

27 February 2025

Aviation Industry Ombuds Scheme Division
Department of Infrastructure and Transport
GPO Box 594
CANBERRA ACT 2601

By [email: aviationcustomerrights@infrastructure.gov.au](mailto:aviationcustomerrights@infrastructure.gov.au)

Submission on draft Aviation Customer Rights Charter

Air New Zealand welcomes the opportunity to submit on the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) consultation on the draft Aviation Customer Rights Charter (the Charter). As New Zealand's national carrier, we are committed to ensuring a competitive, efficient, and customer-focused global aviation sector.

This submission focuses on the need for an effective Charter that provides clarity for passengers and operators alike and considers the complex nature of the aviation ecosystem by aligning with existing global regulations wherever possible.

Air New Zealand supports both IATA and A4ANZ's submission on the Charter where referred to below and provides specific commentary on the proposed rights in the Charter below:

Proposed Right 1: Aviation industry customers have the right to be treated with dignity and respect, in an accessible and inclusive environment

Air New Zealand is committed to ensuring safe and accessible air travel for passengers with disabilities, including their right to dignity and respect. We recognise the need for concrete actions to remove barriers and welcome ongoing reforms to the Disability Standards for Accessible Public Transport, as well as the introduction of aviation-specific Transport Standards.

Air New Zealand looks forward to further collaborating with the Department to help inform the disability standards as they are developed, ensuring they are effective, safe, technically and operationally feasible, and well aligned with global ICAO standards to facilitate seamless global journeys. Travel insurance remains the best way for passengers to protect themselves comprehensively, in particular for disrupts outside of the control of airlines such as unforeseen personal events or health related issues.

Proposed Right 2: Aviation industry customers have the right to accurate, timely and accessible information and customer service

Air New Zealand supports the rights of passengers to accurate, timely, and accessible information and is committed to providing clear, simple, and transparent terms and conditions on its website and within its conditions of carriage.

Challenges can and do arise in communicating delays and cancellations, particularly when passengers book through third parties. In such cases, airlines will communicate directly with the travel agent, and they may fail to relay this communication to the passenger. As 90% of corporate travel and 70% of international travel is booked through travel agents, according to the Australian Travel Industry Association's 2023 submission on

the Aviation Green Paper, it is essential that the final Charter appropriately assigns responsibility to travel agents.

Proposed Right 3: Aviation industry customers have the right to prompt and fair remedies and support during and after cancellations, delays and disruptions

While Air New Zealand supports this right in principle, we have concerns about the unintended consequences of Right 3 as currently defined. We encourage the Department to engage with airlines to understand existing global consumer protections following cancellations, delays, and disruptions. Key terms such as *regular updates*, *assistance to rebook*, *time-dependent flights*, and *reasonable replacement flight* require further clarification in the legislative framework to ensure expectations are clearly set out.

Before implementation, we recommend the Department work with the industry to clearly define which delay and cancellation reasons are within an airline's control and which are not, with appropriate classification for safety-related disruptions. For example, Air New Zealand's conditions of carriage list the following circumstances that are not within its control: a weather event or conditions, public health event (including epidemic / pandemic), airport or facility closures, air traffic control event, medical emergencies, strike, terrorist act, governmental, regional or local authority restrictions.

Air New Zealand accommodates passengers during delays as outlined in the proposed rights; however, lounge access remains subject to eligibility and capacity constraints, as such we recommend against prescribing this level of detail. Additionally, we recommend Right 3 be clarified to only apply to delays or schedule changes on the day of travel.

Air New Zealand provides further commentary on what proposed Right 3 means for the system below:

If a flight is disrupted or delayed for more than 3 hours, for reasons within the airline's control, customers should, at no cost to the customer, receive:

- *assistance to rebook with original or alternative airlines, without fees*
- *the option to cancel time-dependent flights with a full refund*
- *meals, meal vouchers/reimbursement or access to a lounge where food is available, where flights are delayed*
- *accommodation and transfers where a customer is required to remain in an away-from-home port overnight*

Compensation policy should be designed to balance accountability with operational realities, ensuring that safety remains the top priority at all times. Introducing a three-hour trigger for compensation places additional pressure on pilots, flight and engineering crew to prioritise punctuality over safety - introducing indirect pressure on these important decisions. To protect these decisions, Air New Zealand recommends the Department consider encouraging transparency from airlines and airports on the reasons for delay, rather than creating financial penalties at 3 hours.

If customers have had to book a new flight with another airline due to their original airline not having a reasonable replacement flight, then the original airline will refund the cost of the original flight.

