that nothing could be further from the truth. We would further like to take this opportunity to ask Government for its assistance on the matter, which I will outline below.

For several weeks, many of the world's airlines have refused to provide cash refunds for travellers who have had to cancel their travel plans as a result of the COVID-19 crisis. Airlines' refund policies are beyond the control of travel agents. In fact, travel agents have been left in the middle trying to secure funds from airlines to pay back to their customers.

There is absolutely no question that South African travel agents have been exemplary in these unprecedented times, which have left them with no income for the foreseeable future and very little

support from the airline community which is currently holding the monies that have been paid over for tickets not flown.

South Africa's own national carrier, South African Airways, is currently only offering a postponement, a credit or the ability to nominate another traveller.

Many international airlines have followed suit to protect their dwindling cashflows. We are aware that the International Air Transport Association (IATA), directed a letter to the President on 25 March 2020, requesting direct financial support, tax relief and loans, loan guarantees and support for the corporate bond market. ASATA is in the process of directing a similar request to the South African Government on behalf of the South African outbound travel sector which is also collapsing under the pressure.

While we certainly understand and have empathy for the situation in which the national carrier and all airlines find themselves, we see it as our duty, not only to advocate on behalf of travel agents, but more importantly, the South African consumer. Consumers are being left out of pocket at a time when they cannot depend on their normal income.

Let us be clear, according to the Consumer Goods and Services Ombud a decision by an airline to extend a blanket no-cash refunds policy when delivering the service has become impossible and is a contravention of section 47 of the Consumer Protection Act 68 of 2008. Here is what Magauta Mphahlele has said in the media:

'While it is the view of the CGSO, based on its interpretation of the spirit and intent of the Consumer Protection Act (CPA), that consumers have a right to a full refund in these circumstances – if a postponement is possible, we urge consumers to rather take this option rather than request a refund to minimise the impact on suppliers who are also not at fault.'

She stated emphatically that blanket no-refund policies are illegal in terms of the Consumer Protection Act.

Throughout this crisis, ASATA has urged its members to comply with the CPA. However, it is manifestly unfair to expect travel agents to refund consumers, when the airlines are not willing to release the consumer's funds to the airline. Essentially, the South African consumer and outbound travel agents are currently funding SAA's operations, which is clearly unacceptable.

In relation to South African Airways in particular, ASATA has expressed concern throughout the business rescue process that SAA is not protecting consumers' funds. In fact, SAA assured creditors that tickets booked post the commencement of business rescue will be 'ring fenced', until the flights have been flown. This clearly is no longer the case.

Under the circumstances we request the following assistance from our Government:

- We respectfully ask that Minister Pandor review and retract her public statement about travel agents, based on traveller comments, which denigrates the excellent work that travel agencies have been doing to help South Africans over these past weeks – under very difficult conditions, and despite their own uncertain future.
- We request a public statement by the National Consumer Commission that under the current extraordinary conditions, travel agents are not required to make cash refunds where they have not been refunded by the airlines themselves.
- That South African Airways must immediately resume complying with the CPA by offering refunds to passengers who insist on it.

- Should the South African government decide to provide financial assistance to South African Airways, or any other airline, airlines will be directed to first settle the outstanding refunds due to passengers and travel agents for refunds requested as a result of the COVID-19 crisis.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Otto de Vries
CEO