



6 March 2025

Mr. Steve Weber
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
CANBERRA ACT 2601
AUSTRALIA

By email: AviationCustomerRights@infrastructure.gov.au

IATA Response to *Aviation Customer Rights Charter*

Dear Mr. Weber,

IATA welcomes the opportunity to respond to the *Aviation Customer Rights Charter* consultation. As the Department would be aware, we represent a significant number of Australian and international carriers that serve the Australian market and have extensive knowledge on the intricacies of aviation consumer regulations globally. We believe that a clear and concise Charter has the potential to deliver a positive contribution for consumers, airlines and the Government alike, as it will succinctly state the rights and expectations in the Australian context.

IATA supports the intention of the Australian Government to frame the Customer Rights Charter, as with the Ombuds Scheme, in line with existing laws. IATA recognises Australia as a global best practice in applying general consumer law to air transport rather than developing sector specific regulation.

We support the primary purpose of the Customer Rights Charter as outlining the expectations of the Ombudsperson in terms of the outcomes to be achieved. This approach gives airlines and other providers the flexibility to determine how best to meet the expectations of consumers in the context of their business, their network and their customers. In taking this approach, the Department must also consider the variety of offerings and capabilities of airlines, airports and travel agencies to ensure that providers retain the ability to differentiate themselves and have the flexibility to determine how best to meet the expectations set out within the Charter.

Much of the consultation document addresses expectations when travel is disrupted. IATA believes that more clarity is required on the understanding of 'disruption' in terms of the expectations set out in the Charter. We interpret 'disruption' to solely relate to flight delays and cancellations within an airline's control. It is important to be clear, as a starting point, that most air journeys go smoothly, and airlines already face strong financial and operational incentives to achieve customer satisfaction and avoid disruption whilst ensuring that safety is always upheld. In Australia, trends for cancellation rates and on-time performance are improving, seeing the great majority of consumers reach their destinations on-schedule.

Unfortunately, in an industry as complex and interconnected as air transport, disruption inevitably does occur, in many cases for reasons outside an airline's control. When this is the case and customer expectations are not met, the Ombuds Scheme and Charter should encourage resolution of any complaints directly between the passenger(s) and the airline concerned. As noted in our submission to the Ombuds Scheme, the ideal role of the Ombuds Scheme would be to focus on education and mediation. The Charter should avoid making the Ombuds Scheme a focus of complaints, as this would risk creating complaint backlogs similar to those seen in Europe and in Canada.

IATA believes that the Charter and Ombuds Scheme should protect the rights of all aviation consumers and include travel agents, airports of all sizes and passenger airlines operating to/from and within Australia, as this will remove doubt on who is and is not covered. If exclusions to Scheme membership are determined, the application of the Charter in this respect will need to be clarified.



The Charter should also, where appropriate, reflect mutual obligations where they apply both to providers and consumers. For example, the right to be treated with respect and dignity should apply equally to passengers and to airline staff. Similarly, where there is an expectation that airlines provide relevant information to passengers, there should also be an expectation that consumers should make use of this information to inform the choices they are making when booking travel or the requirements they need to meet in order to prepare for travel.

IATA looks forward to working further with the Department on the development of the Charter and the Ombuds Scheme. Please feel free to email me at [REDACTED] to further discuss any aspect of the IATA submission.

Warm regards,



Matteo Zanmarini
Area Manager South West Pacific



Right One

Right to be treated with dignity and respect in an accessible and inclusive environment

Information Provision

IATA and its members are committed to safe and dignified travel for all passengers and support this right being enshrined in the Charter. Airlines are resolute in their understanding that mutual respect between staff and passengers is paramount. Fundamentally, consumers should be aware of their rights, as well as their responsibilities when travelling by air. Such common information could be housed on a “universal” government-run website that guides passengers through the different processes and explains what to be aware of when searching for, booking and preparing for travel (for the purposes of this submission we will refer to it as *aus.air* for brevity’s sake).

The United Kingdom’s air passenger travel guide¹ is an example of such a document, as it clearly outlines a consumer’s entitlements and duties as well as guiding them through the aspects that consumers should be aware of when going through the travel experience all the way from the search and booking processes to any post-travel considerations. By providing this wealth of relevant information, the document sets out clear expectations. The benefit of a single or “universal” resource is that providers could include links to the website. The one major shortcoming of the UK guide is the lack of visibility in that it is hidden on the gov.uk website rather than being housed on a bespoke website such as *aus.air*.

Examples of the information to be contained in such a resource would include the key components of a ticket that should be highlighted to consumers during the booking process to educate consumers. For example, to check what ancillaries the ticket they are purchasing does or doesn’t include as well as conditions relating to changes or refunds, baggage restrictions and check in requirements. It should also include the responsibility of customers to treat staff and fellow passengers with respect and follow instructions of crew when onboard an aircraft. We encourage respect and discrimination-free behavior reiterated as a *mutual* requirement within the Charter. Airlines are resolute in their understanding that mutual respect between staff and passengers is paramount.

English is the pre-dominant language of Australia, as well as the international language of aviation, though IATA is cognisant of Australia’s and international passengers’ cultural and linguistic diversity. IATA believes that airlines should only be expected to provide information in English, aligning it with the principles applied worldwide across all States. Airline may choose to expand upon this range, though this should be at the individual airline’s own discretion. Should the Government wish, they may also choose to expand on this language selection on their own *aus.air* website where details around consumer rights will be detailed.

