

AVIATION CONSUMER PROTECTIONS

A4ANZ SUBMISSION TO CONSULTATION ON SUBORDINATE LEGISLATION

OVERVIEW

Airlines for Australia and New Zealand (A4ANZ) welcomes the opportunity to respond to the *Aviation Customer Protections Consultation Paper* released by the Department of Infrastructure, Transport, Regional Development, Communications, Sports and the Arts (DITRDCA).

A4ANZ is an industry group representing airlines based in Australia and New Zealand, including international, domestic, regional, full service, and low-cost carriers. A4ANZ's members include Air New Zealand, Qantas, Virgin Australia, Regional Express (Rex), and Jetstar.

This submission has been made in response to consultation questions on the subordinate legislation, including the Draft Aviation Consumer Protections Charter (the Charter) and levy regulations.

A4ANZ's submission aims to provide high-level commentary on key aspects of the proposed Charter, leaving detailed commentary on the practicality, reasonableness, and operational reality of specific provisions in the draft Charter to individual airline members, given their deep operational experience, expertise, and points of competitive difference.

As we noted in our submission to the consultation on the first iteration of the Charter, industry welcomes, at a principle level, a Charter which articulates current consumer rights under Australian Consumer Law and other relevant legislation, and increases passengers' understanding of what they are already entitled to under airlines' conditions of carriage and provisions offered under different fare types.

However, A4ANZ, our member airlines, and industry are concerned that the consumer protections framework as currently proposed may be overly prescriptive and impose an undue regulatory burden on industry participants – particularly airlines.

The Charter, as currently drafted, will make Australia a less attractive destination for new international entrants or international airlines looking to grow routes or frequency – it also represents a major practical, operational, and financial challenge for airlines, in particular low cost carriers (LCCs) and regional airlines, adding increased financial burden on already marginal regional routes, and increases the barrier for new entrants to enter the market.

The result of this will be upward pressure on airfares, more limited consumer choice, and outcomes at odds with the Government's vision for a sustainable and competitive aviation market.

In A4ANZ's previous submission to the draft Charter, earlier this year, we noted industry concerns that the development of the Charter, and the broader consumer protection framework, has been complicated by the piecemeal approach to consultation, and the lack of detail provided to industry on both the potential size of the ombuds scheme and the process for analysing the impact of the proposed framework on industry and consumers.

For the avoidance of doubt, while there may have now been three consultations on aviation consumer protections spread over a prolonged period, A4ANZ and our members would strongly reject any assertion that the policy options under consideration have been appropriately tested with industry in their totality or that sufficient evidence has been elicited to inform any meaningful analysis on their potential impact.

Industry must be involved in the development of any cost-benefit analysis and Regulatory Impact Analysis, with the opportunity to provide input and expertise via appropriate industry engagement and consultation.

As such, A4ANZ is seeking a commitment from government for comprehensive industry consultation on a Regulatory Impact Analysis of the framework and Charter. The final Aviation Consumer Protections Framework must be tested with industry to ensure that what is put in place is workable, practical, economically sustainable, and facilitates outcomes consistent with Australian Consumer Law.

CLOSING GAPS IN THE CHARTER

Q4. 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?

Travel Agent Services

A4ANZ and our member airlines believe that the decision to exclude travel agents from regulation under the Aviation Consumer Protections Framework (the Framework), and thereby the Charter, is illogical, startling, and should be immediately reconsidered by government.

As outlined in A4ANZ's previous submissions on the framework, 90% of all corporate travel, and 70% of all international travel is booked via a travel agent.ⁱ Evidence provided to a senate inquiry in 2024, noted that travel agents sold 23 million air tickets worth \$18.5 billion in 2023, and that in a six-month period in 2024 had sold 13.8 million tickets worth \$10.7 billion.ⁱⁱ

The decision to exclude travel agents – the self-proclaimed “number one seller of air tickets to Australians”ⁱⁱⁱ – from the Charter does not reflect the key role that they play in the aviation ecosystem or the customer journey.

Travel agents play a key role in booking air travel and their exclusion from the proposed framework risks creating gaps in protection for consumers who use these services – undermining the overall objective of the framework.

The consultation paper notes that the proposed ‘minimum standards’ detailed in Appendix B (the Draft Aviation Consumer Protections Charter) recognise the importance of contact information being provided and the nature of the relationship with travel agents.

