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Proposed aviation consumer protection framework

Submission to the Department of Infrastructure,
Transport, Regional Development, Communications,
Sport and the Arts

Response to the primary legislation

5 October 2025

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Australian Federation of Disability Organisations (AFDO) consents to the publication of this submission, including the names and contact details of AFDO staff. The relevant AFDO staff also give that consent.

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Acknowledgements

Australian Federation of Disability Organisations (AFDO) acknowledges Aboriginal and Torres Strait Islander people as the traditional custodians of the land on which we stand. We recognise their continuing connection to land, waters, and community. From our offices in Melbourne, Canberra, Sydney, and Newcastle, we pay our respects to the peoples of the lands on which we operate and to their Elders past, present, and emerging. We also pay our respects to the traditional owners of all lands on which we operate or meet around the country.

AFDO acknowledges people with disability, particularly those individuals that have experienced or are continuing to experience violence, abuse, neglect, or exploitation. We also acknowledge their families, supporters, and representative organisations and express our thanks for the continuing work we all do in their support.

Language used in this document

AFDO uses person-first language, like "people with disability," not identity-first language. This is a deliberate choice made by AFDO. This aligns with the UN Convention on the Rights of Persons with Disabilities. It also matches the language used by all levels of government in Australia. Most other peak bodies in the Australian disability sector also use person-first language.

AFDO chooses to use this language because it puts the person before the disability. It values the individual by seeing them as a person, not a condition.

Consistent with this position, AFDO uses person-first language in this document.

We know many people with disability prefer identity-first language, particularly Autistic people. Disability is a part of their identity. This language shows a connection to the disability community and pride in their disability. It also says society is what disables them.

Views on language use reflect people's identities, experiences of disability, and community attitudes. It is a matter of individual choice and agency. AFDO respects everyone's right to choose how to describe their identity and experiences.

"People with disability" means anyone who is d/Deaf (including people who identify as culturally Deaf), or who has a learning disability, or a sensory, physical, neurodevelopmental, intellectual, or cognitive disability, or mental health condition.

About AFDO

Since 2003, the Australian Federation of Disability Organisations (AFDO) a Disabled Peoples Organisation (DPO), governed, led and constituted by people with disability, has been the peak body in the disability sector.

AFDO is a national, cross-disability and disability-specific peak body and a Disability Representative Organisation (DRO), funded by the Commonwealth government (through the Department of Social Services) to represent and advocate for people with disability and support them to fully take part in Australian life - socially, culturally, politically, and economically. Through our membership (many of whom are national, disability-specific, peak bodies) AFDO is in a position of a national peak of peaks in the disability sector, having a total reach of over 4.5 million Australians.

AFDO is a strong, trusted voice for the disability sector. We advocate on national policy, inquiries, and initiatives with governments at all levels in Australia. We work to build a community where people with disability can take part in all aspects of social, economic, political, and cultural life.

Our vision

All people with disability can take part equally in all aspects of social, economic, political, and cultural life.

Our mission

Using the strength of our member organisations to harness the collective power of uniting people with disability to change society into a community where everyone is equal.

Our strategic objectives

- To represent the interests and united voice of our members and people with disability at a national and international level in all relevant forums.
- To build the capacity, profile, reputation, and sustainability of AFDO through the strength of our member organisations.
- To enhance the connection and influence in international disability initiatives by policy, advocacy, and engagement, focused on the Asia Pacific region.

Our members

AFDO's member organisations contribute to the national policy agenda and address issues that impact the lives of people with disability in Australia. We understand that disability specific organisations play a key role in the provision of information and peer support to people with disability and their families. This role keeps them closely connected to their grass roots communities. Information about our members can be found on [AFDO's website](#).

1. Acronyms and abbreviations

This list of terms may assist readers and users of this document to understand what we mean when we use the following terms or abbreviations.

AS 10002:2022	Standards Australia, <u>Guidelines for Complaint Management in Organisations</u> (AS 10002:2022), 25 March 2022
ACCC	Australian Competition and Consumer Commission, which has responsibility for the consumer protection provisions in the ACL
ACL	Australian Consumer Law (<u>Competition and Consumer Act 2010</u> (Cth) sch 2)
ACO	Aviation Consumer Ombudsperson, who will play a complaints resolution role for individual consumer complaints
ACPA	Aviation Consumer Protection Authority, the new regulator proposed in the Consultation Paper
AFDO	Australian Federation of Disability Organisations
AHRC	Australian Human Rights Commission
AHRC Act	<u>Australian Human Rights Commission Act 1986</u> (Cth)
Consultation Paper	The Department's Aviation Consumer Protections Consultation Paper ¹
DDA	<u>Disability Discrimination Act 1992</u> (Cth)
Department	Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts
Framework	The aviation consumer protection framework as proposed in the Consultation Paper

2. Executive summary

The Australian Federation of Disability Organisations (AFDO) welcomes the development of a new legislative framework for protecting passengers travelling, or wanting to travel, by air. However, we have several concerns with the proposals outlined in the Consultation Paper and offer several detailed recommendations to ensure the Framework is inclusive, accessible, and effective for all passengers, particularly people with disability

In summary:

1. AFDO strongly supports the position in the Consultation Paper that the regulated entities under the Framework will be each of the following:
 - (a) airlines operating domestic flights in Australia (whether or not an Australian airline)
 - (b) airlines flying internationally from Australia
 - (c) airlines flying internationally to Australia, and
 - (d) Australian airlines flying internationally (irrespective of the port of departure or destination).
2. Include a definition of “Australian airline” that is aligned with the definition of an “Australian international airline” in the Commonwealth [Air Navigation Act 1920](#).
3. Remove the concept of “consumer” from the Framework to:
 - (a) avoid exclusion of individuals who seek to travel but do not have a direct contractual relationship with airlines or airports, and
 - (b) remove the possibility of airlines and airports arguing that an air service for the **public transport** of passengers is, by its very nature, a service that is shared with others or used collectively, and is not a service ordinarily acquired for personal use.
4. Broaden definitions of “airline service” and “airport service” to include:
 - (a) services provided by third-party contractors for or on behalf of an airline or airport in all circumstances, and
 - (b) services that are, or are expected to be, provided by an airline to passengers as part of their journey by air, or that are related or ancillary to, but not in the

provision of, a scheduled domestic or international air service for the public transport of passengers..

5. Ensure that intrastate air travel is included in the Framework, and explain how the constitutional limitations will be overcome.
6. Define “accessibility services” clearly and fully, ensuring they cover the entire passenger journey, as stated in the Consultation Paper.
7. Include regional and remote airports within the Framework, with additional minimum standards to address unique accessibility challenges.
8. Ensure consistency between the Framework and aviation-specific disability standards under the DDA.
9. AFDO welcomes the proposal to give ACPA “own motion” powers and systemic inquiry capabilities. We urge the government to include provisions similar to the powers given to the AHRC.
10. Mandate compliance with AS 10002:2022 for complaint handling by airlines and airports, including accessibility, staff training, and performance monitoring.
11. Introduce compliance auditing and certification obligations for regulated entities.
12. Implement a “no wrong door” approach to complaints, ensuring seamless referrals and cooperation between regulators.
13. Design a best-practice complaints system first, then determine funding needs—rather than limiting design based on budget.
14. Allow representative complaints and include obligations to assist complainants, modelled on AHRC processes.
15. Remove unnecessary complaint stages that delay resolution, especially in time-critical cases).
16. Maintain AHRC’s role in enforcing disability standards and avoid splitting compliance responsibilities across regulators.

3. Primary legislation consultation questions

In connection with the proposed primary legislation that will establish the Framework, the Consultation Paper seeks feedback on the following questions (using the numbering of the questions in the Consultation Paper):

- 1 *Does the proposed regulation of airline services, airport services and airport accessibility services cover the core elements of the aviation consumer experience? Are there any missing elements?*
- 2 *Are there any operational or technical considerations regarding international flights that would affect their regulation under the framework?*
- 3 *Are there any operational or technical considerations regarding airport accessibility services that would affect their regulation under the framework?*
- 6 *Is the role of the ACPA as proposed sufficient to protect aviation consumers and lift consumer standards, while not imposing undue regulatory burden and costs on the sector?*
- 7 *Do the proposed functions and powers of the ACO provide sufficient capability to efficiently resolve consumer complaints and improve consumer standards? If not, what should change and why?*

3.1 International flights AFDO comment & proposed definition:

We do not possess the knowledge, skills, or experience to provide a response to operational or technical considerations regarding international flights, which would enable us to make a meaningful contribution to question 2 in the Consultation Paper. However, we strongly support the position in the Consultation Paper that the regulated entities under the Framework will be each of the following:

- (a) airlines operating domestic flights in Australia (whether or not an Australian airline)
- (b) airlines flying internationally from Australia
- (c) airlines flying internationally to Australia, and
- (d) Australian airlines flying internationally (irrespective of the port of departure or destination)².

The Consultation Paper does not consider how the Framework will define an “Australian airline”.

We propose a definition that is aligned with the definition of an “Australian international airline” in the Commonwealth [Air Navigation Act 1920](#).³

We suggest the Framework’s primary legislation defines an “Australian airline” to mean

an airline:

- (a) *that may be permitted to carry passengers, or passengers and freight, under a bilateral arrangement as an airline designated by Australia to operate a scheduled international air service, and*
- (b) *whose constitution complies with section 11A(2) of the Commonwealth Air Navigation Act 1920.*

4. Q 1: core elements of consumer aviation experience

4.1 Definition of “consumer”

The Consultation Paper proposes that:

- (a) the scope of the Framework is limited to matters where there is a “direct consumer relationship” with an airport in the provision of an “airport service” or with an airline in the provision of an “airline service”, and
- (b) a “consumer” will “have the same definition as it does within section 3 of the Australian Consumer Law”.⁴

Section 3(3) of the ACL provides that a person is taken to have **acquired** particular services as a consumer if, and only if:

- (a) the amount paid or payable for the services, as worked out under subsections (4) to (9), did not exceed:
 - (i) \$40,000; or
 - (ii) if a greater amount is prescribed for the purposes of subsection (1)(a)—that greater amount; or
- (b) the services were of a kind ordinarily acquired for **personal, domestic or household use or consumption**. (our emphasis)

An amount of \$100,000 has been prescribed for the purposes of section 3(1)(a).⁵

Section 3 further provides that there is a presumption that a person is a consumer in relation to services “unless the contrary is established”.⁶ The Consultation Paper does not make clear if the Department proposes a similar presumption under the Framework. Irrespective of how the Framework defines a “consumer”, AFDO urges the Department to include in the proposed Framework a presumption like that in section 3(10) of the ACL.