We urge the government to be explicit in what is, and is not, included as part of the airline requirements around what information must be provided in accessible formats and languages, while also taking into account associated practicalities.

Accessibility

IATA and its members are committed to safe and dignified travel for all passengers in their adherence to the *Disability Discrimination Act 1992*² and the Disability Transport Standards³ in their application of the provisions of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) into national regulation, including “the

¹ Air passenger travel guide. UK Department for Transport. Available at: <https://www.gov.uk/government/publications/air-passenger-travel-guide/air-passenger-travel-guide>

² Discrimination Act 1992. Australian Government. Available at: <https://www.legislation.gov.au/C2004A04426/latest/text>

³ Disability Standards for Accessible Public Transport 2002. Australian Government. Available at: <https://www.legislation.gov.au/F2005B01059/latest/text>



identification and elimination of obstacles and barriers” in transportation⁴. We also fully support a collaborative approach to eliminate barriers that limit accessibility through proactive identification, removal, and prevention of these barriers. Throughout these engagements, our goal is to be pragmatic and ensure that the development of accessibility regulations and practices deliver ‘one step at a time’ clearly defined, measurable policy objectives to provide a safe and positive travel experience not only to the disability community but to everyone.

We look forward to working further with the Department, key industry stakeholders, and the disability community to ensure that aviation policy and processes become even easier and travel more comfortable.

IATA and its airline members recognise that well-designed regulations can benefit consumers and the industry by providing clarity and certainty to all parties involved. In contrast, poorly designed or enforced regulations can create confusion instead of clarity and hinder the achievement of regulatory objectives. This risk is particularly significant in the aviation industry and for persons with disabilities, where international air transport requires adherence to multiple national regulations, each with its requirements. We look forward to working further with the Department, key industry stakeholders, and the disability community to ensure that aviation policy and processes become more accessible.

Over the past decade, nation states have shown a clear and positive interest in improving accessibility for passengers with disabilities. The existence of barriers preventing part of the population from travelling has been a matter of concern, and it has gradually led to national regulations regarding air transport. The issue, however, is in the application of regulations. Existing regulations are fragmented and mainly geared toward eliminating complaints rather than achieving universally accessible air transport in a global and coordinated way. For example, the United States mandate airlines to carry self-trained psychiatric dogs in the cabin with very minimal assurance that the customer has a disability. In the UK, definitions of assistance dogs have included training requirements and that the dog is trained to assist with the owner’s need (disability or medical condition), while in Japan recognised assistance dogs (service dogs) are restricted to only seeing-eye dogs, hearing dogs and mobility assistance dogs.

IATA advocates for a consistent approach between nation states and for standardising certain operations. Without global standards, process harmonisation, and consistent regulations, accessibility to air transport will not be possible. Adopting standards would have a more significant impact if the diverse regulations requiring airline compliance and their interactions are considered. This assures the Government that the same standard is mutually applied along the travel chain and streamlines operational efficiency. We see an opportunity for Australia to lead by example and strongly recommend that Australia carefully considers balancing its objectives while avoiding regulatory pitfalls that could negatively impact the disability community, the industry, and the government itself.

International Collaboration

It is important to note that IATA, together with the International Civil Aviation Organization (ICAO), has made accessibility a priority and is creating an ad hoc work program focused on accessible air transport⁵. This initiative aims to develop an outcome-focused long-term strategy supported by a comprehensive work plan. It will establish core policy principles for use by States when developing, benchmarking, or amending accessibility regulations and provide guidance for accessible processes and procedures.

⁴ United Nations Convention on the Right of Persons with disabilities, Art. 9. UN Department of Economic and Social Affairs. Available at: <https://social.desa.un.org/issues/disability/crpd/article-9-accessibility>

⁵ International Community Aligns on air travel accessibility priorities. ICAO. Available at: <https://www.icao.int/Newsroom/Pages/International-community-aligns-on-air-travel-accessibility-priorities.aspx>



The benefits of this program include greater inclusion for persons with disabilities, a coherent and harmonised global regulatory framework, and better support for developing countries. Therefore, we encourage the Department and the Australian ICAO representative to participate in further discussions, as these will be particularly helpful in developing and improving accessibility standards in Australia.

Case Study: Mobility aids

The safe handling of mobility aids, including wheelchairs, is a key topic to advance air travel accessibility. IATA and its members have identified several issues that affect airlines' ability to transport them safely and without risk of damage or injury to loading staff:

- The size and dimensions of some mobility aids can create operational challenges when navigating airports, loading, and off-loading.
- The weight of such devices can present a risk of injury to ground staff, who often load and unload these devices manually.
- The lithium-ion batteries that power mobility aids can cause safety hazards if not properly handled during transport.
- The design of airports is not fit to transport the mobility aids from the airport to the ramp. This operation often happens manually at the detriment of the safety of the mobility aid.
- The design of many mobility aids and the cargo compartments on the types of single-aisle and regional aircraft typically used in domestic service are incompatible. Many mobility aids cannot be configured to fit through the cargo compartment door and are challenging to secure once loaded.
- Lastly, there is often an information gap. The airline may not have the necessary information regarding the dimensions of a mobility aid that a passenger is using. There may not be an easily accessible or dedicated channel for the passenger to communicate that information, including whether any special tools may be required to disassemble the device to facilitate loading partially.

