

From: [Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts](#) on behalf of infrastructure.noreply@govcms.gov.au
To: [aviationconsumer](#)
Subject: submission to: Aviation Consumer Protections – primary legislation [SEC=OFFICIAL]
Date: Saturday, 4 October 2025 2:08:26 AM
Attachments: [final-a4a-aus-consultation-10032025.pdf](#)

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Submitted on 4 October 2025

Submitted by: Anonymous

Submitted values are:

Step 1: Your submission

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Airlines for America

Short comment

Please see the attached comments of Airlines for America

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- [final-a4a-aus-consultation-10032025.pdf](#) (190.95 KB)

Step 2: Contact details

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Consultation name

Aviation Consumer Protections – primary legislation

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October 3, 2025

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts
111 Alinga Street
Canberra City
ACT 2601

Re: Aviation Consumer Protections – Primary Legislation

Dear Aviation Consumer Protections Team,

Airlines for America (A4A)¹ welcomes the opportunity to respond to the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts consultation on Aviation Consumer Regulations – primary legislation. Our passenger carrier members American, Delta, Hawaiian, United, and associate member Air Canada serve Australia with 63 weekly flights² and have a vested interest in the outcome of this consultation.

A4A is the principal trade association representing major U.S. airlines, advocating for policies that promote safety, security and sustainability within the commercial aviation industry, and striving to improve air travel for consumers and businesses alike.

Australia's approach to aviation consumer protection has traditionally been one of smart and proportionate regulation, balancing protection for consumers and the burden on businesses. However, this consultation proposal references the failed models in both Canada and the European Union, specifically Regulation 261/2004 on denied boarding, cancellations and long delays (EU261).

Over the years, EU261 cases have been subject to multiple legal judgments which have turned the process into a highly complex and expensive system to administer. It has come to the point where the regulation is so convoluted it is difficult for both passengers and airlines to understand, clogging the court system with continued litigation and increasing costs for airlines and passengers.

It is important to note that the added costs faced by airlines to adhere to EU261's punitive scheme do not drive operational performance improvements despite airlines dedicating significant resources to address issues. The Steer Study, commissioned by the European Commission (EC) itself, recognized that the high cost of EU261 may generate disincentives for airlines to operate severely delayed flights and incur operating costs in addition to disruption costs.³ Airlines already have strong commercial incentives to operate on time and on schedule.

¹ A4A's members are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc., Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

² October 2025 numbers

³ <https://op.europa.eu/en/publication-detail/-/publication/f03df002-335c-11ea-ba6e-01aa75ed71a1#>

The costs of these bureaucratic programs simply increase the overall costs to the system which are then ultimately passed onto passengers.

We would additionally like to touch on specific areas of concern within the proposal.

Firstly, we note that Article 12 of the U.S.-Australia Air Transport Agreement (ATA) enshrines the commercial freedom for airlines to decide how to price the products and services they offer. This article provides that “Each Party shall allow prices for air transportation to be established by airlines of both Parties based upon commercial considerations in the marketplace.” This freedom extends not only to fare pricing but also the composition of products, services and fare classes and includes the right to charge a fee for optional services, such as seating selection or cabin baggage, or to provide them free of charge.

The Draft Aviation Consumer Protections Charter lists two potential violations of the ATA, if the Charter was to be enacted. These occur in Section 2B, which requires seating with children to occur free of charge at the time of check-in, as well in Section 2D, which requires the offer of seating away from pets at no additional cost. Should airlines be forced to reseat customers at their request, the airline’s freedom on ancillary charges is violated.

Secondly, A4A has serious concerns with the government’s decision to not hold government agencies, such as air traffic control and customs, liable within the scheme, even if they are the source of the delay. These bodies can cause significant travel disruptions and as drafted the consultation will require airlines to pay for these agencies’ mishaps/irregular operations. Industry will not accept a system that requires payment for situations out of our control and is created by the government’s lack of foresight in failing to make themselves liable for travel disruptions.

We also have concerns with the proposal ending coverage of the passenger experience after the disembarkation of the aircraft. It appears there is no liability for issues such as baggage equipment malfunction or if manual processing of passengers is required at Border Force. The proposal should include liability for all players in the end-to-end journey and be clear to not default to airlines.

Thirdly, the issue of travel agents not providing contact details for passengers occurs around the world and our airlines are confronted with the issue of trying to contact passengers about delays or changes to their journey. We note the proposed scheme puts the onus on airlines to confirm this information at the point of check-in. Airlines cannot be held liable when third-party intermediaries fail to supply correct or complete contact details and check-in is not the right time to collect such data as:

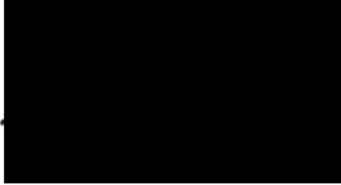
1. Most flight check-in is conducted by the passenger via an airline website or app without options for additional information collection.
2. If check-in is done via an airline agent, the collection of additional information diverts attention from the critical steps of a passenger confirming travel and delays the check-in process, thus potentially causing displeasure by the customer.
3. Even if this action is mandated to the airline, the Consultation does nothing to mandate that the individual traveler provide contact information to the airline.

Lastly, the report proposes that regulated entities bear the full financial burden of the Ombudsman schemes, which once implemented will predominantly service domestic flights and domestic passengers. This raises concerns of foreign airlines subsidizing domestic Australian

air travel and could be considered an illegal subsidy for domestic travel. Such cross-subsidization is likely to prompt foreign carriers to seek legal action against the regulation.

We hope these comments are informative and help redirect the direction of the Consultation.

Sincerely,



Keith Glatz
Senior Vice President, International Affairs