

# **ATIA Travel Accreditation Scheme**

## **Review Report 2025**

**Prepared by Michael Terceiro**

## Executive Summary

I have made the following specific findings as part of my 2025 review of the ATIA Travel Accreditation Scheme (Scheme).

- The ATIA Accredited Eligibility Criteria are sufficient to ensure the objectives of ATIA Accreditation are achieved. No major changes should be made to the criteria.
- The ATAS Charter appropriately sets out the relevant objectives, rules and participation arrangements. A limited number of amendments are required to improve the operation of the Charter.
- The Code of Conduct appropriately sets out the standards of good practice that participants must follow in their day-to-day practices. A limited number of amendments are required to improve the operation and visibility of the Code.
- The ATIA Complaints Appeals Committee (ACAC) is effective in terms of the resolution of Complaints referred to it and is structured to be able to operate efficiently and effectively.

In my view the Scheme operates in a very effective manner. The accreditation system is comprehensive and ensures that only financially stable businesses can attain accreditation. The current dispute resolution processes are also highly effective with the vast majority of consumer complaints being resolved at either Stage 1 or Stage 2 of the process. Few matters are appealed to the ACAC and of those matters which are appealed it is clear that the ACAC takes an even handed approach to resolving such complaints.

I have made the following seven recommendations which I believe are necessary to improve the operation, effectiveness and profile of the ATIA Accreditation Scheme and Dispute Resolution Processes:

### **Recommendation 1**

The Charter be amended to:

- \* remove the mandatory requirement of Public Liability insurance from those members not operating in person businesses
- \* remove the mandatory requirement of Professional Indemnity insurance for Tour Operator members
- \* introduce mandatory Cyber Insurance for all members to take effect from the 2027 renewal period, commencing in April 2027.

**Recommendation 2**

The Charter be amended to state that :

- \* The applicant must ensure that 50 per cent of its consumer-facing staff hold Recognised Industry Training, which may include a Certificate III in Travel or other relevant qualifications and certifications as assessed by the Compliance Manager.
- \* Recognition of prior learning, including at least two years' frontline travel selling experience (TSP), may be accepted at the Compliance Manager's discretion, who may request supporting evidence upon submission.
- \* Applicants in Tier 1 through Tier 5 are required to complete an ATIA-endorsed Continuing Professional Development (CPD) program every two years, focusing on the ATAS Code of Conduct and Consumer Complaints Process.

**Recommendation 3**

The Accreditation Fee Structure be amended to include the following new structure:

<b>Category</b>	<b>TTV bands</b>
1	Less than \$1 million
2	\$1m - \$2.5 million
3	\$2.5m - \$5 million
4	\$5m - \$10 million
5	\$10m - \$50 million
6	\$50m - \$100 million
7	\$100m - \$250 million
8	\$250m - \$1 billion
9	\$1 billion or greater

**Recommendation 4**

ATIA take steps at the beginning of each calendar year to write to the ACCC and each of the state and territory consumer law regulators as well as each of the state and territory consumer Tribunals to advise them of the option of consumers utilising the ATIA complaints handling system. To this end ATIA should develop a brief brochure which outlines the complaints handling process and includes relevant contact information.

**Recommendation 5**

The independent review period for Charter Reviews be increased to every five years with the next review scheduled for 2030.

**Recommendation 6**

ATIA continue discussions with CATO to explore the possibility of a re-amalgamation of their accreditation systems, particularly in relation to the provision of an independent dispute resolution process.

**Recommendation 7**

ATIA to continue undertaking targeted research into ways of raising the visibility and recognition of ATIA and the ATIA Accreditation Scheme amongst relevant stakeholders and the general public.

**Suggested issues for further investigation**

I have also suggested two issues which require further investigation by ATIA:

**Suggestion 1**

ATIA undertake further research in relation to members implementing policies whereby they will only deal with accredited ATIA members, including seeking of legal advice and, subject to such advice, to determine whether to actively encourage members to implement such policies and to also formally notify such conduct to the ACCC.

**Suggestion 2**

ATIA undertake further research in relation to whether to seek ACCC authorisation of the ATIA Accreditation Scheme consisting of the accreditation system and disciplinary processes, including the provision of legal advice and, subject to that advice, to consult with ATIA stakeholders on the benefits and costs of seeking ACCC authorisation of the ATIA Accreditation Scheme.

## Introduction

On 1 July 2014, the Australian Federation of Travel Agents Limited (ACN 001 444 275) (AFTA) established the AFTA Travel Accreditation Scheme which was subsequently renamed the Australian Travel Accreditation Scheme (ATAS).

On 15 August 2023, AFTA was renamed the Australian Travel Industry Association (ATIA).

On 25 October 2024, ATIA announced the retirement of the ATAS accreditation designator and the ATAS scheme now grants eligible participants the designation of "ATIA Accredited".

ATAS is a voluntary scheme, and its Charter and Code of Conduct were drafted using the ACCC guidelines for developing effective voluntary industry codes of conduct as a guide.