Work is ongoing to harmonise process and issue standards, and we highly recommend that the Australian Government collaborate with the IATA Mobility Aids Action Group and state regulators such as Canada, the UK, and the US to advance advocacy for a standard mobility aid fit for travel on aircraft and the development of passenger awareness.

Best Practices



IATA would like to draw to the Department's attention guidance⁶ on best practices Safe Transport of Mobility Aids⁷, "One Click Away" Best Practices⁸ and the Guidance on Airport Accessibility and Universal Design- IATA Airport Development Reference Manual (ADRM)⁹.

Safe Transport of Mobility Aids vol. 1: Improving accessibility in air travel requires a joined-up approach involving regulators, industry, and the community. This approach includes implementing best practices for accessible websites to facilitate passenger communication. It also consists of listing the types of services offered and emphasising the importance of acting as soon as the booking process begins. This ensures that passengers with disabilities receive the necessary support and information from the start of their travel experience.

"One Click Away" Best Practices vol.1: A collaborative approach involving regulators, industry, and the community is crucial for enhancing accessibility in air travel. This includes adopting best practices for accessible websites to improve passenger communication and listing the services offered. It also emphasises the importance of initiating these actions at the start of the booking process to ensure passengers with disabilities receive the necessary support and information from the beginning of their travel experience.

Guidance on Airport Accessibility and Universal Design - IATA Airport Development Reference Manual (ADRM): In response to the critical importance of ensuring accessibility at airports, IATA and ACI have reviewed key elements of the planning and design of infrastructure for existing and future airports. The objective is to integrate inclusive design principles into airport planning and development and incentivise airports to be better and more disability inclusive. Findings and recommendations are now incorporated in a dedicated chapter of IATA's Airport Development Reference Manual (ADRM), encouraging airports to make Diversity and Inclusion part of their development strategies.

Right Two

Right to accurate, timely and accessible information

Airlines make efforts to communicate to passengers as best as possible during any form of delay. Moreover, airlines are continuing to make significant investments to evolve their digital capabilities and communications strategies to ensure that relevant information is passed on to customers in an accurate, timely and accessible manner. We are largely supportive of that which is covered within this Right, however we offer the following clarifications.

To communicate with customers, it is critical that airlines are provided with correct and up-to-date contact details. Should these not be provided, then it becomes challenging for airlines to inform customers of any disruptions to their journey.

While, for a direct booking (details of this are further covered in Right Three), customers provide their contact details directly to airlines, when an indirect booking is made (i.e. with a travel agent), it is the prerogative of the travel agent to then share any changes or updates to a booking with the customer. Airlines will sometimes not have the passenger's contact details, and instead only have those of the travel agent.

⁶ Air Travel Accessibility. IATA. Available at: <https://www.iata.org/en/programs/passenger/accessibility/>

⁷ Guidance on the Transport of Mobility Aids. IATA. Available at: <https://www.iata.org/contentassets/7b3762815ac44a10b83ccf5560c1b308/iata-guidance-on-the-transport-of-mobility-aids-final-feb2023.pdf>

⁸ "One Click Away" Best Practices. IATA. Available at: <https://www.iata.org/contentassets/7b3762815ac44a10b83ccf5560c1b308/one-click-away-best-practices.pdf>

⁹ Guidance on Airport Accessibility and Universal Design. IATA. Available at: <https://www.iata.org/en/publications/manuals/airport-development-reference-manual/>



It is this added complexity in the process which can sometimes cause challenges for airlines to advise of disruptions, which in turn can cause frustrations for the traveller. This can be amplified when disruptions occur outside standard business hours or in different time zones. It is therefore critical that travel agents are included within the remit of the Ombuds Scheme and Charter.

Alternatively, we encourage there to be a mandatory requirement, enshrined in the Charter for indirect bookings to provide correct customer contact details to airlines. It is not appropriate for airlines to be held accountable when intermediaries such as travel agents fail to provide correct contact details or do not pass on information provided by the airline to the customer regarding disruptions. This limitation should be reflected in the Charter or provision of this data by travel agents mandated.

Clarifications

We note that the first two points "*They will be provided with clear, simple and transparent terms and conditions that are easily available and identifiable when purchasing airline tickets and/or using airport services, such as parking*" and "*They will be provided with clear and easy to understand conditions of carriage [including all fees] by airlines, outlining their rights regarding delays, refunds, changes and cancellations*" are largely duplicative and would encourage these be merged to cover both airline and non-airline aspects of the passenger journey. We would request that the term 'including all fees' be removed from the revised bullet point, as airlines will typically disclose these in the booking process.

We note that many airlines currently have Charters to which they abide and would welcome the further inclusion of other entities that fall under the auspices of the Charter (i.e. airports and travel agents) to develop similar frameworks.

Information pre-flight

In relation to points one and two, we have outlined in Right 1 the requirements of what we believe should be enshrined within the Charter pertaining to clarity of conditions of carriage. We believe that this notion goes in lockstep with the need to equip consumers with clarity around what their ticket does and does not include, as this will abet any form of confusion during travel, particularly should there be any disruption to the journey. We are also of the view that there should be particular clarity around what constitutes an 'airport service', so that this does not become a point of contention at any future point in time.

