



9 March 2023

Aviation White Paper Branch
Domestic Aviation & Reform Division
Department of Infrastructure, Transport, Regional Development,
Communications and the Arts
GPO Box 594
CANBERRA ACT 2601

To Whom It May Concern:

Re: Aviation White Paper

I write to you regarding the proposed Terms of Reference for the Aviation White Paper.

There is significant and sustained interest across media, public advocacy groups and the disability community to address ongoing individual and systemic issues in aviation for people with disability, and these should be addressed in the White Paper.

Such an inclusion would drive improved compliance with existing legislated human rights obligations, both domestic and international. It would also enable the Aviation White Paper to map important and long overdue reforms to support a growing proportion of the international aviation market to contribute to the ongoing recovery of the industry.

Aviation in the Australian context

Air travel is a crucial part of Australia's domestic transport network for many people, including people with disability. As highlighted recently in a 2022 Australian Competition and Consumer Commission report, despite Australia having only two-thirds of Canada's population, prior to COVID-19, more passengers flew domestically in Australia (61.4 million) than in Canada (48.8 million) in the same period.¹

It is pleasing to see a continued recovery of the domestic passenger numbers to close to pre-pandemic levels: 4.87 million passengers were carried on Australian domestic commercial aviation (including charter operations) in December 2022.²

Over 4 million people in Australia (or 1 in 5) experience disability, representing a significant proportion of the recovering domestic market. For people with disability, air travel – whether for business, recreation, or medical purposes – is often a crucial travel option where, owing to current infrastructure and our nation’s unique geography, other means may be considerably more arduous or unfeasible.

Instances of discrimination in air travel are increasingly remarked upon in the media, and the Disability Discrimination Commissioner, Dr Ben Gauntlett, has been receiving steady correspondence from individuals with disability and disability advocacy groups raising concerns in relation to air travel.

The Aviation White Paper should seek to respond to this groundswell of concern by people with disability, and this should be reflected as one of its Terms of Reference.

Range and severity of issues reported publicly

The negative experiences of people with disability at airports and in airlines have been well reported in the media in recent years.³ Mounting public concern exists around issues ranging from damage of personal mobility equipment, limits placed on access to aircrafts or types of ticket purchase (Jetstar, for example, only allows two wheelchair users per flight),⁴ absence or insufficiency of equipment to assist people to board flights or move between their seat and amenities, and discriminatory and humiliating treatment at airport security, to name a few examples.

The recent experiences of Australian Paralympian Karni Liddell, whose airline refused to accommodate her wheelchair despite a valid dangerous good certificate,⁵ or of Queensland woman Emma Weatherley, a wheelchair user who was stuck for six hours at an airport due to inadequate assistance by staff,⁶ are unfortunately neither isolated examples, nor are they limited to particular airlines. In the context of re-establishing the industry, these kinds of experiences cannot be allowed to continue to remain a feature and an ongoing risk in air travel for 1 in 5 Australians.

Disability Royal Commission

Concerns were raised by the Hon Ronald Sackville AO KC, Chair of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission), who on 3 February 2023 wrote to the Chief Executive Officers of Australia's airlines and domestic airports outlining concerns reported by people with disability through submissions and two workshops held in 2022.⁷ It is, however, unlikely that the Disability Royal Commission will further investigate issues related to air travel.

Australia's international obligations to implement equal access

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) requires State Parties to take appropriate measures to enable access, on an equal basis with others, to the physical environment – including to transportation and other facilities and services open or provided to the public both in urban and rural areas.⁸ Individual parties define domestically what measures should be taken, build the required frameworks and determine the necessary benchmarks to fulfill these obligations.

Complaints received by the Australian Human Rights Commission

Protections for people with disability exist in the *Disability Discrimination Act 1992* (Cth) and the *Disability Standards for Accessible Public Transport 2002* (Transport Standards). The Australian Human Rights Commission (Commission) investigates and conciliates complaints of unlawful discrimination and breaches of human rights under those laws.

Between 2016 and 2022, the Commission received more than 100 disability discrimination complaints against airlines. In the first half of this financial year alone (1 July 2022 – 31 December 2022), 24 complaints were made in relation to airlines and air travel.

The main issues raised included:

- assistance animal refusals and/or requests for information
- facilities being inaccessible for wheelchair users or mobility scooters and/or inadequate assistance provided to those customers
- inaccessible ticketing arrangements for people with vision impairments
- taxis and rideshare providers either not turning up, excessive delays or refusing passengers with disability aids and/or assistance animals

- mask requirements.