Air New Zealand recommends the Department carefully revisit the drafting to ensure it is explicitly stated that these provisions are only applicable when an extended delay or cancellation is for reasons within an airlines control. We also recommend that guidance is provided as to what is considered a "reasonable" replacement flight. Air New Zealand's conditions of carriage provide an opportunity for the airline and the customer to

agree on mutually agreeable solutions including paying for a new flight with another airline. In this context, if a mutually agreeable solution is agreed on, it is difficult to understand the rationale behind requiring the original flight to also be refunded. We recommend the Charter provides enough scope for both airlines and passengers to be solutions focused and not introduce unnecessary punitive measures.

Customers should receive a refund for a cancelled flight within 14 days of the cancellation being notified, regardless of the fare type, where an alternative flight has not been agreed. The refund should be to the full amount paid by the customer, including baggage charges, pre-purchased meals, extra leg room fees and any payment fees and charges.

As per the commentary above, this provision should only be applicable for extended delays and cancellations for reasons within an airlines control and if a passenger has not accepted alternative arrangements.

Air New Zealand understands the Department has already been informed as to the difficulty presented by a 14 day refund period by IATA, with standard clearance times through the global IATA Billing and Settlement Plan taking up to 21 days. This is due to a number of factors, all outside of any airline's control; firstly, a significant proportion of bookings are made through travel agents – this means that a travel agent needs to action the request for a refund and then remit the funds back to the passenger – and finally, different financial institutions and payment methods have different processing times.

The default position of airlines will be the provision of a refund in the original form of payment (including cash, credit or flyer reward points), with a travel voucher only being issued if the customer chooses that option.

As per commentary on the two provisions above, this provision should only be applicable for extended delays and cancellations for reasons within an airlines control and only if a passenger has not accepted alternative arrangements.

Proposed Right 4: Aviation industry customers have the right to safe and timely baggage handling and fair remedies for damage and delays

Air New Zealand welcomes clarity and guidance around the underlined terminology used in the draft Charter below – noting that definitions relating to lost baggage already exist under the Montreal Convention (MC99) and alignment should be encouraged. For example:

- *If luggage is temporarily lost by an airline, customers should be reimbursed for the necessary purchase of appropriate clothing and toiletries where this occurs away from the customer's home port.*
- *If luggage is damaged in the course of carriage, the airline will finalise a claim for damages in a timely manner.*

Proposed Right 5: Aviation industry customers have the right to the protection of their personal information

Air New Zealand supports the protection of aviation customers' personal information and the objectives of this proposed right.

Air New Zealand considers that privacy breach complaints should not fall under the Ombuds Scheme but instead be referred to the Office of the Australian Information Commissioner (OAIC), which is best equipped

to handle such matters. Duplicating this function within the Charter or the Aviation Industry Ombuds Scheme could lead to inefficiencies and inconsistencies.

Proposed Right 6: Aviation industry customers have the right to provide feedback, make complaints and exercise their rights without retribution

A family member, carer, advocate or legal representative will be able to support and/or represent a customer

Air New Zealand supports allowing a family member or carer to lodge a complaint on behalf of someone unable to do so, provided they have the person's authority.

However, this provision should not extend to claim agencies. The European Union's aviation consumer laws have led to third-party claims companies (or "claim farms") in some instances exploiting regulations, increasing legal disputes and administrative costs on the industry. This has led to Airlines in some instances becoming overly cautious, leading to more rigid fare conditions and policies that ultimately reduce flexibility for passengers.

All feedback and/or complaints will be acknowledged by, and responded to, by the airline or airport in a reasonable timeframe (with a target of 24 hours to acknowledge and 30 days to resolve)


Air New Zealand recommends the Department reviews the proposed timeframes, both for acknowledgment and resolution, to better align with established best practices from Australian ombudsman schemes and international aviation dispute resolution frameworks. This will help ensure consistency and enhance the passenger experience.

Air New Zealand seeks clarification on this provision, specifically:

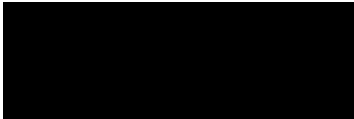
- Whether an auto-response is acceptable for the initial acknowledgment within 24 hours. If not, we recommend extending this timeframe to align with other ombudsman schemes. The TIO allows two business days for acknowledgment, the Australian Standard Guidelines for Complaint Management permit three days, and the Commonwealth Ombudsman also provides for three business days.
- Whether the 30-day resolution timeline refers to calendar days or business days.

Air New Zealand recommends supporting a resolution timeframe of 60 days (eight weeks). While most complaints would be resolved sooner, this period allows airlines and airports to gather necessary information not included in the original complaint and escalate cases through internal processes if needed. Globally, a

longer timeframe is standard: the UK allows eight weeks, while both the US and EU permit 60 days for resolution.

We appreciate the opportunity to contribute to this discussion and welcome further engagement. Please contact Niels Meinderts () if you have any questions relating to this submission.

Ngā mihi nui,



Kiri Hannifin
Chief Sustainability and Corporate Affairs Officer
Air New Zealand