A4ANZ would instead contend that several of the provisions outlined in sections 1 and 2 of the draft Charter seek to unduly increase the regulatory burden on airlines to compensate for the government excluding travel agents from the framework – A4ANZ will be making specific commentary on the problematic and complex nature of these provisions later in this submission.

Furthermore, as government considers whether the standards in the Charter cover the core elements of the aviation consumer experience, it is crucial to reflect on how the exclusion of travel agents may impact the effectiveness of the proposed Charter, particularly as government moves toward co-designing aviation-specific disability standards.

During the recent co-design workshops on the development of aviation-specific disability standards, participants noted the important role of travel agents in the booking process for people with disability – including the provision of timely, accurate information on passengers’ travel and accessibility requirements.

While the draft Charter attempts to accommodate for the exclusion of travel agents by increasing the regulatory burden on airlines regarding the collection of contact details, this does not solve for the key role and responsibilities of travel agents in bookings for people with disability.

Security Screening

The exclusion of security screening – and security screening providers – from the Charter is concerning, as security screening is a key element of the aviation consumer experience, and is widely recognised to be one of the most complained about pain points for travellers with disability.

A4ANZ urges the Government to revisit this exclusion, to ensure that the Charter comprehensively addresses the realities of the aviation consumer experience, appropriately articulates the rights of

passengers at all stages of the journey, and upholds a consistent approach to complaints resolution for all parties involved in the travel process, to ensure that the framework supports equitable, accessible, and robust consumer protections for all travellers.

AVOIDING UNDUE REGULATORY BURDEN

Q5. 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?

A4ANZ, our member airlines, and industry more broadly are concerned that the consumer protection framework as currently proposed does not represent ‘minimum standards’, may be overly prescriptive, and impose an undue regulatory burden on industry participants – particularly, airlines.

The Charter, as currently drafted, will make Australia a less attractive destination for new international entrants or international airlines looking to grow routes or frequency – it also represents a major practical, operational, and financial challenge for all airlines, particularly LCCs and regional airlines, and increases the barrier for new entrants to enter the market.

The result of this will be upward pressure on airfares, more limited consumer choice, increased financial pressure on already marginal regional routes, and outcomes at odds with the Government’s vision for a sustainable and competitive aviation market.

A4ANZ has significant concerns regarding the proposed requirements of the Charter, and our specific commentary is outlined below:

Booking Information Requirements

In principle, A4ANZ broadly supports provisions 1(a) and 1(b) noting that airlines can and should retain the right to define their own Conditions of Carriage. We also support 1(c), but would clarify that airlines are not the sole entity responsible for the provision of guidance on travelling with dangerous goods (especially in the context of mobility aids) and assistance animals, with both the Civil Aviation Safety Authority and the Federal Government more broadly having leadership roles to play in the development of consistent standards, policies, and industry guidance on these issues.

A4ANZ remains concerned that the concurrent development of this draft Charter and the to-be-drafted aviation-specific disability standards may result in a piecemeal approach to legislation and regulation – with significant opportunities for the duplication of scope and effort.

For example, A4ANZ notes that the Passenger Assistance Profile initiative that was proposed in the Aviation White Paper, and is currently being considered as part of the aviation-specific disability standards, would cover the requirement outlined in 1(e). However, as airlines have advised the Department, there is complexity to work through in developing and implementing standards for Passenger Assistance Profiles.

As such, A4ANZ would urge the Department to consider how to reflect this nuance in the Charter and ensure appropriate lead-times for the implementation of requirements that accord with the aviation-specific disability standards – which are not expected to be legislated until later in 2026.

As noted above, and in each of our three previous submissions to consultation on the proposed aviation consumer protection framework, travel agents play a key role in booking air travel and their exclusion from the proposed framework risks creating gaps in protection for consumers who use these services – undermining the overall objective of the framework.

The proposed requirement for “*airlines to ensure that any agent of the airline also meets the requirements of 1(a) to 1(e)*” as outlined in 1(f) is an outrageous proposal which aims to compensate for the exclusion of travel agents and other third-party booking websites from the draft Charter and consumer protections framework more broadly. Australians spend over \$452M a year booking flights with third-party booking websites^{iv}. Requiring airlines to ensure that an agent of the airline –

including these third-party websites – abides by the requirements in the Charter is unreasonable, impractical, and overly burdensome.

A4ANZ urges the government to remove requirement 1(f) from the draft Charter, as it is wholly impractical, to avoid airlines bearing undue regulatory burden.

Check-In and Boarding Requirements

While A4ANZ supports, in principle, the majority of the requirements for check-in and boarding, we vehemently disagree with the requirement for airlines to confirm passenger contact details at the point of check-in as outlined in 2(a).