For the reasons set out below, we do not think a definition of “consumer”, in the same terms as section 3 of the ACL, or at all, is appropriate. This limited definition, together with the requirement of a “direct consumer” (or contractual) relationship with an airline or an airport, will unnecessarily and unfairly exclude people who travel, or **seek to travel**, by air. This approach will not improve outcomes for all members of “the travelling public” (not all of whom are “consumers” within the ACL definition), as the Consultation Paper asserts.⁷

“Acquired” services as a consumer.

The Consultation Paper expressly notes that customer service issues that do not (exclusively) relate to or that occur “before a purchase” of services will not fall within the scope of the ACO’s complaints resolution functions.⁸

Accordingly, a person who is seeking to purchase a ticket, or otherwise engage or communicate with an airline before purchasing a ticket, and who believes there has been a breach of the Charter in respect of those pre-purchase activities (for example, a failure to comply with the Charter standards relating to booking information requirements⁹) is not able to pursue a complaint under the Framework.

Not only is this unfair, inequitable, and not able to be justified from any reasonable public policy position, but this will deprive the ACPA from obtaining valuable data in relation to possible systemic issues where those issues lead to potential passengers terminating the buying process.

It also creates significant doubt where there is a complete denial of service by an airline or airport as a result of matters within the control of the airline or airport, as the case may be.

“Personal, domestic or household use or consumption”

The definition of a “consumer” in the ACL focuses on whether the services are ordinarily acquired for personal, domestic, or household use. Whether the services were acquired for that purpose in a specific transaction is irrelevant, as is the buyer’s identity or purpose.¹⁰

Personal use refers to goods or services used by an individual **for their own benefit** or their **individual consumption**. Services that are shared with others or used collectively are not services ordinarily acquired for personal use.¹¹

Domestic use focuses on the setting, that is, the household, rather than on an individual. It refers to services used or within the home environment, often relating to family or shared living arrangements.

Household use refers to services used by members of a household collectively, not necessarily tied to the physical home.

It is clear that an airline service or an airport service is **not a service** ordinarily acquired for **domestic** or **household** use.

AFDO's position:

Public transport services, including air services for the public transport of passengers are services that are ordinarily acquired for "personal use". An airline passenger service is a service used by an individual to meet their personal needs, even though it is a shared or public transport service. It is also a mainstream service that should be accessible to all people for personal use.

However, we remain very concerned about the possibility that airlines will argue that, by its very nature, an air service for the **public transport** of passengers is a service that is shared with others or used collectively, and is not a service ordinarily acquired for personal use. Similarly, an airport may argue that it is a public facility for use by many different members of the public in connection with a public transport service and cannot be a service ordinarily acquired for personal or private use.

We are also very concerned that airlines will seek to differentiate different business models or fare types as services not ordinarily acquired for personal use (for example, business class or first-class fares, and, possibly, distinctions drawn between full economy class fares and discount fares), similar to arguments that have been successful in the context of disability discrimination claims.¹²

We strongly believe that it is better to avoid these types of arguments, and to remove completely from the design and operation of the Framework the concept of a "consumer".

4.2 Definition of "airline service"

The Consultation Paper proposes defining an "airline service" as "a scheduled domestic or international air service for the public transport of passengers".¹³ Further, the government proposes that the Framework will be limited to matters where there is a direct consumer relationship with an airline "in the provision of an airline service".¹⁴ Accordingly, as it is proposed, and with airlines included, the Framework is limited to matters where:

- (a) there is a direct consumer relationship
- (b) with an airline

(c) in the provision of a scheduled domestic or international air service for the public transport of passengers.

The Consultation Paper also proposes that an airline service would, **in some situations**, also include services supplied “by, or on behalf of another entity”.¹⁵ The Consultation Paper does not provide any guidance on how a decision is made (or the criteria for such a decision) along with whether any particular third-party contract is a situation that is included as a service under the Framework. Notwithstanding this proposed limitation, the Consultation Paper also proposes that “the regulated entity is still responsible where they contract out the provision of a service to another entity”.¹⁶ There is no proposed limitation in this statement. This inconsistency must be resolved. We urge the government to resolve it by ensuring that the principal airline or airport is responsible for the actions of its third party contractors.

We do not support any exclusion from the Framework of the activities of a third-party contractor who is engaged by an airline to provide, for or on behalf of the airline, services that, if provided by the airline directly, would be subject to the Framework. We fully support the responsibility of airlines under the Framework where they contract out the provision of a service to a third party.

