



Royal Dutch Airlines

College Bescherming Persoonsgegevens
t.a.v. Mw. Drs. S. Nas
Postbus 93374
2509AJ DEN HAAG

classification KLM Confidential
your ref Z2007-01048
your date 10 December 2007

telephone +31 20 - 6489636
our ref AMSPI280308-01
our date 28 March 2008
telefax +31 20 - 6488074

subject

Mediation Request

Dear Mrs. Nas,

With reference to my previous letter of 24 December 2007 and my e-mail dated 5 February 2008 (see attached), I promised to give you some more guidance regarding the, in your opinion 'unclear', relationship between Northwest Airlines (NWA) and KLM.

In this letter, I will give an answer to the following questions:

1. Should or could Mr. Hasbrouck have known that NWA was involved in the process of reservation and ticket sales regarding the KLM-flight from USA to Amsterdam?
2. What is the reason that NWA received information which was initially provided by Mr. Hasbrouck to Mill Run Tours? What is the reason that KLM received only a part of that information?
3. What is the responsibility of KLM regarding the processing of personal data of Mr. Hasbrouck?

Re 1.

In the aviation industry it is common practice that an airline (or its agent) make a reservation and issue tickets for flights which are partially or entirely performed by another airline. In other words, there is a separation between airlines issuing the ticket and the airline that is recorded in the ticket as the transporting carrier.

Pursuant to IATA Resolution 722f, the airline that is controlling the reservation and issues the ticket is called the "Validating Carrier". This party can be recognized in the ticket by way of its confirmation number as well as its numeric airline code mentioned in the ticket. This can be a different airline than the airline whose Designated Airline Code (airline prefix) is recorded as the transporting carrier on the flight coupon, the so-called "Marketing Carrier". A passenger can have a single Validating Carrier, but depending on the city-pairs in the ticket, a multiple amount of Marketing Carriers, each Marketing Carrier flying a particular route indicated on the ticket.

Whenever a reservation is made by (an agent of) the Validating Carrier, the Validating Carrier will issue the ticket. This ticket will show (i) the confirmation number and specific numeric airline code of the Validating Carrier and (ii) the Designated Airline Code of the Marketing Carrier(s).

For each reservation made in the USA for a KLM-flight, the ticket will be issued by NWA, acting as Validating Carrier. Such also follows from the ticket issued to Mr. Hasbrouck, which shows a NWA Confirmation number as well as the numeric airline code (012) which code stands for NWA.

Re 2.

This question is related to the first question. A passenger provides information to a travel agent and the travel agent will, on its turn, only forward that part of information to the Validating Carrier which the latter requires for issuing the ticket (hereinafter: the "Information"). Subsequently, the Validating Carrier will provide the Marketing Carrier(s) only with information (which is PNR-data) which the Marketing Carrier(s) require for the performance of the flight (hereinafter: the "Operational Information"). In the specific case of Mr. Hasbrouck, NWA as Validating Carrier received from Mill Run Tours the Information, while KLM as Marketing Carrier received from NWA only Operational Information.

Re 3.

As Marketing Carrier, KLM has responsibility for information it receives which is the Operational Information that is required for the performance of the flight. This Operational Information is governed by its general conditions of carriage. In the case of Mr. Hasbrouck, all his flights were operated by KLM. Hence, Operational Information received by KLM was subject to the general conditions of carriage of KLM. With respect to the Operational Information (which includes personal data), KLM's general conditions of carriage states the following:

"To the extent the applicable law permits, the passenger authorizes Carrier to retain any personal data which have been given to Carrier or its authorized agents for the purposes of making a reservation for carriage, for obtaining ancillary services, for operating baggage fraud detection systems and ticket fraud prevention / detection systems, for facilitating immigration and entry requirements, and for making such data available to Government Authorities such as Customs and Immigration Authorities and Federal and State Authorities, if they so require. Carrier is further authorized to transmit such data world wide for said purposes to its own offices, its authorized agents, other Carriers, the providers of ancillary services or Government Authorities, in whatever country they may be located. Carrier has implemented a Privacy Policy, details of which are available on Carrier's web site (www.klm.com), or alternatively, will be sent to passenger upon request."

From the above it must be derived that KLM is only responsible for the Operational Information received for the performance of the flight. KLM does not have any further responsibility regarding the processing of personal data of Mr. Hasbrouck, the Information, in the USA or any other place.

Conclusion:

In the case of Mr. Hasbrouck, KLM can only be considered as the Marketing Carrier. KLM legitimately received a subset of Mr. Hasbrouck's PNR data, the Operational Information in order to be able to perform the transportation (ticket) issued by NWA as Validating Carrier (through Mill Run Tours).

KLM received from NWA the full Itinerary and collected APIS information (for the flight from Amsterdam to San Francisco) – the Operational Information – and this is what KLM processed and supplied to Mr. Hasbrouck as response on his request to view his personal data held by KLM.

KLM agrees that the understanding of 'Validating Carrier' and 'Marketing Carrier' may require further explanation and clarification and will therefore consider to incorporate further information on its website.

Please note that the information mentioned in this letter must be treated as confidential. We therefore ask all parties involved not to disclose this and any other correspondence regarding this matter to any third party.

I hope to have you informed sufficiently,

Kind regards,



Klaas J. Bruin
Corporate Privacy Officer
KLM Royal Dutch Airlines
Privacy Office – AMSPI
P.O. Box 7700
1117 ZL Schiphol Airport
The Netherlands

Attached: E-mail KLM dated 2008-02-05.pdf
Letter KLM dated 2007-12-24.pdf