Airlines will already have the necessary contact information for passengers who have made direct bookings – and for indirect bookings made through travel agents or other third parties, the responsibility for providing accurate passenger contact details, in a timely manner, should rest with these agents or entities.

Shifting the entirety of the responsibility to confirm passenger details to airlines – to compensate for the baseless exclusion of travel agents from this Charter – is impractical and resource intensive. Furthermore, requiring airlines to confirm customer contact details at check-in occurs too late to facilitate effective communications in the event of a disruption or delay.

Flight Disruptions, Unreasonable Delay, Cancellation Requirements

In A4ANZ's submission to the initial consultation on the draft Charter earlier this year, we urged the Department to engage with airlines' existing conditions of carriage as a starting point for classifying reasons for delays or cancellations that are within, and outside of, airlines' control – and consult with individual airlines to better understand the complexity associated with this.

From reading the proposed classification of events within and outside of an airline's control, it is clear that this has not happened. For example, the consultation paper proposes that "*flight preparation activities like cleaning, baggage loading, and aircraft fuelling*" are within an airline's control. This fails to reflect the reality of the interdependent nature of the aviation ecosystem. The ability for an airline to undertake baggage loading/unloading and aircraft refuelling is dependent on the infrastructure owned by airports being available and functional.

For example, in 2024 an issue with the fuel infrastructure owned by Perth Airport caused more than 60 domestic and international flights to be cancelled and caused extensive delays. While in reality this example is obviously outside of airlines' control, under the draft Charter, it would be considered within an airline's control.

To reflect the complex nature of the aviation ecosystem, it is vital that reasons for delays and cancellations resulting from airport infrastructure (including baggage belts, aerobridges, and fuel infrastructure) are appropriately defined as outside of an airline's control in the draft Charter.

Additionally, in situations where delays and cancellations are outside of an airline's control – but within the control of another member of the aviation ecosystem – ie. delays and cancellations that result from Airservices Australia staffing issues, or issues with airport infrastructure (for example, a runway maintenance failure, as was seen at Mackay Airport in September this year), it is of note that there is no provision in this framework (or anywhere else) to allow airlines to recoup or recover the costs of providing minimum levels of assistance to passengers.

Airlines currently provide assistance to passengers for flight disruptions caused by situations outside of an airline's control which meet, and in some cases may exceed, requirements under existing Australian Consumer Law. Seeking to increase the minimum level of assistance provided, without appropriately defined responsibilities will increase the regulatory burden for airlines and put upward pressure on airfares.

A4ANZ urges the Department to genuinely engage with airlines to better understand the unintended consequences, and potential burden, of the provisions under *Flight Disruptions, Unreasonable Delay,*

Cancellation Requirements, as currently written – and amend these as necessary to better reflect the interconnectedness of the aviation ecosystem.

The final definitions of situations within and outside of an airline’s control must also align with internationally accepted definitions.

A4ANZ’s commentary on the Minimum Levels of Assistance outlined in Table 4 is detailed later in this submission, in response to consultation question nine.

Baggage Requirements

A4ANZ members recognise that lost, damaged, or delayed baggage can be frustrating for passengers, and support the draft Charter articulating the existing rights and remedies available to passengers under the Montreal Convention, the *Civil Aviation (Carriers’ Liability) Act 1959* (CACL Act), and Australian Consumer Law.

As noted in A4ANZ’s previous submissions on this topic, industry is of the firm belief that any remedies provided for damage and delays to baggage should be in line with existing law and align with international standards and the Charter should clearly state this to manage consumers’ expectations.

For international services, the Charter should apply the principles and limits under the Montreal Convention to align with international obligations. For domestic services, the CACL Act or Australian Consumer Law, as applicable, and carrier terms and conditions (which comply with existing rights under consumer law), should be applied.

The provisions in the draft Charter relating to the damage or loss of passenger mobility aids during transport must be predicated on the mobility aid being approved for flight/transport by the manufacturer, and contingent on the airworthiness of any after-market modifications and additions to the mobility aid, which may not have been tested for air transport.

Industry is also concerned by liability implications of 4(d)(i), and we would encourage the Department to re-consider the practicality of this provision.

