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To: [aviationconsumer](#)
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Short comment

AirHelp celebrates Australia's initiative to strengthen Air Passenger Rights by introducing the Aviation Customer Rights Charter. We have previously provided our comments on the Primary Legislation, Aviation Green Paper, Pay on Delay Bill and Aviation Industry Ombuds Scheme, and with our vast experience in advocating for and upholding passenger rights worldwide, we want to share that knowledge, and provide our input on the proposed rights. Our goal is that Australia's Passenger Rights provide essential assistance to travellers, and simultaneously strengthen the entire travel industry. As when properly created, applied, and implemented, air passenger rights have been shown to reduce travel disruption, set clear standards for airlines, and ultimately improve consumer confidence.

Below are our recommendations and suggestions in response to the consultation questions on the Subordinate Legislation

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- [airhelp-subordinate-legislation-consultation.pdf](#) (162.59 KB)

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Consultation name

Aviation Consumer Protections – subordinate legislation (including the Aviation Consumer Protections Charter)

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Subordinate Legislation Consultation

Here at AirHelp, we believe that travel makes the world a better place and that strong passenger rights make travel even better and communities even stronger. Over the past 12 years, AirHelp has built software and products directed towards air passengers, travel sellers and airlines that have enabled us to check eligibility for compensation for millions of passengers around the world under multiple national and international regulations.

AirHelp celebrates Australia's initiative to strengthen Air Passenger Rights by introducing the Aviation Customer Rights Charter. We have previously provided our comments on the Primary Legislation, Aviation Green Paper, Pay on Delay Bill and Aviation Industry Ombuds Scheme, and with our vast experience in advocating for and upholding passenger rights worldwide, we want to share that knowledge, and provide our input on the proposed rights. Our goal is that Australia's Passenger Rights provide essential assistance to travellers, and simultaneously strengthen the entire travel industry. As when properly created, applied, and implemented, air passenger rights have been shown to reduce travel disruption, set clear standards for airlines, and ultimately improve consumer confidence.

Below are our recommendations and suggestions in response to the consultation questions on the Subordinate Legislation

4. Do the proposed Charter standards cover the core elements of the aviation consumer experience relating to the delivery of airline services, airport services and airport accessibility services? Are there any missing elements?

The proposed Charter is insufficient, as it does not properly address the primary expectation aviation consumers have from an airline service: **receiving the service they have contracted and paid for**.

The current proposal **lacks any fair compensation** for flights that do not meet the consumer expectations; that are delayed, cancelled or otherwise disrupted. It is thus **missing a critical element required** for strong passenger rights.

Why compensation is necessary

1. Acknowledging passenger losses:

Flight disruptions, including delays, cancellations, missed connections, and denied boarding, impose tangible costs on passengers, such as lost time, missed

commitments, and emotional stress. Compensation ensures passengers are not left to bear these burdens alone and promotes a sense of fairness and justice.

2. Incentivizing airlines to reduce disruptions:

Financial consequences motivate airlines to minimize disruptions. For example, the introduction of compensation policies in Europe led to a 5% reduction in flight delays,¹ demonstrating that accountability improves service outcomes. Such measures have potential to improve the reliability of Australian aviation where, in 2025 so far, 7.3% of Australian flights were cancelled, compared to 2.4% in Europe.

3. Establishing accountability:

Compensation ensures that the financial burden of disruptions falls on the responsible party—the airline. This strengthens trust between passengers and airlines and promotes fairness within the aviation sector.

Flight disruptions are a reality for passengers and are recognized internationally as situations warranting compensation for time lost and distress.² While measures currently covered by the proposed charter, such as refunds, rerouting, and assistance, will help mitigate the economic impact on consumers, they often still leave passengers out of pocket³, and fail to account for passengers' wasted time. They also do little to deter airlines from cancelling or delaying flights, and do not directly incentivize airlines to improve punctuality. Monetary compensation should therefore be offered.

It is unusual for Australia to propose an air passenger rights framework which does not include compensation, and the Charter falls short of customary international standards. Many Australian passengers are already aware of their right to compensation when travelling internationally, and similarly, all major Australian airlines that operate internationally already function within existing compensation frameworks.

The Government has suggested that mandatory compensation could increase airline costs, potentially raising ticket prices or discouraging competition. Our data shows that flight disruptions impose enormous costs on the economy, consumers, businesses, and even airlines themselves,⁴ whereas implementing compensation rules would have a negligible impact on the cost of air traffic to consumers (under \$1.00 per ticket)⁵. More so, international experience demonstrates that passenger compensation does not impose prohibitive costs and can coexist with affordable airfares and competitive markets.

¹ Gnutzmann, H. & Spiewanowski, P., 2018. Consumer Rights Improve Service Quality: Evidence From EU Air Passenger Rights. *CEPOB*, #13.18.

² See regulations in the EU, the UK, Canada, Turkey, Saudi Arabia, and many more.

³ AirHelp research found that a flight disruption such as a long delay or cancellation costs passengers €362.50, on average.

