



Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts
GPO Box 594
CANBERRA ACT 2601

23 October 2025

Dear Sir/Madam

Emirates welcomes the opportunity to respond to the Department on its Aviation Consumer Protections Consultation Paper. This submission complements our 6 October 2025 letter on the primary legislation, and addresses the subordinate legislation consultation questions 4, 5, 8 and 9 identified in Appendix C (p.56).

Emirates supports a framework that delivers clear, enforceable minimum standards for airline services, airport services, and airport accessibility services. At the same time, we advocate for the framework, and the Charter in particular, to provide legal certainty and clarity. The Charter should provide complete transparency and legal certainty for both consumer and regulated entities. Experience in other jurisdictions around the world shows that broad or ambiguous drafting can generate interpretive uncertainty and litigation over time.

Alignment with international consumer passenger rights regimes and treaty liabilities, most notably the Montreal Convention of 1999 (“MC99”), is essential for ensuring the effective operation of the proposed Australian framework. Subordinate legislation should therefore be outcome-based, harmonised where appropriate with leading regimes, and coherent with MC99 so that standards of treatment and care do not conflict with treaty-based rules on damages.

We also note the importance of a pragmatic commencement and transition period to accommodate systems, operational, contractual, data-reporting and training readiness across airlines, airports, and ticket agents; our recommended approach is outlined in the body of this submission.

Below we outline our feedback on the specific questions:

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?*

Emirates supports the development of a comprehensive and enforceable Charter that clearly defines responsibilities across all participants in the air travel ecosystem. To be fully effective, the Charter should extend its reach beyond airlines and airports to encompass government

authorities and contracted service providers whose operational decisions directly affect passengers.

Travel agents, corporate travel-management companies (TMCs), online travel agencies (OTAs), consolidators, and global distribution systems (GDS) together form a crucial part of the aviation distribution chain. Omitting these stakeholders may undermine the Charter's credibility by forcing airlines to bear the costs of reputational and financial events beyond their control. Travel agents and online booking platforms therefore should be categorised as regulated entities for the limited purpose of refund and communication obligations, particularly when they are the merchant of record, and require accurate information transmission (e.g. passenger contact and service request information). The Charter should also clarify that where third-party distribution partners control essential data, airlines cannot reasonably be held liable for non-compliance arising from the partner's failure to share or maintain that information.

Regarding accessibility services (airports and airlines), Emirates supports inclusion of airport accessibility services within the Charter's scope. Guidance should also emphasise hidden disabilities and require periodic quality-of-service reporting, strengthening accountability through transparent metrics.

These refinements would transform the Charter from a primarily carrier-focused instrument into a balanced, system-wide model of consumer protection suited to Australia's complex aviation environment.

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 Charter sets a strong foundation but requires targeted refinements to ensure obligations are legally certain, operationally deliverable, internationally coherent, while at the same time remaining workable for Australian operations:

- Territorial application and alignment with international regimes:

International flights operate across multiple jurisdictions and are already subject to various international conventions and other consumer protection regimes. Extending the Australian Charter to all international services, particularly inbound flights, creates regulatory overlap, duplication, and legal uncertainty. Applying Australian-specific remedies to inbound flights that are already covered by international regimes would create overlapping or conflicting obligations, confusing passengers and increasing administrative and enforcement burdens. This underscores the need for a clearly defined territorial limit.

- Allocation of responsibilities between marketing and operating carriers:

As noted in our first submission, modern air travel frequently involves multi-carrier itineraries operated under codeshare, interline, or alliance arrangements. The Consultation Paper's focus on a *direct consumer relationship* leaves uncertainty about how obligations would apply when a passenger purchases a ticket from one airline (the *marketing carrier*) but travels on a partner carrier (the *operating carrier*).

The Charter should codify an operating-carrier rule, consistent with international norms, that assigns operational responsibilities to the operating (disrupting) carrier. These include care, accommodation, re-booking, assistance at connecting points, and passenger communication within the operational window. Contractual responsibilities, including passenger communication outside the operational window, refunds and record-keeping, should rest with the marketing carrier.