Complaint Handling

As stated in our submission to the original consultation on the design of the Aviation Industry Ombuds Scheme and in our subsequent submission to the draft Charter in early 2025, A4ANZ believes that a person should be eligible to lodge a complaint to under the Aviation Consumer Protections Framework – and to the Aviation Consumer Ombudsperson – if the person experienced an issue or situation covered by the framework, with a family member or carer able to lodge a complaint on behalf of another person who is unable to make the complaint on their own behalf, provided they have that person’s authority.

However, A4ANZ does not believe that this provision should be extended to include legal representatives – except in limited and specific circumstances – nor should it cover advocates or representatives from for-profit firms.

On the issue of timing for the finalisation of a decision by an airline or airport in response to an initial complaint, the consultation paper proposes a 30 calendar day period, and states that there were “*a range of views on the time allowed before a consumer could complain to the consumer ombuds scheme. Some consumer groups suggested as low as two weeks, with airlines suggesting a minimum of at least eight weeks.*” A4ANZ believes it is worth clarifying that in submissions to the consultation on the initial design of the Ombuds Scheme, airlines, airports, and industry bodies *all* made submissions stating that eight weeks was the appropriate amount of time to allow for a complaint to be finalised at this stage.

While most complaints would be finalised well within this timeframe, industry participants consistently argued that an eight-week period would allow for an airline or an airport to gather necessary information that may not be provided in the original complaint, in particular in relation to

complex multi-party complaints, and allows for the complaint to be escalated as required through internal customer service processes.

When looking internationally at complaint handling schemes used by the aviation industry in other jurisdictions – with the exception of Canada – a timeframe longer than 30 days is standard: the UK allows for eight weeks for the airline to finalise a complaint, and both the US and EU allow airlines 60 days to address and finalise complaints.

The consultation paper notes that the complaint handling requirements proposed in the Draft Charter may evolve as a result of the current review of the effectiveness of complaint handling processes of airlines, airports, the Airline Customer Advocate, and other bodies which receive complaints relating to airlines and airports.

A4ANZ also feels that it is appropriate, to again place on record our frustration with the piecemeal approach to the development of the proposed consumer protections framework. The review of current complaint handling processes should have been actioned before commencing design of the ombuds scheme and the Charter. As it stands, almost the entirety of the proposed framework has been designed without visibility of current industry processes or the size and nature of the problem trying to be solved.

In the event that changes to the complaint handling requirements in the Charter are made, A4ANZ would urge the government to appropriately socialise these with industry, and that they should be implemented with appropriate lead times.

Implementation Issues

As noted just above, the development of the Charter – and the broader consumer protection framework – has been complicated by the piecemeal approach to consultation. This piecemeal approach has resulted in proposals for a new regulator (the Aviation Consumer Protection Authority), a yet-to-be-sized ombuds scheme, and increasing minimum standards of assistance above the requirements of Australian Consumer Law and operational practicality.

In addition to a commitment for comprehensive industry consultation on a Regulatory Impact Analysis of the framework and Charter, we urge the government to consider a staged approach to the implementation of the final reforms, with appropriate lead times – as the proposed reforms represent a significant step-change for both industry and government.

A4ANZ and our members airlines are also seeking a commitment from government for a post-implementation review, after one year of the Aviation Consumer Protection Framework being in effect, to evaluate whether the Charter and the broader consumer protections framework are workable, practical, economically sustainable, and facilitating outcomes consistent with Australian Consumer Law.

ENSURING APPROPRIATE COST-RECOVERY

Q8. 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?

For specific commentary and proposals regarding the design and nature of levies, A4ANZ directs DITRDCSA to submissions by individual airlines. At a principle level, A4ANZ supports an incentive-based funding arrangement which combines annual membership fees, and charges based on complaints volume and complaint escalation rates – similar to other industry ombuds schemes in Australia such as the Australian Financial Complaints Authority (AFCA) and the Telecommunications Industry Ombudsman (TIO).

A4ANZ notes the importance of establishing a fair and equitable funding model for the proposed regulatory framework. As A4ANZ has advised in previous submissions on the proposed consumer protections framework, it is essential that all regulated entities – regardless of their size – contribute through annual membership levies, with an incentive-based element promoting accountability across the sector.

Regardless of the design of the funding mechanism, A4ANZ would again emphasise that the operating budget of the proposed Aviation Ombuds Office (AOO) must be right sized for the problem the Government is trying to solve – and that the size and nature of both the membership levies and the incentive based funding are tested with industry, prior to any final decision from government.

Additionally, A4ANZ would urge the government to ensure that the methodologies for, and details of, the cost recovery levies are clearly published – for transparency – and reviewed regularly to ensure that the framework is fit-for-purpose and sustainable.