In addition to the arguments we make about the need for a direct consumer relationship (see [section 4.1](#), above), and separate from our concerns with the proposal that services supplied by third party contractors on behalf of an airline may only be within the Framework “in some situations”, we are concerned that the proposed definition is too restrictive. It has significant potential to exclude from the Framework many services that are, or are expected to be, provided by an airline to passengers as part of their journey by air, or that are related or ancillary to, but **not in the provision of**, a scheduled domestic or international air service for the public transport of passengers.

4.3 Definition of “airport service”

The Consultation Paper proposes defining an “airport service” as a “service provided by an airport that relates to carriage of passengers”.¹⁷ The Consultation Paper, however, also proposes that the airport service must also be one that “a consumer would reasonably expect to use and pay for”.¹⁸ The Consultation Paper also suggests that the definition of an airport service could, **in some situations**, also include services supplied by a third party.¹⁹

As a result, we agree with (but do not support) the conclusion drawn in the Consultation

Paper that there will not be many instances of an eligible airport service complaint.²⁰

Consistent with the approach taken for services provided by a third-party contractor on behalf of an airport (or an airline), we suggest incorporating this into the definition.

In addition, to avoid any argument that a service provided to an individual, whether due to the individual's personal circumstances (including disability) or otherwise, is not a service that relates to the carriage "of **passengers**", the definition needs to be changed to "that relates to the carriage of a passenger".

Lastly, we consider that the definition can be appropriately amended to remove the requirement of a consumer "acquiring" the service.

Accordingly, we suggest the definition of "airport service" is amended so that it reads

a service provided by, or for and on behalf of, an airport to a person that relates to the carriage of an airline passenger.

4.4 Intrastate airline services

The Consultation Paper does not consider how the Framework will apply to intrastate passenger airline services and this needs to be addressed. As we understand the constitutional position, the Australian Constitution leaves the power to regulate regional aviation with state and territory governments, as travel within a state is an issue of intra-state trade. The Commonwealth Parliament's power is limited to making laws on trade and commerce "among the states".²¹

Licensing of intra-state aviation services is administered respectively by:

- (a) New South Wales - Transport New South Wales
- (b) Queensland - Department of Transport and Main Roads
- (c) South Australia - Department of Planning, Transport and Infrastructure, and
- (d) Western Australia - Government of Western Australia Department of Transport.

Intra-state air services in Victoria, Tasmania, Northern Territory and the Australian Capital Territory are deregulated.²²

4.5 Contracting third parties

We have already noted above our concerns with any exclusion of a service provided by a third-party contractor for and on behalf of an airline or airport, where that service would be covered by the Framework if it was provided directly by the airline or airport, as the case

may be. The Consultation Paper makes express reference to two circumstances of contracting out of services where:

- (a) there is uncertainty as to whether and, if so, how, the service will be included in the Framework – namely “wet lease” arrangements²³, and
- (b) the service is expressly excluded from the Framework - namely security screening services²⁴.

Security screening services

The Consultation Paper provides no basis for the complete exclusion of security screening services from the Framework. We cannot identify any proper basis for that exclusion.

Airports are directly responsible for delivering aviation security services, including passenger screening. Airports contract third parties to provide those aviation security services. The Department of Home Affairs sets the broad requirements and outcomes for aviation security.²⁵

As with all other services, an airport (as the regulated entity) must be responsible where they contract out the provision of a service to another entity.²⁶ We urge the government to include security screening within the Framework as these services continue to be the source of significant issues resulting in complaints for people with disability.

If the government maintains the position to exclude security screening, we ask that the government clearly explains to the public, and the disability community in particular, the reasons why the exclusion is necessary.

Wet lease arrangements

As we understand it, a “wet lease” (in aviation) is a leasing arrangement where one airline provides an aircraft, complete crew, maintenance, and insurance (ACMI) to another airline, under the terms of a lease. The lessee airline pays based on hours operated.²⁷

We do not see any reason why any special consideration needs to be given to this type of arrangement under the Framework. For the purposes of the Framework, a wet lease is no different to any other circumstance where the airline contracts out the provision of a service to a third party. We do not understand why there is any need, as proposed in the Consultation Paper, to consider how wet lease arrangements will be handled based on the final scope of the regulatory framework.

AFDO supports wet lease arrangements being included in the Framework, with responsibility

for any airline service provided under a wet lease sitting with the lessee airline.

5. Q3: Accessibility services

At the outset, we disclose that AFDO is a “disability partner” of the Department in the co-design process, and is also a co-chair of the aviation-specific disability standards steering committee.

AFDO welcomes the decision by the government to carve out accessibility services available at an airport from the general requirement for activities to be regulated on the basis of a direct consumer relationship between the individual and the activity.²⁸ Of course, such a carve-out would not be needed if the government adopts our submissions to remove the concept of a consumer paying for a service from the Framework.

5.1 Definition of “accessibility services”

We are concerned that there is no clear definition of “accessibility services” proposed in the Consultation Paper and are equally concerned with other aspects of what is proposed in relation to “accessibility services” under the Framework.

The Consultation Paper notes that the government intends to ensure that appropriate protections are in place for “aviation consumers” with accessibility requirements during their **entire passenger journey**, from arriving at the airport ahead of a flight, to leaving the airport following baggage collection.²⁹

The reference to “aviation consumers” is directly inconsistent with the proposed carve-out of a direct consumer relationship between the individual and the activity.