This allocation reflects established international practice and ensures that obligations are carried out by the entity best positioned to act. It provides clarity for passengers, consistency for regulators, and practical enforceability across codeshare and interline networks.

- Clarity and enforceability of specific Charter clauses:

Clause 1(g): Booking error corrections: Clause 1(g) states that an airline must provide, free of charge, “reasonable corrections of booking errors” that do not imply a change of times, date, itinerary, or passenger, and it applies prior to the day of travel. To avoid misallocation and misuse, the instrument should clarify that, before travel, the issuing agent that created and controls the booking record (the airline that issued the ticket or a third-party travel agent, acting in accordance with the airline’s published authority and fare rules) is responsible for making such corrections. In addition, “reasonable corrections” should be defined in guidance as narrow, identity preserving fixes that do not alter the passenger, itinerary or other substantive elements, for example, minor name spelling corrections to match travel documents, honorific or title updates, and correction to contact details, applied within a short and practical window (for example, within 24 hours of ticket issuance). Broader changes should proceed under standard change and reissue rules. This keeps the scope aligned with the Charter’s existing limitations on changes, allocates responsibility to the party controlling the record prior to travel, and provides clear boundaries that minimise dispute risk.

Clause 2(b): Seating of children with parents, guardians or carers: Emirates supports facilitating family seating but notes that the draft consultation document conflates booking and check-in stages and could be interpreted as prohibiting all advance-seat-selection fees. Operationally, dynamic inventory, aircraft changes, and split-PNRs make guaranteed adjacency at booking unworkable, particularly across codeshare itineraries.

The draft Charter proposes that airlines seat children under 14 years of age adjacent to an accompanying parent, guardian, or carer. This threshold is broader than the internationally recognised IATA definition (persons aged 2-11 years at the commencement of travel). For clarity and consistency, Emirates suggests that the Charter specify whether this age threshold is intended solely for seating purposes or whether it establishes a broader definition of “child” within the instrument.

The Charter should also confirm that family-seating obligations apply at the point of check-in through automatic allocation without charge, and that airlines are required to make all reasonable efforts to seat children under 14 adjacent to accompanying adults while preserving the option of paid advance-seat selection for families who choose to book in advance.

Clause 3 (definitions): “Cancellation”: Emirates supports a clear, uniform definition but cautions that the current wording, “a scheduled air service with a **specific flight number...** which is not operated” may misclassify flights that are re-numbered due to an extended delay yet still operate on the same routing the following day. Airline systems cannot host duplicate flight numbers for the same city-pair on one day; re-designation (e.g. EK 415 → EK 8415) is essential to maintain data integrity and enable re-accommodation. Treating such operations as *cancellations* would impose different obligations where full carriage has occurred, distorting operational reporting, and creating confusion.

Tarmac delays – when the “clock” starts and stops: Table 4 establishes two escalating thresholds for tarmac delays: when a delay reaches 45 minutes, after which airlines must provide amenities and communications (but no option to disembark); and at 2 hours, after which passengers must be offered the option to deplane. These timeframes are significantly shorter than comparable regimes internationally. Emirates recommends that a tarmac delay should be defined as the period during which passengers can no longer deplane/disembark. The “tarmac delay clock” should begin when the final cabin door is closed and stops once when a safe opportunity to disembark is again provided.

Passenger care obligations should be triggered at 90 minutes of a tarmac delay, with delay thresholds aligned with the U.S. Department of Transportation requirements: refreshments by two hours, and an option to disembark by three hours for domestic and four hours for international flights, unless the pilot in command determines that safety, security or air traffic control constraints prevent disembarkation or take-off is imminent (within 45 minutes).

Throughout any tarmac delay, passengers should have access to toilets, ventilation, heating and cooling, communications (where feasible), and should receive medical attention if required, unless the pilot-in-command determines that safety or security considerations preclude providing such services.