IATA understands that the Charter is expected to cover both domestic and international travel for carriers operating to, from and within Australia. IATA would like to draw attention to the suggestion of '*any call centre [including] the capability for a customer call back option or voicemail*'. While call centres are continuing to evolve around the world, it is not practical for the Australian Government to place this requirement on the breadth of carriers that operate in the Australian market, particularly considering many have global call centres based in a variety of jurisdictions. We recommend the Charter is not prescriptive in this respect with respect to requiring a '*call back option or voicemail*'.

Should a customer representative be required at the airport, they should only be required at times appropriate to the operation of the flight. It is not practical for there to be a staff member at all times at the airport. Many foreign carriers with a smaller presence in the Australian market employ ground handling agents, and some airlines do not have staff employed in Australia. We consider it appropriate for staff to be present at the airport to serve customer needs for times pertaining to the flight's regular operation.

Efforts are always made to have appropriate staffing during disruptions. However, should there be a diversion to a port where a carrier doesn't operate, there should be pragmatic consideration given to associated staffing practicalities.



In their efforts to ensure that customers are informed of any changes to their travel plans, we believe it is pertinent to ensure that the information sharing occurs at points in time when there are updates to be shared (i.e. at the point of a delay being announced), rather than there being arbitrary times set for delay information to be shared. The prompt provision of information by airlines in relation to any disruptions will allow consumers to be better prepared for their journey. We would, however, look to add the caveat that information be shared not promptly, but rather “as soon as is practical”, given the various other operational facets that go into remedying any travel disruptions, rather than encouraging piecemeal communications that are not meaningful.

Right Three

Right to prompt and fair remedies and support during / after delays, cancellations, disruption

IATA agrees that passengers should receive clear and timely communication in the event of flight delays and cancellation. We accept that they are also entitled to certain fair and proportionate remedies when the disruption is *within an airline's control*.

Customer entitlements

In responding to this section, IATA would like to reiterate that the Charter should set out expectations in terms of outcomes while allowing airlines the flexibility to determine how best to meet those expectations. This is important to allow airlines to differentiate their products and offerings and to protect the primacy of the ACL rather than letting the Charter become regulation by default with the undue burden to consumers, governments, airlines and airports that this would cause.

The Charter could set out what constitutes “within airline's control”, or equally circumstances considered to be “outside airline's control” and for which airlines would not be expected to be held liable for consumer disruption and associated assistance.

All of the customer entitlements throughout this section of the Charter should be clear they apply **only** to events within an airline's control, and only for delays over the set timeframe (i.e. three hours). We would recommend that components such as weather, air traffic control, airport closures, force majeure and safety-related matters (among others) be excluded from the definition of ‘within airline control’. We would recommend the Government consider the inclusions and exclusions outlined by authorities in Oman¹⁰ and Thailand¹¹ as solid guidelines. It would be appropriate for the Charter to further highlight that these provisions are not a substitute or alternative to travel insurance; passengers who want full protection should purchase their own travel insurance, which is already broadly accepted by consumers.

It should be at the airline's discretion to determine whether to provide food, vouchers for food or access to a lounge, and not the passenger's choice (as different airlines and airports have different offerings in various ports) when a delay is within airline control.

We have concerns with the suggestion that airlines will “*provide assistance to rebook with... alternative airlines*” for delays of longer than three hours. Three hours is unduly short, in particular for international services or in the event of mass or systemic disruption. Where there are broader network disruptions across all carriers, trying to move

¹⁰ Passenger Rights Section 10. Civil Aviation Authority of Oman. Available at: <https://www.caa.gov.om/en/passenger-rights>

¹¹ Announcement of the Ministry of Transport on Protection of Passenger Rights using Thai air carriers. Art. 4. Section 3b. Civil Aviation Authority of Thailand. Available at: https://www.caat.or.th/wp-content/uploads/2016/04/Announcement_of_MOT06-09-54.pdf



passengers between airlines may not help them get to their destination any quicker. While an airline, at its discretion, may choose to move a passenger to an alternate carrier in the event of an extended delay within their control, in many cases the passenger would be better served by remaining within the original airline's ecosystem. Should a passenger move to an alternate airline which then posts its own extended delay, the passenger will be in a different ecosystem and thus their delay will only compound and the timing of their delay profile (with this alternate carrier) will have started from scratch, while the original airline would have a more holistic view of their journey.

Timelines for refunds

In establishing equitable deadlines for the refund of airline tickets, it is crucial to recognise the role of the "contract of carriage" as well as the process involved when purchasing an airline ticket which differs for direct or indirect sales channel.

The timelines for processing a refund should start when an airline is notified by the customer or the travel agent on behalf of the customer, that a refund has been requested - not when the cancellation / delay is notified to the customer.

It should be accepted within the final Charter wording that:

- When the booking is made through indirect channels, the role of the intermediary is key – airlines can refund the intermediary but the obligation to refund the payer will be with the intermediary; and
- A refund must be paid to the payer / buyer / purchaser and not the passenger.
- A refund must be paid to the original payment method and should remain within an airline's control

We recommend that the scope of refunds is also clarified, or the Charter refers to airline conditions of carriage or refund policies. The amount to be refunded by an airline must be limited to the amount originally received by the airline and must not include any commission, fee or other service charge applied by the intermediary. The above measures will also prevent fraud occurring, and we would encourage this precision of wording be considered in the final Charter.

