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Rural and Regional Affairs and Transport Legislation Committee
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Parliament House
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By email: rrat.sen@aph.gov.au

IATA Response to *Inquiry into the Aviation Consumer Protection Bill 2026 and three related bills*

The International Air Transport Association (IATA) is the global trade association for the world's airlines, representing over 360 carriers accounting for some 86% of total global air traffic. Our members include Qantas, Virgin Australia, Link Airways, and most airlines operating international services to and from Australia. IATA supports a wide range of aviation activities and plays a central role in shaping industry standards, policy on issues critical to aviation safety, efficiency and sustainability.

Since the release of the Aviation White Paper in August 2024, IATA has worked constructively with the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts ("the Department") and other government stakeholders to ensure that the introduction of the Ombuds scheme and accompanying regulation avoids the challenges that have been faced in other jurisdictions.

Together with our members, we equally want to ensure that customers receive services that are reliable and on schedule. Moreover, we have engaged with the government and industry from the perspective of a shared objective, to ensure that the currently proposed ombuds scheme is successful.

Our focus has been to ensure that the Australian Government does not find itself inadvertently exposed to unintended consequences that have been experienced in Canada, Europe and beyond. Similarly, we are working with the Department to ensure that the proposed scheme delivers on passengers' demands and needs, whether they be based in metropolitan, regional or rural areas, and does not burden them with a structure that makes air travel more challenging to understand and expensive, thus potentially inhibiting economic growth.

Australia starts from a strong position. IATA has long held the view that Australian Consumer Law (ACL) is one of the world's best regimes for enshrining consumer protections and that this framework has worked well when applied to the context of aviation. Indeed, it was stated in the Aviation White Paper that *"consistent with the approach taken in other industries such as telecommunications which relies of the Telecommunications Consumer Protection Code, the Charter will complement, not replace, consumers' existing rights under the ACL*"[1], recognising the strength of the law.

However, as it stands, the scheme is set to go well beyond the rights outlined in the ACL and we are concerned about the impacts this could have on consumer protection in other parts of the Australian economy. This concern is guided by the experience of our members of operating under the Canadian and European regimes. In both jurisdictions, the cost of the regulations has greatly exceeded what was anticipated when the schemes were introduced. This is partly a result of optimism bias when conducting the pertinent impact assessments but also a function of how the scope of the schemes have evolved since their introduction.

Considering the above, our concerns and those of our member airlines extend beyond the policy intent of enhanced consumer protection. Within the draft *Aviation Consumer Protection Bill 2026* there remain provisions where the language appears to go beyond the existing framework and risks introducing obligations that have not been subject to meaningful consultation.

For example, we note that there are elements where we have cause for concern with the drafting over-reaching beyond Australian Consumer Law and including verbiage that has not previously been meaningfully consulted upon including Section 11 (3g) where a consumer would be eligible to complain about a catering service onboard an aircraft. This is vague and does not take into account the breadth of offerings in the Australian market. In a similar vein, we are concerned by the vague nature of

[1] Aviation White Paper – Towards 2050. Australian Government. p62. Available at: https://www.infrastructure.gov.au/sites/default/files/documents/awp-aviation-white-paper.pdf

Section 46 (2) whereby there are references to the Ombudsperson being satisfied that decisions and conduct were "fair and reasonable". This phrasing is also vague and subjective.

Further to this, Section 15 (a) extends the extrajudicial facets of the proposed scheme to include carriers that do not offer service to the Australian market beyond placing their code on another carrier's flight. This therefore expands the scheme to include a far broader range of carriers than otherwise operate in the Australian market, leading to further regulatory challenges where not necessary. We would recommend this section have its definition narrowed to only apply to the *operating* carrier.

Such examples, where well-intended provisions may result in unintended scope creep, highlight the importance of drawing on international experience when designing of Australia's Consumer protection framework.

