



A non-profit, volunteer organisation, advocating to advance the interests of consumers in Queensland

*Secretary:
Max Howard
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SUBMISSION ON AVIATION GREEN PAPER

BACKGROUND

The Queensland Consumers' Association (QCA) is a non-profit organisation established over 40 years ago and which exists to advance the interests of Queensland consumers. QCA's members work in a voluntary capacity and specialise in particular policy areas.

QCA is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups, and works closely with many other consumer and community groups.

QCA is very interested in and has been involved with aviation issues for many years and made a submission on the White Paper Terms of Reference (TOR) and has participated in face to face and online meetings on the Green Paper.

Therefore, QCA welcomes the opportunity to make this submission on the Green Paper.

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GENERAL COMMENTS

We welcome that the Green Paper covers a very wide range of policy issues and settings likely to significantly influence the nature of the aviation sector out to 2050.

The aviation sector exists primarily to meet consumer needs and consumers pay the bills, therefore QCA welcomes that Section 3 of the Green Paper examines the policy settings for competition, consumer protection and disability access settings.

We particularly welcome that the Overview of Priorities includes taking action "to deliver better outcomes for competition and consumers" and seeks "stakeholder views on what should be included in a **Customer Rights Charter** for the aviation industry, as well as how the **Airline Consumer Advocate's role** could be strengthened to improve outcomes for consumers".

White Paper Aims

However, we are concerned that the White Paper's aims which from the Minister's Foreword and other parts of the Green Paper appear to be the achievement of "A safe, efficient, sustainable, productive and competitive aviation sector" does not specifically mention "fairness".

Fairness is extremely important for consumers and cannot be guaranteed to result from the achievement of the present aims. For example, being competitive and efficient will not necessarily result in fair outcomes for consumers. Furthermore, as noted above, a high priority is to deliver better outcomes for consumers and fairness is very important outcome for consumers. Therefore, we consider that the White Paper's aims should be to achieve "A safe, efficient, **fair**, sustainable and competitive aviation sector".

Consumer protection

We consider that the use only of the term “consumer protection” in the Green Paper fails to recognise and indicate the importance of, and need for, consumer empowerment. Consumer empowerment includes consumer education, access to information to facilitate informed choice, and consumer research and advocacy. Therefore, the White Paper should refer to consumer protection and empowerment, or make clear that consumer empowerment is considered to be a component of consumer protection.

Airline loyalty/rewards programs

Airline loyalty programs are an important consideration for many consumers when choosing domestic and international flights. Also, many consumers are dissatisfied with some features of these programs, including the lack of rewards seats. However, these programs are not mentioned in the Green Paper. The White Paper should include consideration of ways to reduce consumer dissatisfaction levels with loyalty/rewards programs.

SPECIFIC COMMENTS

Our responses to some of the questions in the Green Paper are below.

Chapter 2 – Likely future directions out to 2050

- **What emphasis should the Australian Government place on these trends to help guide the future of the sector? Are there any other trends the Australian Government could add?**

Comments

High priority should be given to demand side drivers and any drivers that will result in high levels of consumer satisfaction with the sector.

Important demand side trends for domestic and international air travel not mentioned include:

- Consumer demand being even more influenced by affordability.
- Consumers wanting air travel to be easier, quicker and simpler, and to have more choices.

Chapter 3 – Airlines, airports and passengers – competition, consumer protection and disability access settings

- **What types of data and analysis should the Australian Government produce to support aviation competition outcomes?**

Comments

The Bureau of Infrastructure, Transport and Regional Economics publishes information about the punctuality and reliability of major domestic airlines operating between Australian airports.

This information facilitates the evaluation of the industry’s performance and for individual airlines and routes. And, very importantly, it assists consumers to make informed travel decisions.

However, on-time performance information is only published for Australian domestic routes for which the passenger load averaged 8000 or more passengers per month over the previous six months and where two or more airlines operated in competition on those routes.

This means that consumers have no access to information about on-time performance and cancellations on some regional routes.

The public provision and effective dissemination of this information for such routes would be very beneficial since it would:

- Increase the availability to consumers, local government, etc. of information about the quality of provision of an essential service.

