

Department of Infrastructure, Transport,
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Via: <https://www.infrastructure.gov.au/have-your-say/aviation-customer-rights-charter>

Submission on Aviation Customer Rights Charter Consultation Paper

CT Partners welcomes the opportunity to provide a submission in response to the consultation on the proposed Aviation Customer Rights Charter.

CT Partners is an independently owned travel buying network in Australia and comprises 32 of the largest independent corporate travel management firms and premium leisure agencies.

CT Partners supports the submission of the Australian Travel Industry Association. The establishment of an independent Aviation Industry Ombuds Scheme is a positive step toward boosting consumer confidence in aviation services. To ensure its effectiveness, it needs to be appropriately focused on addressing the key policy issues at hand.

In providing a submission we will focus on matters related to the practical implementation of rights where tickets have been purchased through an agent. We have collated the feedback of our members throughout this submission.

Role of Travel Agents in Aviation Transactions

Travel agencies act as an intermediary between airlines and consumers. While travel agencies provide a vital service in managing travel, it is airlines that set the fare terms and conditions. In addition, consumer funds are held by the airlines, not by travel agents.

For example, when a booking is cancelled, the airline, not the agent, determines whether the consumer is entitled to a refund depending on the terms and conditions of purchase.

When the consumer pays for the booking with the travel agent, all funds are automatically direct debited on average from the of agents' account within 7 days to the airline through their mandated process of remittance to the International Air Transport Association (IATA), which holds funds on behalf of its airline members. The funds are not held by the travel agents. Funds and are never held by the agent any longer than 7-14 days.

Feedback from our members demonstrates this, with further detail on the refund process later in this submission:

“Every airfare is conditional, some of which are non-refundable. We are completely governed by the rules the airline sets and the timeframe with which our agency receives the refund before it can be passed on to our client.”

“We do not hold the funds, the airline has them. If there is a cancellation the airline determines if the client will get a refund, how much it is and what they will keep as a cancellation fee.”

“Airline terms and conditions can be notoriously complex and legalistic, and it is already a significant pain point as agents often have to argue the case to airlines on behalf of clients, and airlines hold all the power in the relationship.”

“During COVID this caused much stress and anxiety for both the travel agent and traveller as we had to explain that their funds were not held by our agency and that we too were waiting for the refunds to be processed back to us so we could in turn remit them to the traveller.”

“As an example, Australia’s largest airline (Qantas) refused to refund customers during the COVID-19 pandemic with many claims to ACCC submitted. Should the travel agency be responsible for the funds, the agency would not have survived.”

Contact During Operational Disruptions

We understand concerns have been raised by airlines about their ability to contact customers or manage bookings made through travel agents.

Travel agents provide an important service to their clients, including assisting them in the event of operational disruptions. However, airlines do have the ability to contact customers directly where necessary.

Under IATA Resolution 830d, agents are required to proactively request customer contact details and, with their consent, pass these to airlines for direct communication during disruptions. Our members report that it is extremely rare – less than 1-5% of cases – for customers to decline sharing contact details, and even then there are workarounds. This demonstrates that airlines already have the means to contact customers directly when needed.

Examples of how this applies in practice are set out below, using specific feedback from our members:

“99% of clients now travel with a frequent flyer card issued by airlines or airline consortia entered into the booking reference. In addition an agent will have to add mandated information in their booking too – GDS and OBT’s all have mandated information requirements which if missed will not allow a travel consultant to complete the booking.”

“In over 48 years of working in this industry, I cannot recall a single case of a client declining to provide contact details to an airline”.

“It is extremely rare for clients to not provide their contact details, especially once it is explained that should there be schedule changes, it would be impossible to advise. In any case – (Commercial in Confidence) now contact clients direct and bypass advising agents for some schedule changes inside 2 days.”

“All of our bookings are made via Sabre or Amadeus (we are multi GDS) and a mandatory field is including the passengers’ mobile contact and email address via the OSI or TCM/CTCE field.”

“Most travellers are members of an airline frequent flyer scheme. This means when their membership number is added to their booking their contact details as collected by the airline pre-populate into the booking automatically without any input from the travel agent.”

“Concerns around lack of airlines’ ability to contact customer or manage bookings are not valid, as mobile telephone numbers and codes that specifically identify corporate customers are shared directly with the airlines.”

“It is mandatory in our two GDS booking systems that appropriate contacts for passengers are added to flight bookings when these are made. It is also customary (and often necessary) for airlines to contact passengers directly when there have been changes made by the airline to their booked flights.”