Indirect bookings

Key definitions

Montreal Convention 1999 (MC99)¹²: MC99 defines carrier liability in the case of death or injury to passengers, as well as in cases of financial compensation for delay, damage or loss of baggage and cargo. IATA has also established Resolution 724 as a standard practice for its member airlines. Resolution 724 is binding on IATA member airlines for international flights and provides for disclosure notices to passengers on liability limitations, overbooking, taxes, user fees, and national requirements. It includes certain articles and references to ticket provisions, carrier tariffs, and general conditions of carriage. In developing the Charter, IATA therefore recommends that MC99 is considered and expressly referred to as it provides a framework of greater certainty about the rules governing the carrier's liability, including the circumstances in which a passenger may bring a claim in a jurisdiction outside Australia if this is more relevant to their circumstances or ordinary place of residence.

Direct Channels: This is the most direct method for a traveller to purchase tickets with the airline, as the traveller books and purchases their flight directly via the airline's website, call centre and at ticket office locations where applicable.

In the event of schedule disruptions, cancellations or refunds, airlines can make changes to passengers' itineraries easily as they are in direct control of the reservation. The airline is also in control of the processing of refunds.

¹² MC99 Full Text. IATA. Available at: <https://www.iata.org/contentassets/fb1137ff561a4819a2d38f3db7308758/mc99-full-text.pdf>
International Air Transport Association
5/56 Church Ave Mascot NSW 2020 AUSTRALIA



In the event of a refund, the form of payment used by the consumer should be considered, as this will determine the time necessary to process the refund. Purchasing a ticket using an Electronic Funds Transfer (EFT) or credit card involves different banking processes and timelines that are not necessarily within the passenger's or airline's control. These factors will influence the time required to process the refund by the airline to the passenger's credit card or bank.

Indirect Channels: Indirect channels are used when airlines sell their services through a third-party or intermediaries like travel agencies (TAs), travel management companies (TMCs), Online Travel agents (OTAs) or global distribution systems (GDSs). IATA plays a crucial role in supporting airlines and intermediaries by operating key IATA Settlement Services (ISS), that include but are not limited to the Billing and Settlement Plan (BSP) that is used by travel agents and airlines.

There are over 70,000 IATA accredited agents worldwide connected to 400+ airlines in 207 countries. In Australia, over 1000 travel agents locations are IATA-accredited.

IATA Accredited Travel agents participate in the Passenger Agency Program which outlines associated products and services that simplify the business relationship between agents, airlines and other industry principals.

Billing and Settlement Plan: Some AUD 26 billion of gross airline funds are transacted through the BSP in Australia; refund volumes in 2024, however accounted only 5% of total BSP transactions.

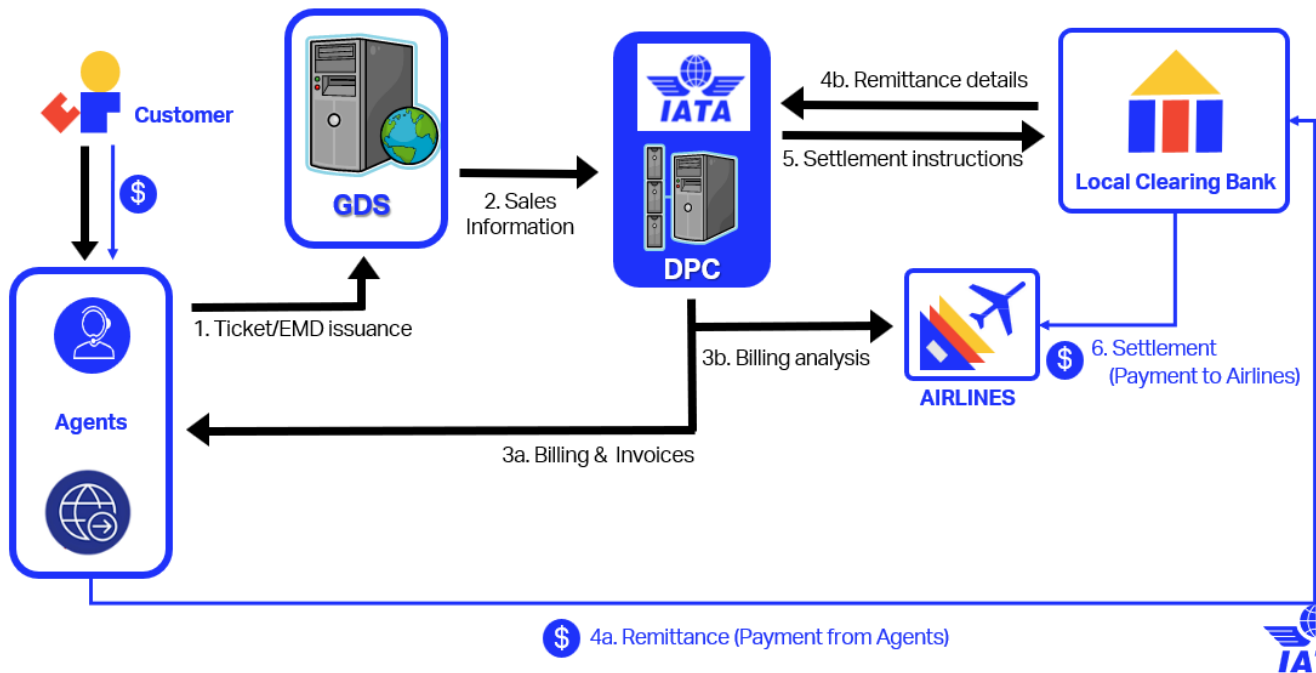
The BSP not only functions as a central clearing house system, but it also enables travel agents to receive a single report that allows them to make one payment to multiple airlines rather than handling multiple invoices. Payments are made to IATA designated bank and funds remitted to airlines on specified settlement date. The settlement is based on travel bookings and tickets generated through the GDS and reported to IATA. IATA then collates all the information and reports it to both travel agents and airlines.