Further, the Consultation Paper makes it clear that an airport accessibility service will be “geographically limited” to accessibility services available at **an airport**. This might ensure that accessibility services available **at an airport** (including kerbside drop-off, airline check-in, **and aircraft boarding** at the port of departure, and **deplaning**, baggage collection and leaving the airport at the destination) are regulated activities under the Framework.

However, this geographic limitation will necessarily exclude any accessibility services that are provided, or that need to be provided, on the plane, during **the actual journey**.

As proposed, it is incorrect to suggest that appropriate protections are in place for passengers with accessibility requirements during their **entire passenger journey**.

We are also concerned with the significant potential for inconsistencies to develop between

the requirements for accessibility services under the Charter and the mandated requirements of the aviation-specific disability standards under the DDA that are currently being co-designed by the Department with people with disability.

This is a particular risk given the proposed power of the Minister to make rules (through subordinate legislation) that clarify or reduce the types of services included as airport accessibility services.³⁰

To mitigate this risk, if the Minister is to have this power under the Framework, that power must only be exercised in consultation with the Attorney-General (or the Minister with the authority under section 31 of the DDA to make Standards under the DDA) and any change made pursuant to this power must be consistent with the aviation-specific disability standards under the DDA.

5.2 Additional minimum standards at regional & remote airports

AFDO supports the proposed Framework including airports of all sizes, including smaller regional and remote airports.

Travelling by air for people with disability in regional and remote areas presents a unique set of challenges compared to more urban settings. Additional minimum standards may be needed at regional and remote airports to accommodate for inadequate facilities that do not support people with disability who live in or travel to regional and remote areas.

Need for better facilities to facilitate embarking/disembarking

At regional airports, airbridges are not always available to facilitate embarking and disembarking an aircraft, so using external stairs is often required. This presents a major challenge when a passenger is using a mobility aid, however it also presents significant challenges to a passenger with an invisible disability. For example, a person living with MS who experiences symptoms such as balance issues, heat sensitivity or fatigue.

Requiring accessible services

Smaller airports in remote areas may have fewer support services, such as accessible transportation within the airport, assistance for boarding and disembarking, and accessible amenities.

More reasonable flight options

Limited options are available for the timing of flights, which are offered either very early in the morning, which can be a problem for people with disability in preparing to leave home at

early times, or late at night when assistance is less likely to be available at the airport.

Need for accessibility trained airport staff

Regional airports are likely to have fewer staff resources, and their staff may likely have limited training or experience in assisting travellers with disability. This can lead to potential challenges in communication, boarding, and providing necessary support. The lack of awareness can make it harder for staff to support people with hidden disability.

6. Q6: Role of ACPA

6.1 “Own motion” power

AFDO is pleased to see that the government proposes to give the ACPA powers to conduct “own motion” enquiries, including the power to enquire into matters to identify and address systemic problems and emerging issues.³¹

However, it is not clear from the Consultation Paper if the government also proposes to give the Minister a power to direct the ACPS to undertake an enquiry (similar to the position with the AHRC, under the AHRC Act³²). We urge the government to include this power in the Framework.

We also urge the government to include provisions in the Framework based on and similar to Division 4B (Functions relating to systemic discrimination) of the AHRC Act. This includes:

- (a) a definition of “systemic aviation passenger issues”³³
- (b) power to obtain information and documents³⁴
- (c) power to examine witnesses³⁵
- (d) penalties for failure to comply with a requirement to provide information or evidence³⁶
- (e) authorisation for disclosure of information or contents of documents³⁷, and
- (f) penalties for hindering, obstructing, molesting or interfering with a member participating in an inquiry or a person acting for or on behalf of ACPA, while holding an inquiry or carrying out an investigation³⁸.

6.2 Airline and airport complaint processes

AFDO welcomes the proposal in the Consultation Paper that ACPA will be responsible for ensuring airline and airport complaint processes are robust, accessible and transparent.³⁹

In order to ensure this, we strongly recommend that the Framework expressly includes requirements for airline and airport complaint processes to comply with the Australian standard AS 10002:2022. This standard provides a framework and guiding principles for organisations to manage customer complaints effectively, emphasising principles like commitment, fairness, and responsiveness, and outlines stages for planning, operation, and improvement of the complaint system.

In particular, the Framework must set out the following mandatory obligations of airlines and airports in respect of their complaints handling systems for the Framework:

- (a) to seek input from complainants, staff, and other stakeholders in designing the system⁴⁰
- (b) to make the process easy and provide clear, publicly available, accessible information about how to complain and what types of support are available,⁴¹ including who they can talk to if they are dissatisfied with how their complaint is managed or the outcome of it⁴², the external review or complaints process, and any relevant time limits.⁴³
- (c) to train and supervise staff, including clear guidance about which complaints they should escalate.⁴⁴ Staff training must also include:
 - (i) mental health first aid
 - (ii) disability confidence
 - (iii) cultural competence
 - (iv) trauma-informed approaches to complaint management, and
 - (v) enabling and managing storytelling by the complainant.
- (d) to adequately resource the complaints handling system, including:
 - (i) having enough trained staff to manage the volume and complexity of complaints
 - (ii) staff having adequate materials and equipment, to perform all necessary tasks⁴⁵
- (e) to monitor and report on the number or proportion of:
 - (i) complaints received
 - (ii) complaints addressed at the point at which they are made
 - (iii) complaints acknowledged after an agreed time
 - (iv) complaints finalised after a set time
 - (v) complaints referred to external dispute resolution agencies
 - (vi) repeat complaints or recurrent issues that have been complained about, and
 - (vii) improvements in procedures due to complaints⁴⁶

