

John [REDACTED]

Chief Customer and Commercial Officer, Virgin Australia

[REDACTED]

Reference: Velocity Frequent Flyer Program Complaint No. [REDACTED]
Membership No.: [REDACTED]

Subject: Breach of Duty to Inform & Non-Compliance with ACCC Recommendations

1. Breach of Duty to Inform

[REDACTED] I attempted to redeem points from my Velocity Frequent Flyer rewards program, which I had accumulated since [REDACTED] only to find that all my points had been removed. Upon contacting Velocity membership, I was informed that my points were removed due to changes in **Terms and Conditions**. These changes were never communicated to me because I had opted out of marketing emails.

This represents a breach of duty to inform as **Terms and Conditions** changes are **material changes** to the program, distinct from marketing content. Regardless of my email preferences, I should have been directly informed about any significant modifications that would result in forfeiture of my points.

2. Non-Compliance with ACCC Recommendations

The **ACCC's 2019 Customer Loyalty Schemes Final Report** recommended that loyalty programs be transparent and notify members of any material changes that could affect their accrued benefits, such as points or membership status. However, Velocity failed to adhere to these guidelines by not informing me about the changes in its terms that led to the expiration of my points. This action disregards both consumer protection principles and the ACCC's recommendations for best practices.

Furthermore, in **Virgin Australia's October 2, 2019 submission to the ACCC**, they stated their commitment to aligning with ACCC recommendations by adopting better practices for informing members about program changes. However, by not notifying me of these critical alterations, they have failed to live up to their commitments.

3. Velocity Frequent Flyer Emails

[REDACTED], I received an email response from Velocity in relation to Complaint No. [REDACTED] which stated:

"In order to uphold fair treatment across all of our members, we are unable to reinstate the expired points. I hope you can understand that my compliance with our terms and conditions is not to disappoint you, but to maintain the integrity and feasibility of our program."

This message failed to address my concerns about the lack of notice regarding material changes to the **Terms and Conditions**, instead focusing on program integrity. Subsequently, I received another

email encouraging me to engage with their everyday partners to prevent future expirations, which again ignored the root issue of failing to communicate a **material change** to me.

4. Relevant Velocity Frequent Flyer Terms and Conditions

In examining the **Velocity Terms and Conditions**, the following sections are crucial to my complaint:

- **1.3 Changes to these Terms and Velocity:** Velocity is obligated to act reasonably in making changes to its terms and conditions. However, the failure to notify members about significant changes, like point expiration, violates this principle.
 - **1.4 When we'll give you notice of changes:** For significant changes, Velocity is supposed to provide at least **30 days' notice** through email and its website. In this case, no such notice was given to me, breaching this clause.
 - **2.3 Your Velocity Account and Member Benefits:** This section outlines that points expire 24 months after the last activity unless properly credited or redeemed. As I did not receive adequate notice, I could not engage with my account to prevent the points from expiring.
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5. ACCC Recommendations & Virgin Australia's Submission (October 2, 2019)

In its **Customer Loyalty Schemes Final Report**, the ACCC recommended transparent communication about point expiration and any material program changes. Virgin Australia's submission to the ACCC outlined a commitment to improving communication practices. Despite these commitments, the lack of notice about the significant change in **Terms and Conditions** directly conflicts with the **ACCC's expectations** for loyalty programs.

Next Steps and Recommendations

1. **Reinstate Points:** Given the lack of proper notification, I request the reinstatement of my expired points. The failure to communicate material changes, despite my email preferences, constitutes a violation of **Australian Consumer Law** and **ACCC guidelines**.
 2. **Better Communication Channels:** Velocity should separate **material changes** from marketing communications to ensure that critical program changes reach all members, regardless of their marketing preferences. I recommend that Velocity adopt **opt-out provisions** for marketing while retaining **mandatory updates** on critical changes such as points expiry or account activity.
 3. **ACCC Involvement:** The ACCC's recommendations in its **Customer Loyalty Schemes Report** stress the importance of transparency. Velocity's lack of clear communication about these changes undermines consumer trust, and I will consider lodging a formal complaint with the **ACCC** to investigate these practices.
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Velocity Frequent Flyer's failure to communicate the changes to their **Terms and Conditions** regarding point expiration is not only a breach of their duty to inform but also a direct violation of

ACCC recommendations. I urge for the reinstatement of my points and further reforms to their communication process to avoid such issues in the future.

Sonja [REDACTED]

[REDACTED]

Alternatively:

[REDACTED]

(as per my velocity membership details).