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To: [aviationconsumer](#)
Subject: submission to: Aviation Consumer Protections – subordinate legislation (including the Aviation Consumer Protections Charter) [SEC=OFFICIAL]
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Consultation name

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

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Question 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 regulation of airline, airport, and accessibility services broadly covers the consumer experience. I welcome the proposals that:

- Require refunds within 14 days.
- Introduce care obligations (meals, accommodation, transfers during significant disruption).
- Provide rebooking assistance, including with other airlines in some circumstances.

The proposed Charter standards capture many important aspects of the consumer experience, but several significant gaps and risks remain:

1. **Compensation for Disruptions:** Unlike the EU's EC261/2004, the framework does not provide for cash compensation when passengers incur large out-of-pocket expenses from airline-controlled cancellations. In my case, I had to purchase expensive Qantas tickets after Jetstar cancelled my return flight home with less than 24 hours' notice. A refund of the original fare did not come close to covering the actual cost of disruption. The consultation paper states that compensation "risks of these costs being passed on to passengers through higher prices" but there is no evidence that this was the case in Europe.
2. **Mandatory Rebooking Across Airlines:** The current proposal appears to allow rebooking on alternative airlines in some circumstances but it is not clear that it is explicitly compulsory (especially in Table 4), and there is no explicit requirement that airlines rebook across their own group (e.g., Jetstar to Qantas). This is critical in Australia's concentrated market where sister airlines often hold capacity that could reduce consumer harm.
3. **Denied Boarding / Overbooking** – The standards do not adequately address compensation for passengers who are involuntarily denied boarding. Under EU law, this is one of the clearest and most enforceable consumer rights, and must be replicated in Australia to deter routine overbooking and to ensure passengers receive compensation proportionate to the disruption caused.
4. **Downgrades** – There is no clear provision for passengers who are involuntarily downgraded (e.g., booked business class, seated in economy). The EU model provides a straightforward template, with partial fare reimbursement depending on flight length.
5. **Refund and Rebooking** – Standards should go beyond refunds to include mandatory rebooking obligations. At a minimum, airlines should be required to re-accommodate passengers on partner or subsidiary carriers. In the event of cancellations, passengers should also be able to make their own arrangements and be reimbursed. Refunds alone are insufficient, as they do not reflect the cost of last-minute replacement fares.
6. **Definition of "Within Airline's Control"** – The proposed list of exceptions (war, sabotage, natural disasters, severe weather, etc.) goes well beyond the narrow "extraordinary circumstances" used in the EU. Of particular concern:

- a. “Unforeseeable technical defects” and emergency repairs may be exempted even when they arise from poor maintenance practices or an airline’s failure to hold adequate standby capacity.
 - b. Flow-on delays from earlier flights (provision **b**) allow airlines to avoid liability for widespread disruption caused by their own scheduling and resource management.
 - c. This mirrors the Canadian regime, which is widely criticised as “toothless,” because airlines can routinely classify maintenance issues or staffing shortages as outside their control.
7. A strong Australian framework must avoid this. The EU model makes clear that **ordinary technical problems, staff shortages, and airline scheduling decisions are within airline control**. Only truly exceptional events (e.g., volcanic ash, terrorism, war) are exempt.
 8. **Accommodation and Meal Caps** – Standards should not include arbitrary reimbursement caps (e.g., \$150 for hotels) which do not reflect real-world prices in major cities like Sydney or Brisbane. The standard should guarantee “reasonable accommodation” with reimbursement of actual costs when airlines cannot provide in-kind solutions.
 9. **International vs Domestic Application** – While delays on high-frequency domestic routes may be mitigated relatively quickly, international cancellations have far more serious financial impacts, with passengers losing non-refundable accommodation and excursions. The Charter should reflect these differences.

Question 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?

The proposed standards are broadly reasonable and consistent with international best practice, but several refinements are required:

- **Rebooking and Interlining** – It is reasonable to require airlines, particularly those under common ownership (e.g., Qantas/Jetstar), to rebook passengers onto alternative services where available. This is already standard practice in the EU and avoids perverse outcomes where passengers are forced to pay out of pocket for seats on the same corporate group’s aircraft. This has not been reflected sufficiently in the consultation paper.
- **Overnight Accommodation** – Operational challenges may arise at smaller airports with limited hotel supply. In these cases, airlines should be permitted to reimburse reasonable actual expenses rather than impose arbitrary caps, ensuring passengers are not left stranded.
- **Extraordinary Circumstances** – Airlines must not be permitted to over-extend this concept. Weather affecting all carriers may justify exemption, but routine technical issues, staff shortages, or “network adjustments” should clearly be within airline control. “Unforeseeable technical defects” and emergency repairs should not be exempted - they can arise from poor maintenance practices or an airlines failure to hold adequate standby capacity.

Question 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?

I strongly support a larger component of the total levy being made up of a variable per matter component. This will encourage good behaviour by the airlines.

Differentiated levies should be structured to reflect scale and impact without disadvantaging small operators or community airlines. Metrics could include:

1. **Passenger Volume** – Annual enplanements should form the core basis for levies.
2. **Revenue Tonne Kilometres** – To capture passenger and cargo operations fairly.
3. **Fleet/Network Scale** – To avoid disproportionate burdens on very small regional airlines, thresholds should be set (e.g., under 100,000 passengers annually).
4. **Market Power Accountability** – Larger carriers with significant slot holdings and dominant market share should pay proportionally more, as they also drive the greatest need for consumer protection.

This approach ensures fairness and avoids the risk of levies being structured in a way that entrenches the market power of dominant carriers.

Question 9 – For each of the duration/situation timeframes listed in Table 4 of the consultation paper (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?

Australia should model its approach on EU practice, but reflect higher costs at Australian airports. Suggested minimums:

- **1–3 hours:** \$20 voucher (snack + drink).
- **3–6 hours:** \$50 voucher (meal + drink).
- **6–12 hours:** \$90 voucher (two meals + drinks).
- **>12 hours:** \$120 per 12-hour block (three meals + drinks) plus hotel accommodation if overnight.

Vouchers should:

- Be issued at least every 3–4 hours.
- Be stackable and valid across multiple vendors.
- Default to reimbursement (with receipts) or prepaid debit cards if vouchers cannot be issued, ensuring passengers are not disadvantaged by closed facilities.