Once the billing report is issued, the BSP will process all agents' payments and instruct the bank to distribute the appropriate amounts to the respective airlines.

Indirect bookings refund process

Unlike the direct channel, for refunds the indirect channel requires several additional steps in the process which will ultimately impact the time that is required to process a refund. These extra steps ensure a more thorough and accurate handling of refunds through intermediaries.

The process flow is identifiable in the below graph:



The function of the BSP essentially streamlines in a secure environment the financial transactions between the travel agent and the airline.

Understanding this process is important, as the timing for issuing and refunding a ticket may differ between the direct and indirect channels. In the direct channel funds are remitted directly by the passenger to the airline and in the event of a refund the process is reversed. However, in the indirect channel, since the travel agent is the original issuer of the airline ticket and received payment from the passenger, the refund is processed by the agent, who will then return the money to the passenger. It is important that refunds, for events within an airline's control, should be issued not only in the original form of payment but also to the original payment method (i.e. credit card). As earlier referenced, this is important to avoid fraud. The process therefore will be lengthier as to ensure that the direct debit from the agents account is successful and funds received and settled to the airlines immediately, but more importantly that all refunds are appropriately accounted for and reconciled in the reports. It is therefore not practical to set the refund timeline at 14 days.

IATA therefore recommends that the above global process is considered in the design of an appropriate refund timeline, and that there needs to be a distinction between the acceptable time required by the airline to process any refund for direct bookings and the time that payment is received by the passenger.

In addition, the Charter must consider that extra time may be required for bookings through intermediaries and intermediaries that may not have formal agreement in place with airlines or transact in the BSP. These agents operate through wholesalers/consolidators and purchase tickets through an alternate means of intermediary. It is therefore not practical to set the refund timeline at 14 days.

IATA remains of the conviction that travel agents should not be excluded from the Ombuds Scheme, as this raises the question on how the Charter would apply to bookings from intermediaries, including the ability to communicate with customers, refunds and complaints. Without their inclusion in the scheme, the dispute mechanism outlined in the Charter may be undermined, therefore leaving a gap in the complaint resolution mechanism that could lead to confusion and inconsistency in how complaints are handled and resolved.

IATA would welcome further discussion with the Department to explain the above process, challenges and timelines, including any efficiencies that could potentially be gained in this process.



Tarmac Delays

As acknowledged within Right 3, and well understood by all links in the aviation ecosystem, safety is paramount. The first priority in a tarmac delay is ensuring that the flight and its passengers are on the move to their destination as quickly and safely as possible. Typically, tarmac delays are dynamic situations where air traffic control provides the best possible advice on permitted movements and airlines are not necessarily in the lead. As with other rights within the Charter, we support the focus on communication to customers as soon as is practicable, rather than any hard and fast timelines being imposed. For this right, we believe that the wording 'before take-off' should be maintained.

The dynamism of these situations may preclude the ability for crew to permit passengers to use amenities or be provided with refreshments. Any requirements that customers be provided with service while on the ground must prioritise passenger and crew safety and wellbeing. IATA does not wish to see passenger and crew safety jeopardised for the purpose of accessing amenities or providing refreshments.

Right Four

Right to safe and timely baggage handling

Airline improvements

Every year, airlines carry more than 4 billion bags worldwide and 99.6% arrive on time and the volume of mishandled baggage is decreasing. The SITA baggage handling report for the air travel industry¹³ highlights that the global mishandled bag rate (MBR) has decreased by 63% since 2007.

Accordingly, and as a baseline, we challenge the notion of baggage mishandling being a source of 'consistent frustration'. While in the era immediately following the pandemic, this was widely reported in media and there were breakdowns in the system as well as workforce shortage issues, we understand these problems have been largely rectified. We would welcome the Department substantiating the notion of this being a 'consistent frustration' and identify key pain points so that these can be more appropriately addressed.

Airlines are continually striving to ensure that passengers' luggage not only safely travels with them but are also improving communication with customers about the location of their luggage on its journey. Domestically and internationally, a number of airlines have invested in technology to advise customers of the status of their luggage, including when it's checked in, loaded and unloaded at their destination. This ties into our earlier references around communication being paramount in ensuring that customers are comfortable and satisfied with their journey.

Airlines are also using third-party RFID tracking devices (such as Apple Air Tags). While we do not view such technology as being something that is to be enshrined within the Charter (due to extensive costs and variety of operations to, from and within Australia), it does show the direction that airlines are moving in to further communicate with customers.

Luggage recovery

MC99 is the international standard for the limitations placed upon a carrier for the loss of any luggage. We do not view it as appropriate for the Charter to require airlines to deviate from or go beyond MC99 (of which Australia is a cosigner). We further believe that any remedies should fall within Australian Consumer Law, and we would recommend both the Montreal Convention and Australian Consumer Law are enshrined in the Charter.