- (f) to audit regularly the complaint management system⁴⁷ and staff training in connection with the complaints handling system and obligations under the Charter, and
- (g) to ensure that if a complaint is lodged anonymously (in that it does not identify the complainant) but includes a way for the complainant to be contacted, to follow the usual steps of acknowledging the complaint and responding as appropriate.⁴⁸

6.3 Role in compliance auditing

AFDO supports the proposed role of ACPA in carrying out education and reporting functions to promote compliance and continuous improvement, and in promoting best practice conduct under the Charter.⁴⁹ In addition to these important roles, we believe ACPA can significantly influence compliance, better monitor performance, and identify systemic or potential future issues by also implementing a system of:

- (a) compliance audits of regulated entities by ACPA, and
- (b) regulated entities being required, on a regular basis, to satisfy ACPA that they continue to comply with all requirements of the Charter by certifying their compliance with the Charter in accordance with any guidelines or requests made by ACPA.

This also requires the Framework to include obligations on regulated entities, in addition to complying with the Charter, to ensure they:

- (a) implement appropriate systems and document procedures to comply with the Charter Code
- (b) report to ACPA on their operations and compliance with the Charter in accordance with the requirements of the Framework and any guidelines issued by ACPA, and
- (c) cooperate with any ACPA compliance audits.⁵⁰

6.4 Aviation-specific disability standards

Suggested role in compliance with aviation-specific disability standards

The Consultation Paper suggests that, as part of the co-design process for the aviation-specific disability standards under the DDA, consideration “could be given to a broader role for the ACPA with regard to compliance with” those disability standards.⁵¹

As far as we are aware, from our direct involvement in the co-design process, the current scope of the co-design process and the work that has been undertaken does not allow for, or envisage, any compliance role different to that already provided under the DDA.⁵²

We also note that specific issues raised by the DDA Review issues paper include:

- “providing the Australian Human Rights Commission with additional powers to enforce compliance with the Disability Standards may also be beneficial”
- consideration could be given to introducing similar reporting initiatives across the Disability Standards that is currently being considered for the Transport Standards. However, consideration would also need to be given to whether such a framework could apply in practice across all of the Disability Standards, or if each set of Standards should be treated differently, given each Standard varies in content and form, and
- if the AHRC could provide additional guidance to duty holders regarding how to self-report on the Disability Standards in disability action plans.⁵³

AFDO would be extremely concerned if responsibility for compliance or enforcement of the disability standards was shared between different regulators, or if the AHRC lost its role in respect of those standards. We are also concerned that ACPA will not have any knowledge or expertise in issues involving disability discrimination, or issues that are likely to arise under the disability standards.

We support the ACPA raising awareness of the disability standards. We oppose any regulator other than AHRC from being responsible for or involved in any compliance or enforcement roles for the disability standards.

7. Q7: Proposed functions and powers of ACO

7.1 “No wrong door”

The Consultation Paper acknowledges that other laws will continue to have effect alongside the proposed Framework. The Charter will not duplicate or cross-reference standards under other laws. The framework will complement existing consumer protections provided by the ACL.⁵⁴ We agree with this approach.

However, we are concerned that this has potential to create confusion and, as a result, dissuade passengers to proceed with a complaint.

There is also a significant likelihood that a complaint may contain a mix of issues or alleged contraventions of the Charter, the DDA, or the ACL. We note the proposal to give ACPA the power to refer matters to other regulators or bodies where appropriate,⁵⁵ and the recognition of the need to establish a framework for cooperation and coordination, to ensure “regulatory systems work efficiently and effectively together to minimise duplication and

regulatory overlap”.⁵⁶

We also note that in situations where a complaint encompasses multiple issues including some within and outside of scope, the government proposes that the ACO may accept the complaint and the complainant could provide evidence for issues outside the scope of the ACO **as contextual information** only.⁵⁷ If the ACO does not accept a complaint due to it being outside of scope, the ACO will, “wherever possible”, provide information to the complainant regarding other avenues available to resolve the complaint.⁵⁸

AFDO urges the Department to go further, to ensure the process is as easy to use and as accessible as possible.

The Framework must provide a “no wrong door” complaints process, that quickly resolves issues with jurisdiction and provides the ability of each regulator to refer directly to each other, and obligations on all of the regulators to co-operate in any complaint procedure or investigation.

“No wrong door” is a concept that acknowledges it can be hard for people to know where they must direct their complaint. Agencies must work collaboratively to help people find the right complaint pathway and avoid people getting stuck, frustrated, or lost on a “referral roundabout”. To the maximum extent possible, complaints that fall outside an agency’s area of responsibility need to be recorded as a complaint and resolved by assisting the person to access the correct complaint pathway as seamlessly as possible.