“We provide our clients with 24-hour assistance after hours in event of disruptions they have access to make changes. This is generally helpful to airlines and clients as we can assist them in a timely manner. Our booking processes also ensure that we provide airlines with the necessary contact information for them to contact clients directly.”

Consistent Service Level Standards from Airlines

When a travel agent contacts an airline on behalf of a client, the expectation should be that service standards from airlines remain consistent, ensuring no customer faces undue disadvantage. This includes maintaining reasonable hold times for all booking channels and ensuring information is shared. Specific feedback from members reinforces the need for this:

“Our experience is that airlines at times are reluctant to provide any assistance to clients who have booked through an Agent and will quite often refer the client to the Agent for assistance.”

*“Airlines will often restrict information being pushed through to the GDS if travel is imminent, or at the airport’s control. In fact, **(Commercial in Confidence)** have specifically advised us that changes up to 72 hours prior to travel must not be pushed through to the GDS. This makes it challenging when customers contact us, and we have no notice of these changes. Seeking clarification often involves lengthy telephone calls and conversations, or delayed responses via online channels.”*

Airlines’ Ability to Manage Bookings

Clients value travel agents’ expertise and rely on them to manage their travel arrangements. However, where it may be appropriate for airlines to manage bookings – claims that airlines cannot address issues like booking errors (e.g., incorrect names or dates) caused by agents are overstated. Airlines possess the capability to amend bookings where necessary. Existing commercial agreements and airline policies already provide sufficient recourse, ensuring accountability.

Examples of how this applies in practice is set out below, using feedback from our members:

“Airlines have full access to client bookings as they are also airline clients, and airline systems can easily change information from their systems. It is common practice for airlines to take over agent bookings at airports etc and charge agents’ fees for doing so.”

“Ultimately, the airline owns the booking and has full access to make changes or corrections to bookings should any error occur. Often an airline will take control of a booking, not allowing an agent to further update the booking should the need arise. Additionally, travel agents are forced to pay exuberant and unreasonable fees and/or penalties to an airline.”

“An airline can actually take over a travel agent booking and make changes, often charging a fee for doing this.”

“Airlines have the ability to make these changes as they are the owners of the bookings. It would be useful to work closer with the agents for more efficient outcomes.”

“Airlines have the ability to assist agencies in the event of a human error.”

“Claims that airlines cannot address issues like incorrect names are incorrect – regarding a wrong name our agency asks for a copy of a client’s passport so we would pick up an incorrect name prior to a client reaching the airport and this would be corrected, often with difficulty and expense as the airlines make this extremely difficult for agents to do, although airlines are able to do this easily in their own systems. Also if a name change is required the airline is able to take over our booking and change the name themselves.”

“Airlines act as a cartel under the IATA umbrella and have no hesitation in imposing penalties on agents to ensure compliance with arcane policies. Airlines issue significant penalties via BSP and automatically draw the funds from agents’ bank accounts. If the agent wishes to dispute the penalty, the agent can lodge a claim in a long-winded process, with no right of appeal, and then hope they will be reimbursed the funds taken from their bank account. It is a system very unfairly weighted in the airlines’ favour, and the airlines have a long history of taking full advantage of this arrangement.”

Refund Processes

Suggestions that refund delays are attributable to travel agents misrepresent the reality of their operations. Refunds are governed by airline terms and conditions, and funds are held by airlines until released to agents for processing.

Following receipt of funds, the timeframe within which agents must refund customers are set by airlines in their agency agreements and refund policies which agents are bound to comply with. In addition, airlines can recover funds from agents by way of ADM in the rare occurrence that this is needed.

Examples from our members as to how this applies in practice are set out below:

“It is not in agents’ best interests to not refund clients in a timely manner as this would only upset clients. Airlines can easily recover refunds from agents by way of ADMs should there be deemed an error in processing a refund. Agents on the other hand are at the mercy of airlines’ timeframes.”

“As an agency we have rules of refunding our clients, when the airline refunds us through the BSP system the funds come back into our account. We have an accountant that checks this daily and the amount is put back on to the client file and the agent looking after that client is notified and then the refund is actioned. If the client has paid for the fare using their credit card the refund automatically goes back on their card. The airlines also have a scheme called ADM’s and they can remove money from our bank account without any notification and for something that occurred years prior so they would always have a way of receiving funds and paying it direct to the clients if they felt it was necessary.”

