

Submission in response to the Aviation Green Paper

This submission responds to the questions posed in the Aviation Green Paper regarding consumer protections.

The Australian Government should look to revise current consumer protection arrangements through the new mechanism of a mandatory compensation scheme.

Airlines seem to have developed a view that they don't really need to make best endeavours to offer the services they have sold. Delays and cancellations both within and beyond an airline's control are rarely met with a satisfactory level of proactive assistance to affected customers. Since airlines operating in Australia have shown themselves unwilling to properly support and compensate disrupted customers, it is time for the Australian Government to legislate mandatory compensation for passengers like the European Union, United Kingdom, and Canada. This compensation should be automatic, clearly defined, and as close to immediate as possible. The UK's railway Delay Repay scheme provides a model for this immediacy.

Qantas' recent statement of defence against allegations made by the Australian Competition and Consumer Commission (ACCC) set out clearly that the airline doesn't believe it sells customers tickets on particular services. Despite this, Qantas and other airlines charge differing prices depending on the time of day a flight departs – a clear recognition that passengers are willing to pay more to travel at peak times that suit their purposes better. If the airline were not reasonably expecting to deliver that service on time, then such price discrimination would be quite inappropriate.

Airlines often also take an extremely flexible approach to their level of on-board service. Qantas switching aircraft at the last minute can mean a large and demonstrable decline in the level of service – for example replacing an A330 service with a B737. The airline offers no compensation to passengers for these changes despite often charging higher rates for these flights as the comforts of the larger aircraft are more sought after by customers. Where there are large failures in services such as catering (for example, insufficient catering being loaded or no catering at all) or in-flight entertainment (for example, Wi-Fi or seat back entertainment failures) airlines seem to think an apology is sufficient. Customers who have booked a service including catering, Wi-Fi or seat back in-flight entertainment should be able to reasonably expect that these services are delivered barring safety issues such as unexpected severe turbulence that might make catering service unsafe. At present, customers are left to chase airlines for compensation, often for many months and can usually only expect a few frequent flyer points in compensation rather than any partial refund for failure to deliver the paid-for service.

It is also clear that airlines have wound back their on-the-ground customer service teams leaving customers to fend for themselves during times of disruption, mostly being referred to call centres that don't have the capacity for the sudden surge in demand resulting from the cancellation of flights with a hundred or more passengers. It can be impossible to find assistance with missing luggage if your flight arrives at some Australian capital cities after 5pm.

Airlines in Australia have been willing to treat their customers with contempt for a long time simply because the cost of pursuing rights under the Australian Consumer Law is too high and the law itself is too vague. It is time for a mandatory compensation scheme to signal to airlines that they need to take their obligations to their customers seriously and to ensure that customers are not left worse off by cancellations and delays caused by large multi-billion-dollar businesses against which they have no hope of winning in any legal fight.