For agencies with high levels of cross-over complaints

..the ideal to strive for is a referral system where, rather than sending a person to a new complaint pathway, complaints are transferred directly to other agencies (for example, under a memorandum of understanding).⁵⁹

A ‘No Wrong Door’ approach means that every door in the public support service system should be the right door, with a range of services being accessible to everyone from multiple points of entry. This commits all services to respond to the individual’s needs through either providing direct services or linkage and case coordination, rather than sending a person from one agency to another.

Organisations must work together to:

- handle complaints efficiently
- inform complainants about who is responsible for their concern, and

- explain the complaints process to complainants.

Where possible, one organisation needs to be responsible for ongoing communication with the complainant.

This approach requires all the possible relevant regulators to establish business rules or arrangements with each other to:

- (a) make clear who leads certain matters
- (b) involve all relevant organisations
- (c) share relevant information appropriately (with the complainant's express and informed consent, where relevant)
- (d) plan for conflict resolution between organisations
- (e) discuss and agree on processes and timeframes
- (f) make decisions in line with agreed processes and timeframes, and
- (g) record and implement all agreed decisions.

Where organisations frequently need to work together, the Framework must also consider:

- (h) the best ways to improve public knowledge about which organisation to contact for specific issues
- (i) how to include feedback about complaints in regular meetings or correspondence, and
- (j) how to record information about complaints involving multiple organisations.

As a minimum (although, not our preferred option), the Framework must include provisions like those in the AHRC Act dealing with transfers of matters to other agencies.⁶⁰

7.2 Process for making a complaint

A streamlined and accessible reporting mechanism for travellers to make complaints, but also to report issues under the Framework (where a traveller does not wish to make a complaint but raise awareness of an issue or potential issue) must include a dedicated helpline, online portal, and mobile app, allowing for the reporting and collation of data.

AFDO strongly recommends that the process for making a complaint is modelled on the process under the AHRC Act⁶¹, and includes the ability for a complaint to be lodged by a person aggrieved by the alleged acts, omissions or practices:

- (a) on that person's own behalf, or

- (b) on behalf of that person and one or more other persons who are also aggrieved by the alleged acts, omissions, or practices.

It must also allow for a complaint:

- (c) by two or more persons aggrieved by the alleged acts, omissions or practices:
 - (i) on their own behalf, or
 - (ii) on behalf of themselves and one or more other persons who are also aggrieved by the alleged acts, omissions, or practices, or
- (d) by a person on behalf of one or more other persons aggrieved by the alleged acts, omissions, or practices.⁶²

However, a representative complaint may only be lodged if:

- (a) the class members have complaints against the same person
- (b) all the complaints are in respect of, or arise out of, the same, similar, or related circumstances,
- (c) all the complaints give rise to a substantial common issue of law or fact
- (d) the class members are described or otherwise identified (but it is not necessary to name them or specify how many there are), and
- (e) the nature of the complaints made on behalf of the class members is specified.⁶³

A representative complaint may be lodged without the consent of class members.⁶⁴

We also urge the government to include in the Framework the requirement for the ACO to take reasonable steps to provide appropriate assistance to a person, if it appears to the ACO that:

- (a) a person wishes to make a complaint under subsection, and
- (b) the person requires assistance to formulate the complaint or to reduce it to writing.⁶⁵

7.3 “Efficiently resolve” complaints

The Consultation Paper sets out the role of the ACO as providing a fair, accessible and independent ADR service to users of airline, airport, and accessibility services.⁶⁶ However, the final design of the ACO's complaint handling process is “dependent on available resources and funding”.⁶⁷

This approaches the issue in the wrong way. Rather than setting the funding and then

designing a complaints handling process to fit that funding envelope, AFDO urges the government to design a best-practice, efficient, accessible, and fair system, calculate the funding required to resource and operate that system effectively, and then determine the best means to fund that system through an industry levy.

We are also concerned with the process for handling a complaint⁶⁸ and, in particular, the time involved. We are pleased to see that the Consultation Paper acknowledges that the requirement to complain directly to the regulated entity may be bypassed “in limited circumstances”.⁶⁹ However, no further details are provided about the government’s current thinking, or any proposal for, the “limited circumstances” in which this could occur.

Unless these unspecified limited circumstances are present, the regulated entity must **respond** to the complaint within 30 days.⁷⁰ We note this is not an obligation to take steps to seek to resolve the complaint within that period, but to merely “respond” to it.

There must be a process to allow the speedy resolution of matters that are time-critical, and that substantially adversely affect the life, health, or well-being of a person. For example, where an airline has lost, destroyed or damaged a mobility device carried as baggage on a flight, the passenger must have immediate, urgent recourse to resolve this issue. The passenger cannot wait 30 days for a response.