Delay thresholds and passenger assistance: Table 4 obliges carriers to provide food and drink vouchers after only a one-hour delay. This threshold is significantly more onerous than comparable regimes and operationally impractical. To ensure consistency with international norms, the Charter should adopt delay categories beginning at two hours rather than one. A one-hour trigger is not only out of step with other jurisdictions but may also prolong delays in practice. The issuing of vouchers for several hundred passengers within the first hour, and directing them to concession areas, can create congestion away from the gate, delay re-assembly for boarding, and disrupt pre-departure coordination. These effects can extend turnaround times and impede timely departure, ultimately undermining passenger welfare and the objective of reducing overall disruption.

Accommodation for extended delays (6-13 hours): Emirates supports the principle of providing accommodation where a delay results in an overnight stay and the disruption is within the airline’s control. However, as currently drafted, Table 4 appears to require hotel accommodation for all delays between six and thirteen hours, regardless of whether the delay extends overnight. This departs from established global standards and is not operationally proportionate. Emirates recommends that hotel accommodation be provided by the airline

only when a delay causes an overnight stay. For same-day extended delays, airlines should instead provide meals, refreshments, and communication facilities at the airport.

Personal item and car-parking vouchers (Footnote 35 and 36): Footnote 35 (personal item vouchers for delays exceeding three hours) and Footnote 36 (car-parking reimbursement) introduce new obligations that are without precedent in international regimes, and which are inconsistent with the MC99 framework. Under Article 19 of MC99, carriers are liable only for proven, direct economic loss caused by delay, subject to the limits under Article 22. International practice treats such losses as post-event reimbursement claims, not automatic entitlements. Automatic provisions of vouchers for clothing, toiletries, or parking would create open-ended financial exposure and inconsistency between statutory entitlements and treaty-based limits.

Rebooking or refund for extended delays: The proposed obligation to offer rebooking or a refund after a three-hour delay, whether measured at departure or arrival, does not distinguish between departure-sector delays and the passenger's arrival at the final ticketed destination. As drafted, passengers could be offered rerouting or cancellation even where their overall journey remains unaffected. For example, a passenger with a six-hour connection who departs three hours late but still arrives at the final destination on schedule would technically qualify for remedies under the current drafting, even though the delay caused inconvenience rather than a material travel disruption.

Emirates recommends that rebooking and refund entitlements be based on the delay at the final ticketed destination, not solely on the initial departure time. Passengers experiencing departure-only delays should continue to receive care and assistance consistent with Table 4, while rerouting or refund should apply only when the delay is expected to cause a material change to arrival time or onward travel. This ensures that remedies correspond to the actual impact on the journey, acknowledges passenger inconvenience, and aligns the Charter with international practice.

Terminology – “Delay”, “Disruption”, and “Unreasonable Delay”: The draft Charter uses several related terms: delay, disruption, and unreasonable delay, sometimes interchangeably and without defined thresholds. This lack of precision risks inconsistent interpretation by carriers, passengers, and the regulator. From an airline-management standpoint, these distinctions determine which data field, event code, and message type are generated in global aviation systems (IATA AIDX and IROPS messaging). Ambiguity will therefore lead to inconsistent reporting, enforcement, and consumer messaging.

Emirates recommends adopting a clear definitional hierarchy:

- Disruption: umbrella term encompassing any deviation from schedule, including delay, cancellation, or involuntary denied boarding.
- Delay: quantified deviation from scheduled departure or arrival times, with tiers of entitlement (e.g., care, rebooking, refund) as set out in Table 4.
- Cancellation: non-operation of a scheduled service in any form.

This approach mirrors other international passenger rights regimes, avoids duplicative terminology and supports consistent reporting and enforcement.

Similarly, for short- vs long-Haul international flights, the definitions section (p. 48) introduces short-haul international and long-haul international without specifying objective criteria. This omission could cause inconsistent classification of obligations, particularly for routes near threshold ranges (e.g. Sydney–Christchurch vs Sydney–Dubai).