⁴ In 2022, flight disruptions cost the Australian economy up to USD 1.5 billion, affecting at least 9 million passengers, with an estimated total cost of USD 41 per passenger carried.

⁵ AirHelp analysis based on a comparison between the US and Europe.

- **International experience shows manageable costs:**

The EU Regulation 261/2004 mandates fixed compensation for delays and cancellations. Over 20 years of implementation, studies indicate that these costs represent only a small fraction of overall operating expenses and have not caused significant increases in airfare or reduced route availability.

- **Consumer trust and satisfaction improve market outcomes:**

Timely, predictable monetary compensation enhances passenger confidence and loyalty, which can generate repeat business and positive reputational effects, offsetting compensation costs. Delays and cancellations without adequate remedies can lead to complaints, legal claims, and reputational damage, which is more costly than straightforward compensation.

The suggestion that the Government may consider further regulatory action, including compensation measures, in future if the proposed framework is not effective is a call for disaster. If the Government relies on post-implementation evaluation rather than designing rules that actively discourage cancellations and delays from the start, it risks repeating what happened in Canada. There, it took over five years to amend regulations, leaving a huge backlog, today amounting to over 85 000 complaints waiting to be resolved.

There is no guarantee that any “further regulatory action” in Australia would occur promptly, be sufficient, or come in time to prevent significant consumer harm. Meanwhile, airlines are likely to continue treating disruption costs as a routine operational expense, leaving passengers with persistent uncertainty and difficulties enforcing their rights.

5. Do the proposed Charter standards reflect reasonable standards? Are there any operational or technical considerations that would affect the ability of airlines or airports to meet the proposed standards?

While the proposed Charter standards represent a step forward, they remain overly complex and lack alignment with international standards and the reasonable expectations of passengers.

1. Definitions

- **Flight disruptions and delays:** Defining a “disruption” as a delay of 1–3 hours, and “unreasonable delays” differently for domestic, short-haul, or long-haul flights depending on delay of departure or arrival, is unnecessarily complex. A simpler and more consistent approach would be to define a disruption as any delay beyond 15 minutes and an unreasonable delay as any delay beyond 3 hours from scheduled arrival time, with rights expanding for longer delays. This puts the Charter in line with standards already widely applied internationally.

- **Cancellations:** Defining cancellations as flights not operated within 7 days of scheduled departure does not align with common sense. From a passenger perspective, any flight not operated at the scheduled time and delayed more than 24 hours, should be treated as cancelled.

2. Right to care

Entitlements such as meals, transport, and accommodation are currently conditional on the disruption being “within the airline’s control.” These are minimum rights of essential care that should be guaranteed to all passengers, regardless of cause. When passengers travel, particularly long-distance or internationally, they place themselves entirely in the carrier’s hands. It is reasonable to expect essential care in all cases of disruption.

3. Refunds and rerouting

The Charter introduces multiple thresholds (1-3 hours, 3-6 hours, 6-12 hours) and distinctions based on domestic vs. international travel and connecting vs. non-connecting flights. This complexity makes rights less clear for passengers and difficult for airlines to apply consistently. For instance, domestic flights delayed 3-6 hours or international flights delayed 5-8 hours without connections do not guarantee re-booking rights, an unreasonable gap.

Passengers should always have a clear, unconditional right to choose between a refund or rerouting when an unreasonable delay occurs. Rerouting should be offered either with the same carrier or another airline, at the earliest available opportunity or at a later date chosen by the passenger.

4. Multiple reasons for delay

The requirement that at least 50% of a delay be attributable to the airline’s control before entitlements apply is both impractical and opaque. Based on our 20 years of experience, airlines frequently cite multiple overlapping causes, sometimes broken down by the minute, without providing evidence, while passengers have no means of verifying such claims. This approach creates unnecessary disputes and litigation.

To ensure fairness and efficiency, the burden of proof has to rest on airlines. They must be required to substantiate, upfront, any claim that part of a delay was outside their control and that they have taken all reasonable measures to prevent it.

5. Extraordinary circumstances

- **An unforeseeable technical problem** should not automatically qualify as an “extraordinary circumstance.” Technical issues are inherent in airline operations, and routine compliance with maintenance obligations does not exempt airlines from responsibility. Only truly exceptional cases such as hidden manufacturing defects, sabotage, or terrorism should qualify as extraordinary circumstances.

- A “**medical emergency** discovered at short notice before flight departure” requires clearer definition. For consistency, “short notice” should be defined as within one hour before the scheduled departure time.
- **Knock-on effect delays:** Such delays should be limited to situations involving a maximum of three previous flights operated by the same aircraft. The decision to operate flights in chains using the same aircraft is a commercial and operational choice made by the airline and is therefore fully within its control. Airlines are expected to ensure reasonable turnaround times between flights to absorb routine delays and minimize passenger inconvenience. Operating consecutive flights without sufficient buffer time, or without standby aircraft to address disruptions, inevitably leads to repeated delays and cancellations. To prevent passengers from bearing the consequences of such commercial choices, a limitation should be imposed on the extent to which knock-on delays can be classified as extraordinary circumstances.

