



September 2, 2015

Case No. 15-03972

BY E-MAIL:

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SkyGreece Airlines S.A.
c/o Paliare Roland Rosenberg Rothstein LLP

Dear Sir/Madam:

Re: SkyGreece Airlines, S.A. (SkyGreece) – Cessation of Operations

The Canadian Transportation Agency (Agency) notes that, on August 28, 2015, SkyGreece, S.A. (SkyGreece) posted a corporate press release on its website announcing that it must temporarily cease all operations:

http://www.skygreece.com/en/OurCompany/PressRoom/CorporatePressReleases/2015/SkyGreeceImportantInfo_28_8.

Following this announcement, there was widespread media coverage and expressions of concern for passengers affected by flights cancelled by SkyGreece. In addition, 15 persons affected by flights cancelled by SkyGreece have filed air travel complaints forms through the Agency's website under the non-adjudicative alternative dispute resolution process established by the *Canada Transportation Act*, S.C. 1996, c. 10, as amended (CTA). Finally, the Agency notes that there is also a separate application concerning related matters: *Lukács v. SkyGreece Airlines, S.A.*

MANDATE OF THE AGENCY

The Agency is responsible for ensuring that air carriers abide by the terms and conditions of their respective tariffs, as required by *Air Transportation Regulations*, SOR/88-58 (ATR):

110.(4) Where a tariff is filed containing the date of publication and the effective date and is consistent with these Regulations and any orders of the Agency, the tolls and terms and conditions of carriage in the tariff shall, unless they are rejected, disallowed or suspended by the Agency or unless they are replaced by a new tariff, take effect on the date stated in the tariff, and the air carrier shall on and after that date charge the tolls and apply the terms and conditions of carriage specified in the tariff.

...

113.1 If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

- (a) take the corrective measures that the Agency considers appropriate; and
- (b) pay compensation for any expense incurred by a person adversely affected by its failure to apply the fares, rates, charges or terms and conditions set out in the tariff.

Furthermore, section 26 of the CTA provides as follows:

The Agency may require a person to do or refrain from doing any thing that the person is or may be required to do or is prohibited from doing under any Act of Parliament that is administered in whole or in part by the Agency.

To avoid a multitude of proceedings, and given the seriousness and urgency of the situation, the Agency, of its own motion, has decided to examine whether SkyGreece has failed to apply the terms and conditions of carriage set out in its applicable tariff, pursuant to section 113.1 of the ATR.

ISSUE

Did SkyGreece properly apply the terms and conditions set out in its international tariff as required by subsection 110(4) of the ATR?

ANALYSIS AND FINDINGS

The terms and conditions of carriage of SkyGreece's tariff on file with the Agency and applicable to this situation are set out in the Appendix to this Decision.

In its press release dated August 28, 2015, SkyGreece recognizes that passengers have been affected by its decision to temporarily suspend all operations. However, SkyGreece refers passengers to their travel agents to arrange for alternate travel and/or accommodations.

It appears from this press release that SkyGreece may not have complied with its tariff, which requires SkyGreece to present passengers with specified options. The tariff does not permit SkyGreece to simply refer passengers to their travel agents. Indeed, it is possible that passengers may not even have reserved their travel through travel agents.

Given that SkyGreece cannot offer passengers the choice to travel on another of its scheduled flights or on a different routing, as it has temporarily ceased all operations, it must, according to its tariff, offer passengers other options, including transportation using the services of another carrier or refunding passengers' tickets. Based on the complaints received by the Agency, SkyGreece appears not to have made such options available.

In light of the above evidence, the Agency is of the preliminary opinion that SkyGreece has contravened subsection 110(4) of the ATR in failing to properly apply the terms and conditions set out in its international tariff, as required by subsection 110(4) of the ATR.

DIRECTION TO SHOW CAUSE

The Agency provides SkyGreece with the opportunity to show cause why the Agency should not find that SkyGreece did not properly apply the terms and conditions set out in its international tariff, as required by subsection 110(4) of the ATR, and to order SkyGreece to:

- take immediate corrective measures to properly apply its international tariff for all passengers affected by schedule irregularities, including
 - Informing passengers of their options and providing them with a copy of the tariff;
 - Implementing forthwith the option chosen by passengers;
 - Establishing a 1-800 help line where passengers can be directed to a person who can accept and address their claim; and
 - Updating its website to fully explain the measures put in place to address the situation.
- report to the Agency, within 5 business days, on the evolution of the situation and the measures taken by SkyGreece to comply with its international tariff applicable to this situation and with this Order.

SkyGreece will have until 5 p.m. Gatineau time on Thursday, September 3, 2015 to provide its response to this Show Cause.

SkyGreece is reminded that a failure to respond to this Show Cause will result in the Agency finalizing its preliminary finding that SkyGreece did not properly apply the terms and conditions set out in its international tariff, as required by subsection 110(4) of the ATR, and issuing the order described above.

Any questions or other correspondence in regards to this matter should refer to Case No. 15-03972 and be filed through the Agency's Secretariat e-mail address: secretariat@otc-cta.gc.ca

BY THE AGENCY:

(signed)

Scott Streiner
Member