Baggage – consistency with MC99: While Emirates supports the inclusion of baggage within the Charter, for international carriage the liability for damages arising from the loss, damage or delay of baggage is governed by MC99. To avoid overlap and consumer confusion, the Charter should confirm that claims for damages are determined by MC99 (including the option of special declaration of interest at check-in), and that Charter standards complement rather than modify the treaty framework. In parallel, the Charter can set clear operational expectations: prompt tracing, timely updates, and practical interim assistance (e.g. loaner devices, urgent repairs, or temporary replacements with equivalent functionality where practicable) to improve outcomes without creating parallel damages entitlements. This keeps Section 4: Baggage requirements coherent with Australia’s consideration of international obligations.

Consistent with international practice, regimes in the EU, the U.S., and Canada administer baggage matters for international carriage in harmony with MC99’s liability-for-damages framework, ensuring that consumer standards operate alongside, rather than in place of, the Convention.

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?*

Emirates supports cost recovery for the ACPA/ACO via an annual levy plus a variable per matter levy (complaints/investigations), mirroring models flagged in the Consultation Paper and other Australian ombuds schemes. A blended, evidence-based levy design, combining (i) an annual base levy banded by passenger volume and nature of operations (domestic/international) with (ii) a per-matter variable component indexed to handling tier, best aligns charges with ACPA/ACO workload, and minimises cross-subsidy.

Embedding governance safeguards (Minister-set banded rates, annual Cost Recovery Implementation Statement (CRIS) publication and consultation, mid-year adjustment where outturn diverges, and ex-post transparency on cost drivers) ensures predictability, proportionality, and accountability. This model is consistent with the Consultation Paper’s charging principles and provides clear incentives for resolution. We would recommend further modelling and engagement with industry be undertaken before key decisions are made in this area.

Question 9 – *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?*

The consultation paper frames entitlements in Table 4 as a “food and drink voucher.” To avoid prescriptive rigidity and to align with international practice, the subordinate instrument should state the outcome (“meals and refreshments provided”). Airlines should be permitted to meet this requirement through vouchers, carrier-arranged catering, lounge access (for eligible

passengers), or reimbursement where voucher distribution is impractical (e.g. mass disruptions). This outcome-based approach keeps the obligation clear while allowing flexible delivery suited to local operating conditions.

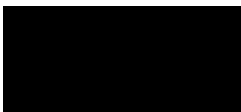
To remain workable and consistent with international comparators, Emirates recommends that the first assistance trigger occur at or beyond two hours, retaining Table 4's subsequent tiers. An outcome-based duty of care, "meals and refreshments provided", paired with flexible delivery and a practical first trigger at ≥ 2 hours provides meaningful passenger care that can be implemented effectively at scale.

Feedback from Emirates Airport Services Managers in Australia also indicates that, depending on the time of departure, many concession outlets are closed or offer limited options. Airlines, by contrast, often have agreements with local caterers and are therefore best placed to provide food and beverages directly. Maintaining an outcome-based requirement rather than voucher-specific is therefore more practical, ensures passengers can actually receive assistance and better supports overall passenger welfare.

Commencement and transition: systems and operational readiness. Emirates recommends that the Charter commence 60 days after registration, with phased compliance over 6-12 months to accommodate systems changes, operational and contractual readiness, data-reporting, and staff training across airlines, airports and ticket agents. By way of comparison, United States rulemaking has prescribed implementation windows of 60 to 365 days with staged milestones, Canada's Air Passenger Protection Regulations entered into force in two tranches approximately five months apart, and the European Union's Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006 used deferred commencement with staged application before obligations took effect. This approach is consistent with leading jurisdictions and promotes orderly, nationally consistent implementation while delivering consumer benefits promptly.

Thank you for the opportunity to comment on the Charter and framework, and we would be happy to respond to any further questions the Department may have.

Yours faithfully

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Sophie Rice

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