- Facilitate better informed consumer decision-making when choosing between flights and other forms of travel.
- Provide an incentive for improved performance.
- **Should the Australian Government look to revise current consumer protection arrangements and, if so, through existing or new mechanisms?**

Comments

Yes.
The current protections, which are mainly provided by the Australian Consumer Law, have been shown to be inadequate. More aviation specific measures should be put in place to protect and empower consumers of aviation services, as has been done for many other industries including finance and energy.

New aviation specific measures needed include:

- Mandatory rights and/or compensation for consumers affected by some delayed and cancelled flights (including - as in the USA - for flights delayed on the tarmac for long periods).
- Mandatory standards for credits and refunds.
- Improved standards and protections for consumers wishing to contact airlines by phone.
- Mandatory rights to cancel or change bookings without penalty within a specified period after making the booking.
- Improved standards and consumer protections for airline loyalty programs.
- Requirements that airline charges for services like making minor changes to bookings only reflect actual costs.
- Prohibitions on charging for using call centres if the service is not available online.
- Improved internal and external dispute resolution arrangements.
- **Would an expanded remit for the Airline Customer Advocate to educate customers on their legal entitlements be useful?**

Comments

No.
The Airline Customer Advocate (ACA) system that the four main domestic airlines (Qantas, Virgin Australia, Jetstar and Rex) set up in 2012 has not been sufficiently effective for consumers because of flawed basic design and inadequate resourcing.

The ACA should be replaced with a free, mandatory, independent, ombudsman scheme to handle unresolved customer complaints/claims and with the power to make binding determinations. Such schemes operate nationally for the telecommunications and finance industries and at state level for the energy and water industries. They are very beneficial for consumers.

Furthermore, it is important to recognise that when assessing consumer complaints ombudsman schemes not only consider compliance with written mandatory or voluntary requirements, but also what is fair and reasonable in the circumstances. Also, one of the [benchmarks](#) for ombudsman schemes is ‘effectiveness’ which means that the ombudsman’s powers and jurisdiction should be sufficient to deal with ‘the vast majority of complaints in the relevant industry or service area and the whole of each such complaint’.

Ombudsman schemes greatly reduce the need for consumers to:

- Rely on action by regulators to rectify consumer detriment and solve problems and (where allowed/possible) obtain compensation for the consumer.
- Initiate their own legal action.

Ombudsman schemes also:

- Provide valuable information about the performance of industries and individual businesses.

- Facilitate the identification of systemic problems which can be referred to regulators for further compliance or enforcement action as relevant.
- Encourage improvements in internal dispute resolution arrangements.
- Increase consumer knowledge and skill levels.

As a minimum an ombudsman scheme for the aviation sector should apply to all airlines based in Australia and cover both their domestic and international flights and loyalty/rewards programs. However, ideally, it should apply to **all** airlines that operate flights within in or out of Australia.

Given their major impacts on the total air travel experience, the scheme should also apply to all Australian airports.

Membership should be compulsory for all businesses considered within scope and the scheme should be funded by its members. The scheme's design should comply with the Commonwealth's Benchmarks for Industry based Dispute Resolution and meet the criteria for membership of the Australia and New Zealand Ombudsman Association.

- **Would policies pursued in other jurisdictions – such as a Passenger Bill of Rights or a stronger ombudsman model – deliver benefits to Australia's aviation sector?**

Comments

Yes.

See the earlier comments about the need for an ombudsman scheme.

Also, an ombudsman scheme is not a substitute for improved consumer protection and empowerment measures and, as mentioned above, there is also great a need for aviation specific measures. We consider that these need to be mandatory and that they can provided in numerous ways, including in a Passenger Bill of Rights or via a code or charter.

The matters that should be included in such an instrument include those mentioned earlier i.e.

- Mandatory rights and/or compensation for consumers affected by some delayed and cancelled flights (including - as in the USA - for flights delayed on the tarmac for long periods).
- Mandatory standards for credits and refunds.
- Improved standards and protections for consumers wishing to contact airlines by phone.
- Mandatory rights to cancel or change bookings without penalty within a specified period after making the booking.
- Improved standards and consumer protections for airline loyalty programs.
- Requirements that airline charges for services like making minor changes to bookings reflect only actual costs.
- Prohibitions on charging for using call centres if the service is not available online.
- Improved internal and external dispute resolution arrangements.