



Blind Citizens Australia

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Response to the Aviation Customer Rights Charter

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1. Introduction

1.1 About Blind Citizens Australia

Blind Citizens Australia (BCA) is the peak national representative organisation of and for the over 500,000 people in Australia who are blind or vision impaired. For nearly 50 years, BCA has built a strong reputation for empowering Australians who are blind or vision impaired to lead full and active lives and to make meaningful contributions to our communities.

BCA provides peer support and individual advocacy to people who are blind or vision impaired across Australia. Through our campaign work, we address systemic barriers by promoting the full and equal participation in society of people who are blind or vision impaired. Through our policy work, we provide advice to community and governments on issues of importance to people who are blind or vision impaired. As a disability-led organisation, our work is directly informed by lived experience. All directors are full members of BCA and the majority of our volunteers and staff are blind or vision impaired. They are of diverse backgrounds and identities.

1.2 About people who are blind or vision impaired

According to the Australian Bureau of Statistics (ABS), over 4.4 million Australians have some form of disability - roughly equating to 1 in every 5 Australians having a disability, and there are currently more than 500,000 people who are blind or vision impaired in Australia; with estimates that this will rise to 564,000 by 2030. According to Vision Initiative, around 80% of vision loss in Australia is caused by conditions that become more common as people age¹.

Australians who are blind or vision impaired can live rich and active lives and make meaningful contributions to their communities: working, volunteering, raising families and engaging in sports and other recreational activities.

The extent to which people can actively and independently participate in community life does, however, rely on facilities, services and systems that are available to the public being designed in a way that makes them inclusive of the needs of all citizens – including those who are blind or vision impaired.

2. Submission context

This submission is based on existing legislation and frameworks, noting gaps in the fulfilment of requirements laid out in existing documentation. The pertinent acts and legislation are:

1. United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)
2. Universal Declaration on Human Rights
3. The Disability Discrimination Act 1992 (Cwlth)
4. Australia's Disability Strategy 2021-2031 (this strategy coordinates the implementation of the UNCRPD)
5. International Covenant on Civil and Political Rights (ICCPR)
6. Aviation White Paper – Towards 2050

Our response is based on extensive consultations with members and other people who are blind or vision impaired over many years, our membership on various transport working groups, and our ongoing advocacy work in the sector related to ensuring safe and accessible air travel for people with disability.

Blind Citizens Australia endorses the submission made to this inquiry by Disability Voices Tasmania (DVT).

3. Blind Citizens Australia's submission

3.1 Protecting Freedom of Movement

As an island continent and the world's sixth-largest country by area, air travel is essential for freedom of movement in modern Australia. Article 13 of the Universal Declaration of Human Rights (UDHR), which Australia helped to draft, asserts that:

- Everyone has the right to freedom of movement and residence within the borders of each state.
- Everyone has the right to leave any country, including his own, and to return to his country.

This freedom is curtailed whenever people with disability experience discrimination or mistreatment during air travel. As the regulator of air travel in Australia, the Commonwealth government must ensure this freedom is upheld for all Australians.

While we welcome the proposed new Customer Rights Charter, we believe it should go further. The Charter should more clearly impose obligations on airlines and airports to remedy breaches. As noted by DVT in their submission to this Draft Charter – “the idea of rights connotes something more than mere expectations. It is true to say that rights are not rights at all if there is no remedy when they are breached”².

It is also clear this Charter must be underpinned by a new set of Disability Standards for Air Travel, as promised by the government in the 2024 ‘Aviation White Paper – Towards 2050’ and referred to in the Draft Charter. However, for these standards to successfully address the ongoing challenges and barriers in the sector, the development process must involve genuine engagement with people with disability and their representative organisations from start to finish.

Recommendation:

1. Provide clear obligations for providers (airlines and airports) to remedy breaches of the Customer Rights Charter
2. Ensure a process of genuine co-design and engagement with people with disability and their representative organisations in the development of new set of enforceable Disability Transport Standards for Air Travel (Air Travel Standards)

3.2 Challenges Prior to Boarding

The inaccessibility of air travel is apparent for people who are blind or vision impaired even before they attempt to travel to the airport. Airline websites are often not designed with screen readers in mind – making for an arduous, if not impossible, process when booking tickets. Subsequent changes to flights and bookings are often not communicated by airlines in an accessible way.

Airport facilities, including carparking and pick-up/drop-off areas, are often inaccessible for people who are blind or vision impaired, especially when they are travelling with a dog guide. Travellers at Brisbane Airport, for example, must navigate three roads to move from the pick-up/drop-off area to the terminal. Similarly, construction work in and around airport terminals can be dangerous even for fully sighted road and footpath users. Recent upgrades to the carpark at Perth Airport’s domestic terminal, for example, necessitated the erection of temporary fences and a jumble of orange safety

cones. Many drivers were confused as to where they should park, and in which direction they should travel. Some frustrated drivers responded by weaving erratically around stationary vehicles in the short-term parking and drop-off zones. This creates extra and unnecessary risk for all pedestrians, but particularly those who are blind or vision impaired.