IATA would recommend that, rather than duplicating existing global efforts, the Charter look to refer to IATA Resolution Industry Standards¹⁴ in relation to mishandled bags. IATA's 350 members (including most of those operating to/from/within Australia) are already required to adhere to these resolutions, and we believe it appropriate

¹³ SITA Baggage Handling Report 2024. SITA. Available at: <https://www.sita.aero/resources/surveys-reports/sita-baggage-it-insights-2024/>

¹⁴ Baggage standards. IATA. Available at: <https://www.iata.org/en/programs/ops-infra/baggage/standards/>



that this requirement simply be extended to all airlines to avoid both duplication and misalignment with global practices. Some of these guidelines are:

- Resolution 743: Found and Unclaimed Checked Baggage: outlines the responsibility and procedures for such baggage.
- Resolution 743a: Forwarding Mishandled Baggage: provides baggage message info, charges and responsibility (of the carrier responsible for the mishandling).
- Resolution 780: IATA Interline Traffic Agreement – Passenger and Baggage Article 4. RP 1701m Self-Service Baggage Recovery which also provides guidance on airlines that plan to offer such a service.

Furthermore, IATA member airlines are progressively adopting Resolution 753; Baggage Tracking standards that have been introduced since 2018. These standards are supporting airlines in preventing baggage mishandling through the implementation of updated technologies. We would welcome a more detailed discussion with the Department on IATA's Industry Standards for baggage.

It is in the best interests of passengers and airlines alike to ensure that any delayed luggage is delivered with at the earliest practical convenience.

As highlighted in Right 2, there are consistently challenges where contact details for customers are not provided or are not up to date and thus it is difficult to have this reunification occur. We thus reiterate the need for updated customer contact details that can be used at both ends of their journey to be provided. As this Right takes into account post-travel communication, there must also be due consideration given for overseas arrivals who may not have a permanent address, phone connectivity or have fast-moving itineraries. While this presents challenges to airlines in being able to reunite luggage with the passenger, they remain committed to ensuring it is reunited with customers.

To avoid any bureaucratic concerns for airlines or passengers, there should be some flexibility permitted as to the means by which airlines facilitate the provision of '*necessary purchase of appropriate clothing and toiletries where this occurs away from the customer's home port*'. While some airlines may opt to provide passengers with a budget for which they can purchase necessary items, others may choose to provide necessity kits or prepaid vouchers/cards to facilitate the efficient processing of associated charges. We thus believe the wording should allow this level of flexibility to airlines as to their preferred provision method.

As acknowledged within the Right and in our response to Right 3, MC99 is the international standard for the limitations placed upon a carrier for the loss of any luggage. We do not view it as appropriate for the Charter to require airlines to deviate from or go beyond MC99 (of which Australia is a cosigner). We further believe that any remedies should fall within Australian Consumer Law and we would recommend both the Montreal Convention and Australian Consumer Law are enshrined in the Charter.

The Right indicates that damaged luggage is to be fixed in a 'timely manner'. It is important that there be an appropriately-consulted definition for what constitutes 'damaged luggage' and 'timely manner' (within the limits of MC99), while taking into consideration the limitations that exist for third parties fixing luggage in ports outside major centres (and the associated transit of the luggage for repair).

Right Five

Right to protection of personal information

The aviation industry has undertaken a massive digital transformation over the past 15-20 years, from the corporate side of the airline to the aircraft, its ground operations and associated interconnected systems to ensure that the privacy, confidentiality and integrity of passenger data is maintained.

The International Civil Aviation Organisation (ICAO) provides guidelines for handling and exchanging passenger data including the Passenger Name Record (PNR). These guidelines are intended for airlines to ensure that passenger data is handled securely and in compliance with international law.



Furthermore it is important to note that under ICAO Doc LC/38-WP/7-1,; *"the nature of international civil aviation under the Chicago Convention, an international airline is based and incorporated in a particular home jurisdiction, where it maintains its aircraft registrations and passenger reservations system, among other things, and operates as a single legal entity across both its home and other jurisdictions in order to provide international air carriage to or from those other jurisdictions, and in accordance with rights conferred under an air services agreement. Information accordingly needs to be sent to the home entity given this assumption of the regulatory framework"*. This is a particularly an important consideration as airlines are required to maintain regulatory compliance across multiple data privacy jurisdictions and that the application of a single regulatory framework may not be sufficient.

Whilst airlines maintain a privacy section on their website, given the number of jurisdictions adopting and revising their privacy laws or regulations, privacy components under Australian law should be referred to on the *aus.air* website, keeping in mind the nature of the aviation sector.

The Charter also needs to consider the complexities of multiple parties handling passenger data, whether they be border and law enforcement agencies, national security or travel agents, across multiple jurisdictions. The Charter should apply to all those in possession of passenger data including third parties and contractors.

Passenger data therefore should be collected, processed and transferred as required by law. This will ensure that each component party to the consumer journey only holds and processes the personal information which is legally necessary and appropriate to their role.

Airlines need to retain personal information for legal and related reasons, including the regulatory requirements of foreign governments and entities, to perform contractual obligations and process claims, among other reasons, as will be provided for in applicable law. IATA welcomes reference in the Right Five to the role of the applicable law in regulating these issues. IATA understands that there are occasions where explicit agreements between individual parties (i.e. an airline and passenger) may extend the tenure of passenger data being held, though the integrity of the privacy settings must be upheld.