Through engagement with our airline members from jurisdictions where consumer protection schemes are in place, we would like to take this opportunity to also highlight to the Commission six learnings that Australia should take onboard as a priority:

1. Careful consideration should be given at the design stage as to how the Ombuds Scheme will be implemented and how the Customer Charter will be enforced. In Canada, which we understand the Department views as an exemplar to be followed, the Canadian Transportation Agency (CTA) greatly underestimated the workload that would be required in claims processing. In 2018, prior to the introduction of the Air Passenger Protection Regulation (APPR), the CTA estimated the steady-state cost to the Authority of implementing the regulations at CAD400k per year. By 2024, the CTA's estimate for the cost of running the scheme had increased to CAD30m. The claims backlog is currently approaching 100,000.

2. Getting the details right matters. Clear and precise definitions are especially important. In both Canada and Europe, key terms were not clearly defined in the regulations, and these gaps and grey areas have led to confusion on the part of passengers, government and industry. Examples include the interpretation of *force majeure* scenarios or situations that comprise extraordinary circumstances. The same applies in determining whether situations are within or without airlines' control. Linked to both this point and the previous bullet point, the Department and the incipient Ombuds scheme need to have a clear view on how the applicability of any exemptions related to such scenarios will be determined. Our experience in Canada and Europe has shown that the burden of proof can be considerable, with submissions running to as much as 50 pages for a single complaint.

3. Canada and Europe have shown that the starting point of a regulation is not a guarantee of where things will end up. The European regulation has been the subject of ~90 rulings from the Court of Justice of the European Union (CJEU, the *de facto* European Supreme Court). Not only is this a record for any single piece of European legislation, but many of these rulings have also had a significant impact on how the regulation is applied. In both Canada and Europe, there are initiatives in play to revise the regulation to adapt to the challenges that have been experienced. However, regulatory reform is not easy, and the European revision has been ongoing for almost 15 years.

4. Introducing consumer regulations does not automatically reduce delays or cancellations. Experience from Europe has shown that delays increased in the period since delay compensation was introduced. This is because the cause of disruption is often outside airlines' control. Improved punctuality is a common objective for government, passengers and industry. We encourage the government to take a whole system approach to ensure that all stakeholders in the aviation ecosystem are incentivised to deliver punctual performance and to enhance customer experience; prevention is better than cure.

5. The Government should be mindful of the costs to industry associated with the Ombuds Scheme and Customer Charter. While the proposed Charter does not include compensation for delays, it does include prescriptive provisions relating to care & assistance and rebooking / rerouting. The European Commission's own analysis of the European regulation indicates that these two categories account for approximately half of the ~AUD9Billion cost of the scheme. Such a level of costs inevitably impacts on the cost of travel at a time when affordability is passengers' number one priority after a safe journey. A less prescriptive approach may provide customers with the choice to select and pay for what they value most.

6. Lastly, we would like to highlight the critical importance of the guidance document for passengers that is under preparation, helping to explain a passenger's rights. IATA is clear that providing passengers with appropriate information at the various

stages of the booking and travel experience is critical to creating clear expectations and ensuring that passengers are duly empowered. Such guidance should also clarify passengers' obligations and responsibilities throughout the journey process. To this end we would also like to highlight an important section from the White Paper; if the "*purpose of the Charter is to provide clarity on the minimum standard of consumer protections that apply to all airlines operating in Australia*"[2], then it may also be helpful for the Charter to clearly outline the corresponding expectations from consumers.

Australia has an opportunity to avoid these pitfalls, and IATA is committed to work with all key stakeholders to shape a scheme that can be considered as global best practice, in the way that the ACL already is. IATA's objective has been to work collaboratively with the Department to help shape an aviation ombuds scheme that underscores the industry intention for the scheme to be considered workable and effective, and we offer these observations in that spirit. We understand that the local associations represented by the Board of Airlines Representatives Australia (BARA) and Airlines for Australia, New Zealand (A4ANZ) and the Regional Aviation Association of Australia (RAAA) have written separately to you raising similar concerns, that echo the issues highlighted by IATA.

We would welcome further discussions on these matters with you Ministers, to further explain why the Scheme needs changes as highlighted above to serve the best interests of the Australian travelling public. Please feel free to contact by email on [redacted] to discuss any aspect on the contents of this letter.

Yours faithfully,

[redacted]

Matteo Zanarini
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[2] Aviation White Paper – Towards 2050. Australian Government. p56. Available at: https://www.infrastructure.gov.au/sites/default/files/documents/awp-aviation-white-paper.pdf