*“COVID-19 highlighted the fact that refunds cannot be remitted to the traveller until the airline has refunded the travel agent. **(Commercial in Confidence)** in particular was extremely slow in processing refunds – a delay of approximately 12 weeks from us as the agent applying for a refund. Other airlines were generally able to process the refunds back to the agent within 4 weeks of application. We also operate a trust account which means we are legally unable to refund any monies to a client until their funds have been returned to us by the airline.”*

“Invariably any delays in refunding a client of a cancelled air ticket are caused directly by the airline. [Our business] generally refunds clients within 72 hours of receipt by the airline however it is not unusual for airlines to take weeks and in some instances months to process a refund back to us.”

“We do not participate in delays in refunds, as soon as money is received by the airline, money goes back to the client. We are always open to working more closely with airlines to streamline processes and make it word best for client and airline.”

“Airlines have the ability to recall funds from the agent without our prior approval via the Agency Debit Memo process with IATA. Should we disagree with the basis of their ADM we must lodge a formal dispute but the mere existence of the ADM process leaves us at the mercy of the airlines and exposed to their assessments of ADM issue – often which are outsourced to a third party who is compensated on the basis of the successful ADM’s issued to agents. Airlines “hold all the cards” when it comes to consumer funds, refunds and recalls.”

“I know as a business we process refunds as soon as discussed with the client and approved by airlines with cancellation penalties. It is processed through our BSP and generally through an automated process in the GDS. Most clients pay via credit card and refunds go straight back on the client’s credit card, making the process quick and painless for the client. In the event of agent error, airlines will send through an ADM through BSP. The hold up process for refunds is often airline dependent as each airline operates differently, or in the event of an airline requirement to reassess a partially used ticket, it needs to be manually reassessed and their process is held up by the airline.”

*“Our own agency (lived experience) is to refund clients as quickly as possible once the airlines have returned the funds to the agency, usually within 48 hours and never more than 7 days after the funds are received. Our own agency (lived experience) is that airlines are the chokepoint in processing refunds, highlighted by the well-documented exposure of **(Commercial in Confidence)** policies and procedures during COVID. Additionally, there are commercial agreements between agents and airlines that contain the obligations of agents in relation to the processing of refunds, and airlines can issue ADM to penalise non-compliance. Above all, it is essential the Government recognise that agents cannot refund client money if the funds are being held by a third party such as an airline.”*

“Tickets can be non-refundable (sometimes fares up to 15k), and the airlines make it difficult to obtain a refund in cases of exceptional circumstances, generally only death, and even that is a difficult and slow process. In the event of natural disaster or weather, it takes a while to receive waiver codes from airlines to change or obtain refunds.”

“Refunds processed through a GDS are generally automated which allows for fewer errors from agents. These refunds are also processed in a timelier manner, and customers receive their refunds generally within 7-14 days. Where an airline needs to process a refund, the process can take several

weeks. In fact, **(Commercial in Confidence)** only allow agents to contact regarding refunds once 8 weeks has been reached.

Refunds can be processed by airlines, for example should a customer's credit card have expired, airlines would need to adjust and process the refund accordingly. An airline can also process an ADM against an agent should a refund be incorrect. This not only deters the agent from errors, but allows the airline to recoup funds where needed. Our agency receives very few penalties and/or fees by way of ADM from airlines due to the high level of accuracy and capability of our agents."

"Airlines do have mechanisms in place to recover refunds from travel agents when necessary. For example, airlines can issue an Agency Debit Memo (ADM), which allows them to recoup funds from travel agents in cases where the agent may have mishandled the refund process. However, it's important to note that this is a rare occurrence, as most agents comply with airline policies and manage the process efficiently. The low frequency of ADMs suggests that agents are generally following the procedures correctly. In addition, airlines are equipped to audit their refund processes and ensure that agents are complying with commercial agreements and refund policies. If there were systemic issues on the agent's side, airlines could take legal or financial action, such as through ADMs, though this is not commonly needed."

"Regarding the proposed timeframe, agents are dependent on the airline's timelines and processes. While agents are responsible for initiating the refund requests and ensuring compliance with airline policies, they cannot control delays that occur once the refund request enters the airline's system."

We urge the Government to ensure that the Aviation Industry Ombuds Scheme and the Aviation Customer Rights Charter remain focused on addressing the well-documented issues between consumers and airlines. The inclusion of travel agents in the scheme is neither justified nor necessary, given existing consumer protections and the clear delineation of responsibility between airlines and agents.

Yours sincerely,

A solid black rectangular box redacting the signature of Matt Masson.

Matt Masson
Chief Executive Officer