IATA's recommendation is that any complaint in respect of privacy matters should be handled by the appropriate authority and not by the Ombuds Scheme. Privacy complaints should be excluded from the Ombuds Scheme. Any complaint complaints or concerns to not resolved by the airline should be directed to the Office of the Australian Information Commissioner (OAIC). This information should be clearly visible on the *aus.air* website.

Right Six

Right to make complaints, provide feedback

Airline improvements and processes

The consultation document states that *"in many cases where customers have made complaints or provided feedback to airlines or airports, those complaints have been responded to, or have had no response for several months"*. The aviation sector, like its passengers, is well aware of the pains that came with the ramp up in travel following the pandemic as nation states reduced their travel restrictions and the world started travelling. The immediate aftermath was an uncomfortable time for all concerned and airlines, where fault was applicable, have indicated their regrets. Since this period, airlines have heavily invested in their customer-facing channels to ensure that the travel experience is both safe and enjoyable, but also to ensure that any disruptions or associated complaints are efficiently resolved. IATA, would however, like to seek the quantitative origins of this statement within the consultation document, with a view to ameliorating overall outcomes.

The proposal for Right 6 indicates that *'airlines and airports will improve their complaint handling systems'*. While this is a noble aspiration, it must be considered that every airline has its own process and means of engaging with customers. IATA wishes to question whether there is a more concrete outcome, than simply saying that an improvement must occur.



IATA firmly believes that any customer complaints should be communicated to the airline concerned in the first instance. It is in airlines' interests to seek to remedy any missteps in the passenger journey, and indeed to expediently engage with the customer should there be any concerns raised following their journey. It is anticipated that this will continue so that the level of escalations to the ombudsperson will be limited. As outlined in our submission to the Aviation Industry Ombuds Scheme in September 2024, IATA is of the view that there must be a strict set of requirements for any escalations to the ombudsperson.

As indicated in other sections of this response, the Government must consider the breadth of carriers operating to Australia and the various offerings. Thus, in relation to the airline '*[supplying] information...on how to provide feedback or make a complaint*', IATA considers that the 'contact us' section of airline websites provides an effective avenue for consumers to provide any feedback.

With the broad patchwork of schemes that exist in various jurisdictions around the world, it is not feasible to require foreign airlines to host a webpage specifically on the Australian Ombuds Scheme. Rather, it would be suggested that the required steps to make a submission to the Ombudsperson be housed on the *aus.air* website. Airlines will then direct passengers to this site for further information. On the site, it would be appropriate for the Government to advise that consumers must first lodge their complaint with the airline and then what steps are taken should the airline or airport response not be satisfactory.

It is understandable that all parties would seek to achieve a resolution in a '*reasonable timeframe*'. While we are quite open to an automated acknowledgement of online/email feedback receipt within 24 hours response may not be feasible due to time zone challenges. Similarly, a resolution within 30 days may also not be appropriate. To address a complaint an airline will need to consult a multitude of internal and external stakeholders. Further, additional questions may need to be asked of the complainant to crystallise the airline's understanding of the situation. IATA recommends that the target of responding to a complaint take into account the variety of influences outside an airline's control that go into responding in a reasonable timeframe. If a target is to be included, we would recommend this be 8 weeks, in line with other global schemes¹⁵.

IATA is perplexed by the notion that airlines or airports would cause customers to be '*concerned about retribution*' should they exercise their rights under the Charter. While we understand this to be standard Australian ombuds scheme language from other frameworks, we do not believe it is in any way relevant to the aviation sector. Airlines desire a fair outcome for all stakeholders, in accordance with legal obligations.

We welcome customer feedback and their expectation to receive a response that engages with their concerns. Airlines have no desire to litigate against consumers, though should a consumer opt to take this approach, an airline should have the right to defend itself, particularly where there is a risk to its reputation as a business for claims that may be untrue or libellous, or more specifically pertaining to safety concerns.

Customer representation

IATA reaffirms its views that only the impacted passenger should make representations to the Ombuds scheme or be eligible to receive any remedies.

As has been seen in Europe, the emergence of Claim Management Companies (or claims farms) has resulted in consumers only receiving a portion of what they're entitled to, and we do not believe this to be just. Ensuring that *only* consumers can engage with the Ombudsperson and receive any form of remedies (and not their intermediaries) will not only save consumers, airlines and the government time and money, but will also strengthen the validity and efficacy of the Charter. It will also ensure that consumers are able to fully understand and appreciate the Charter and Ombuds Scheme.

IATA encourages the government to amend the wording to specify that the intent is to allow persons such as family members to act on behalf of the passenger and not commercial entities. To the extent that any third-party

¹⁵ How the CAA can help. UK Civil Aviation Authority. Available at: <https://www.caa.co.uk/passengers-and-public/resolving-travel-problems/how-the-cao-can-help/how-the-cao-can-help>
International Air Transport Association
5/56 Church Ave Mascot NSW 2020 AUSTRALIA



representation is permitted then the entities providing such representation should be tightly regulated and subject to the same legal and financial checks and safeguards that would apply to a law firm or any other entity providing representation and collecting monies on behalf of passengers.