We are also concerned with the proposed requirement of Stage 3, requiring the ACO, on receipt of a complaint, to **refer the complaint back to the airline/airport**, which has a **further** set period to reconsider and resolve the complaint, prior to case management by the ACO.⁷¹

We fail to see the relevance of or reason for this extra step. We are very concerned that this will only encourage regulated entities not to resolve the matter directly with the complainant, in the knowledge that it can buy more time, and string matters out, by waiting for the ACO to refer the matter back to it for further consideration. Stage 3 adds nothing to the process. It creates inefficiencies and extra burdens (including that of extra time) on the complainant.

Endnotes

- ¹ Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts, Aviation Consumer Protections Consultation Paper, Commonwealth of Australia, 8 September 2025, retrieved from <https://www.infrastructure.gov.au/department/media/publications/aviation-consumer-protection-consultation-paper>, last accessed 3 October 2025.
- ² Note 1, p. 14.
- ³ Section 11A(4), Air Navigation Act 1920 (Cth)
- ⁴ Note 1, p. 9
- ⁵ Regulation 77A, Competition and Consumer Regulations 2010 (Cth).
- ⁶ Section 3(10), ACL.
- ⁷ Note 1, p. 8.
- ⁸ Note 1, p. 25.
- ⁹ Note 1, p. 18.
- ¹⁰ Bunnings Group Ltd v Laminex Group Ltd (2006) 230 ALR 269; Carpet Call Pty Ltd v Chan (1987) ATPR (Digest) 46-025.
- ¹¹ Australian Competition & Consumer Commission, Personal services An industry guide to the Australian Consumer Law, Commonwealth of Australia, 2013, retrieved from <https://www.accc.gov.au/system/files/Personal%20services%20-%20an%20industry%20guide%20to%20the%20Australian%20Consumer%20Law.pdf>, last accessed 1 October 2025.
- ¹² See, for example, King v Jetstar Airways Pty Limited [2012] FCAFC 115.
- ¹³ Note 1, p. 9. Footnote 5.
- ¹⁴ Note 4.
- ¹⁵ Note 1, p. 27.
- ¹⁶ Note 2.
- ¹⁷ Note 1, p. 9. Footnote 6.
- ¹⁸ Note 1, p. 28.
- ¹⁹ Note 18.
- ²⁰ Note 18.
- ²¹ Section 51(i), Australian Constitution.

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- 22 Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts, Regional and Remote Aviation, retrieved from <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/regional-remote-aviation>, last accessed 29 September 2025.
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- 25 Department of Home Affairs, "Security screening at airports", Commonwealth of Australia, retrieved from <https://www.homeaffairs.gov.au/about-us/what-we-do/travelsecure/security-screening-at-airports#>, accessed 30 September 2025.
- 26 Note 2.
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- 28 Note 18.
- 29 Note 18.
- 30 Note 18.
- 31 Note 1, p. 17.
- 32 Section 35M(a), AHRC Act.
- 33 Section 35L(2), AHRC Act.
- 34 Section 21, AHRC Act.
- 35 Section 22, AHRC Act.
- 36 Section 23, AHRC Act.
- 37 Subsections 24(3) and (4), AHRC Act.
- 38 Section 26(1), AHRC Act.
- 39 Note 9.
- 40 Standards Australia, AS 10002:2022 (n 2).
- 41 Standards Australia, AS 10002:2022 (n 2), p 20.
- 42 Standards Australia, AS 10002:2022 (n 2), p 7.
- 43 Standards Australia, AS 10002:2022 (n 2) p 40.
- 44 Standards Australia, AS 10002:2022 (n 2), pp 38–39
- 45 Standards Australia, AS 10002:2022 (n 2), p 13.
- 46 Standards Australia, AS 10002:2022, (n 2) p 54.
- 47 Standards Australia, AS 10002:2022, (n 2) p 56.
- 48 Standards Australia, AS 10002:2022 (n 2), p 3.

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- 49 Note 1, pp.17-18.
- 50 For an example of a regulatory model where the regulator conducts compliance audits and regulated entities have these additional obligations, see Private Health Insurance Code of Conduct, retrieved from <https://privatehealthcareaustralia.org.au/wp-content/uploads/Code-of-Conduct-2016.pdf>, accessed 3 October 2025.
- 51 Note 18.
- 52 Section 32, DDA and Part IIB, AHRC Act.
- 53 Attorney-General's Department, Disability Discrimination Act 1992 Review issues paper, Commonwealth of Australia, 1 August 2025, p. 92, retrieved from <https://www.ag.gov.au/sites/default/files/2025-08/DDA-Review-Issues-Paper.PDF>, last accessed 30 September 2025.
- 54 Note 1, p. 23.
- 55 Note 9.
- 56 Note 54.
- 57 Note 8.
- 58 Note 1, p. 26.
- 59 Commonwealth Ombudsman, Better Practice Guide to Complaint Handling 2023, Commonwealth of Australia, 2023, retrieved from https://www.ombudsman.gov.au/__data/assets/pdf_file/0025/290365/Better-Practice-Complaint-Handling-Guide-2023.pdf, last accessed 3 October 2025.
- 60 For example, section 46PZ, AHRC Act.
- 61 Part IIB, AHRC Act.
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- 67 Note 1, p.29.
- 68 Note 67.
- 69 Note 1, p. 29, footnote 11.
- 70 Note 1, p. 30.
- 71 Note 67.