In the first year of the framework’s operation, it is likely that there will be a significant number of ineligible complaints, referrals, and general inquiries – it is critical that government consider how these are treated, and that the cost of these is not recovered from industry. A4ANZ would also contend that it is not appropriate for government to recover the costs or complaints where a reasonable remedy has been initially offered by an airline and rejected by a consumer.

To address this issue, A4ANZ would again propose that the ACO should be empowered to intervene earlier in the complaint resolution process to assess both the reasonableness of a complaint and the initial response or remedy proposed by an airline.

As currently drafted the complaint resolution process places emphasis on the complaint being resolved to a consumer’s satisfaction – and while this is the objective of airlines’ internal complaint handling processes, on occasion there may be a gap between a reasonable remedy or solution and a remedy which would satisfy the consumer.

For example, in the event that the airline offers a reasonable remedy to a consumer during either Stage 1 (through direct contact with the consumer) or Stage 3 (during the referral process) but the consumer is not satisfied with the proposed remedy, there is currently no opportunity for the ACO to realistically intervene in this process until the late stages of the complaint resolution process.

This not only places an undue regulatory burden on an airline but also comes with significant cost from the time and resources dedicated to participating in the complaint resolution process and the levy that will result from the referral and processing of the complaint by the ACO.

As such, we would urge DITRDCSA to consider how to reflect this nuance and reality in designing the cost-recovery process and the complaint resolution process proposed under the framework more broadly.

DEVELOPING PRACTICAL AND REASONABLE STANDARDS

Q9. 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?

For detailed commentary relating to the practicality, reasonableness, and operational reality of specific provisions proposed in Table 4 (Minimum Levels of Assistance), A4ANZ directs the Department to individual airline submissions.

In addition to the expert commentary from airline operators, A4ANZ would make the following general observations on the provisions outlined in Table 4:

- The minimum levels of assistance outlined in Table 4 should reflect a minimum baseline level of service for airlines to provide when practicable and possible, with airlines having the option – as part of their competitive offering – to provide additional assistance depending on the reason for a delay or cancellation. We do not believe that Table 4, as currently drafted, reflects appropriate or economically sustainable minimum levels of assistance.
- The option to disembark in the event of a two-hour tarmac delay is inconsistent with international standards, may have significant safety and operational impacts, and could further impact the on-time performance of the flight

- Provisions relating to the availability of suitable equipment to support the passage of a person with disability must be predicated on an airline having adequate notice of passengers' requirements (this provision again highlights the key role of travel agents in providing necessary accessibility information to airlines – and unfortunately, there are numerous and ongoing examples of this information not being communicated to airlines in a timely or accurate manner).
- The proposal to provide food vouchers after a delay of one hour is inconsistent with international standards and would likely represent a significant cost and resourcing burden for airlines, and we suggest that this assistance should instead be provided during a significant delay, ie. over three hours.
- The provisions regarding re-booking must clarify that an airline will be responsible for rebooking a passenger – or that a passenger may select from specified flights offered through an airline's self-service option.
- The provision of accommodation should only occur when an overnight stay is required. Requiring accommodation to be offered for delays of greater than six hours (that are not overnight) is unreasonable and impractical, given accommodation availability and travel time.

ⁱ Australian Travel Industry Association. 2023. Submission to the Aviation Green Paper. At:

<https://www.infrastructure.gov.au/sites/default/files/documents/agp2023-submission-c211-australian-travel-industry-association.pdf>

ⁱⁱ Australian Travel Industry Association. 2024. Submission to the RRAT Inquiry into the Airline Passenger Protections (Pay on Delay) Bill 2024. At: <https://www.aph.gov.au/DocumentStore.ashx?id=fd518b30-08ab-4016-835e-0cf05b1d5413&subId=763174>

ⁱⁱⁱ Australian Travel Industry Association. 2023. Submission to: Bilateral Air Services Agreements Submission to the Select Committee. At: https://atia.travel/Portals/0/Advocacy/230918_ATIA-23-Bilateral%20Air%20Service%20Agreements%20-%20Final.pdf?ver=XNjexRHBofaiJGQpc3nQg%3D%3D

^{iv} IBISWorld analysis, referenced in “When dream holidays turn into nightmares, without ever taking off” – Sydney Morning Herald. 12/09/2025. At: <https://www.smh.com.au/business/consumer-affairs/when-dream-holidays-turn-into-nightmares-without-ever-taking-off-20250911-p5muag.html>