The complaints mechanism is the only legal avenue to monitor compliance with the Transport Standards.

Inefficacy of the Transport Standards in achieving equal access

The Transport Standards have the purpose of improving accessibility and removing discrimination against people with disability on public transport, including aviation. The Transport Standards have been in operation for 20 years, yet a lack of effective enforcement and reporting mechanisms has resulted in low motivation and no incentive for transport providers to comply with them.

Reviews and reforms of the Transport Standards have not resulted in improvements in their operations, nor have they adequately considered airlines and the airline industry.

The Aviation White Paper can strengthen compliance with the Transport Standards and advance a more dignified and equitable air travel experience for all Australians.

Aviation Access Forum

The Australian Government's Aviation Access Forum (AAF) consists of representatives from industry, government agencies and the disability sector. The Disability Discrimination Commissioner, Dr Ben Gauntlett, is a member of the AAF, which was established in 2013. As a consultative forum, the AAF has limited authority to influence policy decisions.

The Aviation White Paper should consider how the AAF's governance could be improved to allow it greater decision-making authority.

Yours sincerely



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¹ ACCC (2022) Airline competition in Australia, p.20

²Bureau of Infrastructure and Transport Research Economics, Domestic aviation activity, available at: <<https://www.bitre.gov.au/statistics/aviation/domestic>>

³ See the Guardian (2023) 'Australia's airlines and airports urged to improve treatment of travellers with disabilities' available at: <<https://www.theguardian.com/australia-news/2023/feb/03/australias-airlines-and-airports-urged-to-improve-treatment-of-travellers-with-disabilities>>; Travel Weekly (2023) 'Airlines and airports alike have been called to improve their treatment of passengers with disabilities by a Royal Commission into Disability' available at: <<https://www.travelweekly.com.au/article/airlines-and-airports-to-step-up-treatment-of-disabled-travellers/>>; 9 News (2022) 'Turned away from flights, crawling down aisles and rejected loo breaks: Australians with disabilities say they are being 'dehumanised and humiliated'' available at: <<https://www.9news.com.au/national/australians-with-disabilities-suffer-dehumanising-treatment-at-airports-travel-news/b7de6139-258a-4e86-a615-031eb0e89074>>; ABC News (2022) 'Budget airlines make it hard for people with disabilities to travel, but Australian tourist sights get top marks' available at: <<https://www.abc.net.au/news/2022-10-06/why-people-with-disabilities-stay-home-and-avoid-flying-analysis/101440056>>; the Guardian (2022) 'Second-class citizen': man lifted on to plane as Darwin airport had no ramp for wheelchair users' available at: <<https://www.theguardian.com/society/2022/oct/06/second-class-citizen-man-lifted-on-to-plane-as-darwin-airport-had-no-ramp-for-wheelchair-users>>; Hireup (2022) 'A timeline of Aussie travellers with disability being mistreated by airlines' available at: <<https://hireup.com.au/news/a-timeline-of-aussie-travellers-with-disability-being-mistreated-by-airlines/>>; ABC News (2022) 'Former disability discrimination commissioner Graeme Innes calls for change after 'humiliating' Adelaide Airport experience' available at: <<https://www.abc.net.au/news/2022-05-15/sa-adelaide-airport-disability-discrimination-complaint/101068140>>

⁴ Sydney Morning Herald (2022) 'Tired of the fight': Paralympian not allowed on flight with wheelchair' available at: <<https://www.smh.com.au/national/tired-of-the-fight-paralympian-not-allowed-on-flight-with-wheelchair-20220602-p5aqg6.html>>

⁵ Sydney Morning Herald (2022) 'Tired of the fight': Paralympian not allowed on flight with wheelchair' available at: <<https://www.smh.com.au/national/tired-of-the-fight-paralympian-not-allowed-on-flight-with-wheelchair-20220602-p5aqg6.html>>

⁶ 7 News (2022) 'Woman left waiting at Sydney Airport because Qantas wouldn't help with her wheelchair' available at: <<https://7news.com.au/travel/qantas/woman-left-waiting-at-sydney-airport-because-qantas-wouldnt-help-with-her-wheelchair-c-8121820>>

⁷Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2022) 'Air travel workshops' available at: <<https://disability.royalcommission.gov.au/news-and-media/workshops/air-travel-workshops>>

⁸Article 9, Convention on the Rights of Persons with Disabilities.