Once inside the terminal building, a lack of accessibility and guidance for people who are blind or vision impaired causes problems at self-check-in kiosks, automated bag drops, customer service check-in counters, security screening areas, and when moving through the terminal and collecting baggage at the destination airport. Security screeners have been known to separate people who are blind or vision impaired from their dog guide and/or perform additional pat downs on the dog guide. In consultations with BCA Members, we have even heard of instances where people who are blind or vision impaired have been physically pushed backwards by security staff.

It is important to note that at most airports in Australia, the majority of people employed on site are not direct employees of the airport or airline; however this Draft Charter provides no clear obligations in respect to such third-party providers. This should be rectified as no customer should be forced to deal with third-party providers for potential breaches of the rights set out in the Charter.

Recommendation:

3. Expand the Draft Charter to explicitly extend the obligations to third party operators

3.3 Challenges During the Flight

While we welcome the commitment for customers to have the right to accurate, timely and accessible information and customer service (Proposed Right 2), we note there is very little detail defining what is meant by accessibility.

At a practical level, the COVID-19 pandemic led to the removal of in-flight safety cards printed in braille. These braille cards had been required by the existing Transport Standards, but with the COVID state of emergency now over, this charter should provide a clear obligation for airlines to restore the use of these cards so that braille readers (particularly people who are deafblind) can once again access in-flight safety information.

Further, in our consultations, we have heard that people who are blind or vision impaired often have difficulties when seeking to move around the cabin, such as to use the bathroom. An increasing number of planes no longer have physical call buttons, making it exceptionally difficult for people who are blind or vision impaired to request assistance from the flight crew. Inaccessible in-flight

information (such as due to touchscreen devices and/or a lack of audio description) may prevent a person who is blind or vision impaired from accessing boarding or deplaning information, vital safety information, or in-flight entertainment. Yet there is no mention in this Charter of undertaking appropriate procurement decisions to ensure accessibility of information provided through modern technology.

Recommendations:

4. Include an obligation for flight safety information to be provided in braille format
5. Include reference to accessible technology as part of Proposed Right 2

3.4 Empowering the Australian Human Rights Commission

The Draft Charter recognises that making a complaint to the new Aviation Industry Ombuds Scheme (AIOS), which will have the power to make decisions relating to breaches of the Charter, does not preclude a customer from making a complaint through other processes, such as the Australian Human Rights Commission (AHRC).

However, it is clear that the AHRC must also be empowered and funded to proactively monitor compliance, conducts reviews and audits, investigate potential breaches, issue fines and compliance notices to public transport operators and providers, and apply to the federal courts for orders to direct compliance with the compliance notices.

The risk of receiving an adverse costs order is a significant deterrent when people with disability consider enforcing the existing Transport Standards in court. To encourage people with disability to make a complaint to the AHRC, the Australian Human Rights Commission Act 1986 (Cth) must be amended to introduce an 'equal access' costs model for all discrimination and harassment matters. Under this model, applicants will not be liable for adverse costs unless their claim is found to be vexatious, or they have acted unreasonably during proceedings and so caused the other party to incur costs.

Unlike other forms of public transport in Australia, air travel is regulated at the Commonwealth level. A suitably funded and empowered AHRC would also have the capacity to actively enforce the new Air Travel Standards.

Rather than replicating the current complaints-based regime – where the burden of enforcement is on individual people with disability – a beefed up AHRC could proactively gather and publish compliance

data from airports and airlines, regularly inspect airports and airlines to ensure they are meeting the Air Travel Standards, and take enforcement action (such as issuing fines or entering into enforceable undertakings) where non-compliance is found.

Recommendations:

6. Develop a nationally consistent reporting framework to record every instance of discrimination by public transport operators and providers.
7. Suitably empower and fund the Australian Human Rights Commission (AHRC) to act as a one-stop shop for enforcing the existing Transport Standards and the new Air Travel Standards.
8. Amend the Australian Human Rights Commission Act 1986 (Cth) to introduce an 'equal access' costs model for all discrimination and harassment matters.

4. Recommendations

BCA supports and endorses the recommendations made by Disability Voices Tasmania (DVT).

In addition, BCA makes the following recommendations:

1. Provide clear obligations for providers (airlines and airports) to remedy breaches of the Customer Rights Charter.
2. Ensure a process of genuine co-design and engagement with people with disability and their representative organisations in the development of new set of enforceable Disability Transport Standards for Air Travel (Air Travel Standards).
3. Expand the Draft Charter to explicitly extend the obligations to third party operators.
4. Include an obligation for flight safety information to be provided in braille format.
5. Include reference to accessible technology as part of Proposed Right 2.
6. Develop a nationally consistent reporting framework to record every instance of discrimination by public transport operators and providers.
7. Suitably empower and fund the Australian Human Rights Commission (AHRC) to act as a one-stop shop for enforcing the existing Transport Standards and the new Air Travel Standards.

8. Amend the Australian Human Rights Commission Act 1986 (Cth) to introduce an 'equal access' costs model for all discrimination and harassment matters.

¹ Vision2020. *Eye health in Australia*. <http://www.visioninitiative.org.au/common-eye-conditions/eye-health-in-australia>

² Disability Voices Tasmania. *Submission to Draft Aviation Customer Rights Charter*. Unpublished at time of submission.