

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 – subordinate legislation (including the Aviation Consumer Protections Charter) [SEC=OFFICIAL]
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Attachments: [response-to-aviation-consumer-protections-round-2-subordinate-legislation-october-2025.pdf](#)

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Submitted by: Anonymous

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Step 1: Your submission

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No

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Aviation Consumer Protections Consultation (Subordinate Legislation) - BAC Response

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- [response-to-aviation-consumer-protections-round-2-subordinate-legislation-october-2025.pdf](#) (196.47 KB)

Step 2: Contact details

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Consultation name

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

OFFICIAL

24 October 2025

Stephanie Werner
First Assistant Secretary
Department of Infrastructure, Transport,
Regional Development, Communications,
Sport and the Arts
GPO Box 594
Canberra ACT 2601

Dear Stephanie,

RE: Aviation Consumer Protections – Consultation (Subordinate Legislation)

Thank-you for the opportunity to provide input to the Aviation Consumer Protection Framework, and in particular, considerations for subordinate legislation to support this framework.

Similar to our feedback on the primary legislation component of the Scheme, while we note the questions posed by the Department in its Consultation Paper, we consider there to be important factors in addition to these questions. We have therefore sought to provide broader feedback to help inform thinking around key considerations for the development of subordinate legislation.

Ombuds Scheme Charging Framework

We understand the motivations behind a separate levy and fee for the Ombuds service model. The ongoing viability of the scheme rests on the ability of the Ombuds and an enforcement agency to adequately resource its functions, while ensuring the variable nature of a complaints function is appropriately expanded or contracted in line with demand. While the set levy provides stability and certainty for the scheme, we would caution against the use of a variable fee (or variable levy, as described) given the inherent costs and complexities of administering individual fees across numerous industry participants on a monthly basis. Rather, we would recommend the use of a yearly levy, supported by data from the preceding 12 months. Where there is an over-collection of a levy relative to complaints against a participant, this can be reflected in the proceeding year's levy (and vice versa).

The use of a levy model is also better suited where the demand for services (and the effect of the provision of these services on costs) is unknown, as will be the case with the Aviation Ombuds Scheme. We note a high-level cost recovery model has not been provided as part of the Department's consultation. As such, several inputs remain unresolved to ensure the charges raised by the Department reflect the efficient costs of providing services, including:

- Establishment costs, including advisory, administrative and operational
- Ongoing operational costs, including staffing, processing, investigations and consultation; and
- Governance, including auditing and evaluation, annual reporting, compliance and planning.

We presume further clarification on the above items will be a function of the scope of the Ombuds Scheme, the powers conferred upon ACPA (or similar authority), and the interaction between other complaint bodies (e.g. Human Rights Commission). Within this context, although the Canadian scheme (as outlined in the Consultation Paper) may be illustrative of the volume of complaints, we do not think it should be instructive for an Australian context, given nuances between each scheme.

An alternative approach for the establishment of a cost recovery framework could be for a levy to be deferred for the first 12 months of the scheme, allowing the Department to collate data and carefully integrate Ombuds/ACPA functions across the sector. Levies could then be set based on a more comprehensive evidence base, with the establishment costs and initial operation of the Scheme incorporated into the proceeding year's levies. This approach could help avoid issues with the Canadian model, with high demand leading to an extensive backlog of complaints (and in turn, unbudgeted costs). Without a clear guide on the above-mentioned matters, a fee based model will present a considerable financial risk to industry, which as described, will be expected to fully fund the establishment and operation of the Scheme.

Beyond the levy structure, it is essential to have safeguards that exclude complaints which are frivolous, repetitive, unrelated to the Charter, or better handled by the Australian Competition and Consumer Commission or Human Rights Commission. While we agree responding to general inquiries is part of any consumer facing role, we do not share the Department's view that ineligible matters are "usually linked to the behaviour of the regulated entity." This does not reflect Brisbane Airport's experience, where complaint pathways have been used in a manner that does not reflect the intent of our complaints management framework.

As for cost recovery models for the ANO function, we again reiterate our position that private entities should not be funding reviews of government administration and service delivery. As highlighted in our previous correspondence with the Department, BAC outlays considerable funds on Master Plans, Major Development Plans, Environmental Impact Statements and Environmental Approvals, all of which are required for the airport to develop and operate in line with the objectives of the *Airports Act 1996* (Cth). We would encourage the cost of regulating industry be considered through these existing regulatory mechanisms.

Accessibility/Disability Matters

Related to the above, ensuring a clear role for the Ombuds on Accessibility/Disability matters is essential to upholding public confidence in the Scheme. The establishment of the Ombuds, and the incorporation of Disability/Accessibility matters within their scope, needs to be carefully calibrated and co-ordinated to ensure passengers are provided the right forum to reach a resolution on an issue. BAC notes a multi-layered and overlapping approach will not only cause confusion to system users, but also risk 'forum shopping' by consumers, driving administrative volumes (and therefore costs) across the system.

Airlines and airports are required to comply with the *Disability Discrimination Act 1992* (Cth), including the *Disability Standards for Accessible Public Transport 2002* (Cth) (*Transport Standards*) and *Disability (Access to Premises – Buildings) Standards 2010* (Qld). The application of Aviation Specific Disability/Accessibility Standards – if not aligned and proportionate – risks adding further complexity to the regulatory framework, making compliance increasingly challenging and resulting in an inconsistent passenger experience through airport facilities.

We strongly support the Department's view there would need to be arrangements with a range of other entities and ACPA/ACO to establish a framework of co-operation and co-ordination, especially to minimise duplication and regulatory overlap. However, the nature of these arrangements cannot be finalised until the appropriate standards are considered and developed. BAC encourages DITRDSCA to consider a 'phased' approach to the scope of the Ombuds. The first phase could focus on passenger rights from a consumer perspective, with Scheme participants continuing to develop Customer Service Charters and Disability/Accessibility Charters with DITRDSCA, in line with its consultation on these matters. Disability/accessibility matters can also continue to be heard by the Human Rights Commission in the interim. The second phase can then incorporate an expanded Disability/Accessibility scope, with a clear delineation and scope for each relevant complaints body.

Complaint Resolution

BAC supports the Department's staged approach to resolving complaints, with the aim to resolve a complaint as early in the stage as possible (and avoid escalation). In moving to Stage 3, we would recommend the ACO provide preliminary advice on a matter (as part of the 'refer back' process). Preliminary advice will provide guidance from which consumers and scheme members can have the best opportunity to resolve a complaint, avoiding the need for case management. We believe targeting resources at this stage of the process will help to avoid increased resource utilisation and administrative costs at its later stages.

BAC also notes airports will be required to have an accessible and documented complaint resolution process (CRP). The development and application of this process will need to have a level uniformity across all airports. This is to ensure a seamless passenger and consumer experience, and to provide consistency in any determination of the documented CRP to a consumer complaint. We would therefore encourage the Department to work with industry to develop a reference document with clear expectations on the contents and standards of a CRP. The development of a reference document could also help define key operational expectations of a CRP, including reporting, tracking, investigation standards, and accessibility accommodations (e.g. hearing augmentation and language support) amongst other matters.

We continue to support the Department's objectives for a better passenger and consumer experience for air travel. We remain open to co-operating with the Department and the broader aviation sector to introduce a scheme that provides real benefits for the travelling public, while acknowledging the complexities of the aviation ecosystem. If you have any questions regarding this submission, please contact Rishi [REDACTED] or [REDACTED]

Kind regards

A large black rectangular redaction box covering the signature area.

Henry Tuttiett
Executive General Manager