While the Charter sets a foundation for passenger rights, it remains too complex, inconsistent, and dependent on airline discretion. To be effective, it should:

- Adopt clear, internationally aligned definitions of disruptions and cancellations.
- Guarantee essential care in all cases, regardless of cause.
- Ensure passengers always have the choice of refund or rerouting.
- Properly define genuine extraordinary circumstances that are outside the airlines control.

8. If different cost recovery levies are applied to regulated entities based on the nature or size of their operations, what metrics should be used to differentiate them?

No comment

9. For each of the duration/situation timeframes listed in Table 4 (1 to 3 hours, 3 to 6 hours, 6 to 12 hours and more than 12 hours) what are reasonable values for food and drink vouchers per meal, and how many food and drink vouchers should affected passengers receive?

We welcome the initiative to ensure passengers receive basic necessities such as food and drinks when stranded due to flight disruptions. However, fixed voucher amounts present challenges: they often fail to cover the cost of a proper meal, especially at airports where prices are inflated, and passengers with dietary restrictions or allergies are often unable to use them effectively. Too often, passengers end up paying out of pocket.

If voucher values are to be set, they must be realistic, flexible, and regularly reviewed to reflect actual prices. Passengers must also retain the right to claim reimbursement for reasonable expenses incurred, rather than being limited to a voucher’s value or terms.

While offering vouchers is a positive step, it remains insufficient to protect passengers' rights. Flight disruptions cause significant inconvenience, stress, and financial loss. A meal voucher cannot compensate for wasted time, missed connections, or disrupted commitments. **Passengers deserve fair, monetary compensation that reflects the full extent of the disruption and the failure to deliver the service paid for.** Effective regulation should mandate monetary compensation that reflects the disruption and inconvenience caused, ensuring passengers are fairly treated and can recover fully from delays.

How Compensation Should Work:

Compensation should apply to all severe disruptions, including:

- Delays above 3 hours and schedule changes exceeding 2 hours
- Missed connections causing delays above 3 hours
- Cancellations
- Denied boardings where the airline is responsible, including overbooking

Passengers should not be forced to negotiate fair compensation with airlines. Unlike food and drink vouchers, **compensation must be clearly defined and enforceable in law.** Establishing fixed, legally mandated amounts ensures consistency, fairness, and transparency across all cases. Compensation should start at AUS\$600 and increase for more severe disruptions, capped at a maximum of AUS\$2,400 to align with international standards.

Compensation should be independent of ticket price, as delays and cancellations impact all passengers equally regardless of their fare class. If there is to be variation in compensation amounts, it should compensate passengers fairly for the impact to their journey, with regard to the length of the delay.

Compensation for delays:

Flight arrives	Domestic	International
3 - 5 hours late	AUS\$600	AUS\$1,200
Over 5 hours late	AUS\$1,200	AUS\$2,400

Compensation for cancellations and overbookings:

For cancellations and denied boarding, to deter airlines from scheduling flights that they are not realistically able to operate or overbooking seats, passengers shall be entitled to compensation according to the table below:

Domestic	International
AUS\$1,200	AUS\$2,400

If passengers are rebooked on another flight and arrive with less than one hour delay to their final destination, the airline shall not be liable for paying compensation.

Notification periods must reflect real-world travel, with compensation where they don't. As cancellations incur major disruption, where passengers frequently have to reschedule their entire vacation, passengers should be entitled to compensation when flights are **cancelled eight weeks before departure or less**.

Compensation for schedule changes:

Flight arrives	Domestic	International
2 - 5 hours early	AUS\$600	AUS\$1,200
Over 5 hours early	AUS\$1,200	AUS\$ 2,400

Amounts stated in law should be regularly reviewed and index-linked in line with inflation, so that passengers continue to receive adequate compensation.

By introducing mandatory compensation, Australia can strengthen air passenger rights, promote fairness, and improve airline accountability. Passengers deserve more than care and rebooking, they deserve compensation for the inconvenience and losses caused by disruptions.

About AirHelp

AirHelp is an international company specialising in air passenger rights and helping passengers obtain compensation following a delayed or cancelled flight. Over 12 years, we've assessed eligibility on over 20 million passengers' claims and helped millions more via the information on air passenger rights freely available on our website.

We currently support passengers under multiple passenger regulations, including Europe's Regulation (EC) No. 261/2004, the UK Air Passenger Rights and Air Travel Organisers' Licensing (Amendment), the Brazilian National Civil Aviation Agency Resolution No 400, the Canadian Transportation Agency's Air Passenger Protection Regulations, the Turkish Regulation on Air Passenger Rights (SHY PASSENGER), the Montreal Convention, and the recently introduced Passenger Rights Protection Regulation in Saudi Arabia.

AirHelp is a founding member of APRA, the Association of Passenger Rights Advocates, an organisation pushing for better passenger protections in the EU. We are also an active member of the European Tech Alliance, and we are currently advising policy makers in the USA on air passenger rights.

We've had representation in Australia since 2018, and have helped thousands of Australian passengers when they fly internationally under existing air passenger rights law.

More information about us can be found on our website, airhelp.com