The objectives of ATAS are to:

- a) Establish a nationally recognised accreditation scheme for travel intermediaries that demonstrates to consumers the professional standing of those within the travel industry;
- b) Maintain high standards of service delivery by requiring ATIA Accredited Participants to meet the requirements set out in the ATAS Charter as well as the ATAS Code, and provide for suitable consequences when these requirements are not met;
- c) Inform consumers about the benefits of using an ATIA Accredited professional when booking travel;
- d) Facilitate the resolution of disputes arising between Participants and consumers; and
- e) Ensure the professionalism of the travel industry into the future.

Participants in the scheme consist of travel intermediaries who are accredited under ATAS. These intermediaries are domiciled, registered or incorporated in Australia, and provide a travel product or service on behalf of a travel supplier. Intermediaries include travel agents, travel management companies, aggregators, distributors, online travel agents, inbound and outbound tour operators, wholesalers and consolidators.

## Independent reviews

The ATAS Charter provides a commitment from the ATIA Board to review the ATAS Charter and Code every 3 years pursuant to clause 3.3(a) of the ATAS Charter.

Pursuant to clause 3.3(b) a review of the Charter and Code will be conducted according to the Terms of Reference for the Review as approved by the Board.

The aim of the reviews is to receive feedback and suggested improvements from interested parties in regard to:

- (a) the effectiveness of the scheme in achieving the objectives listed above; and
- (b) the operation of the scheme.

The timeframe for the 2025 review was as follows:

- Terms of reference released 1 April 2025
- Consultation period opened 2 June 2025
- Consultation period closed 1 July 2025
- Report to be submitted to ATIA by the appointed reviewer 29 July 2025

Discussions about my appointment commenced in February 2025.

I was appointed as the 2025 Reviewer on 4 May 2025 and once the Terms of Reference were released, I commenced work on the independent review.

## Terms of Reference

The specific terms of reference for my review were as follows:

*The ATIA Accredited Eligibility Criteria*

*Are the criteria sufficient to ensure the objectives of ATIA Accreditation are achieved? Should changes be made to the criteria? If so, what changes are recommended?*

*The ATAS Charter*

*Does the ATAS Charter set out the objectives, rules and participation arrangements appropriately? Should consideration be given to amending the Charter? If so, what amendments are recommended?*

*Code of Conduct*

*Does the ATAS Code of Conduct set out appropriately the standards of good practice that participants must follow in their day-to-day practices? Should consideration be given to amending the Code? If so, what amendments are recommended?*

*The ATIA Complaints Appeals Committee (ACAC)*

*The effectiveness of the ACAC in:*

- a) the resolution of Complaints referred to it; and*
- b) (being) structured to be able to operate efficiently and effectively.*

*Should consideration be made to amending the ACAC's Terms of Reference or role within ATIA Accreditation? If so, what is recommended?*

## Background

Prior to 2014 the Australian travel industry was regulated pursuant to a Participation Agreement for the Co-operative Scheme for the Uniform Regulation of Travel Agents. This Agreement required member jurisdictions to enact legislation containing uniform provisions which was achieved through the passage of State and Territory Travel Agents' Acts and associated Regulations, collectively referred to as the National Scheme.

These laws also required travel agents to be licensed and for those agents to become and remain members of the Travel Compensation Fund (TCF), a requirement that applied to licensed travel agents in all jurisdictions except the Northern Territory.

In 2011, as part of the Travel Industry Transition Plan the Ministers for Consumer Affairs decided to deregulate the travel industry by abolishing the Co-operative Scheme for the Uniform Regulation of Travel Agents, the closure of the TCF and removal of the requirement to hold a licence to carry on business as a travel agent.

Importantly the reasons for the decision to deregulate the travel industry were grounded on the view that the existing system was no longer fit for purpose:

*Ministers present at the Meeting of Ministers for Consumer Affairs acknowledged the Travel Compensation Fund (TCF) had played an important role in protecting consumers in the past.*

*However, Ministers agreed that the TCF could not continue to be the primary vehicle for consumer protection in the travel market. There have been both fundamental changes in the market and recent legislative arrangements entered into between the States, Territories and Commonwealth, in particular the strengthened legislative protections under the Australian Consumer Law (ACL).\**

*Ministers also noted that the current arrangements are not satisfactory. In particular, only about a third of affected consumers have any redress under the scheme and more money is being spent on the administration of the scheme than is being paid out to consumers. There has been extensive consultation about the role of the TCF over the last 4 years following concerns about coverage of the market and the relevance of the TCF for consumer protection. A range of options has been identified but there has been a general acceptance that the current system is a significant regulatory burden with declining benefit. Ministers also note that the larger jurisdictions signalled that in the absence of an agreed transition plan, they would withdraw from the TCF. This may mean that the TCF may no longer be viable.*

\* I have included a brief summary of the key provisions of the Australian Consumer Law at Appendix A.



It was also recognised at that time that the travel industry was experiencing significant change which made the existing regulation inadequate to provide effective consumer protection, in particular:

- changes in the industry that operate to reduce the vulnerability of consumers primarily charge-backs
- the potential to bypass travel agents altogether via the internet and online purchasing options
- industry trends such as consolidation that have reduced the volatility of the industry and the exposure of consumer funds to potential loss.

At the same time there was a recognition that a voluntary accreditation scheme could be introduced to replace the existing regulatory scheme in terms of accreditation requirements and dispute resolution. In this regard, AFTA (subsequently renamed ATIA) proposed the implementation of a voluntary scheme commencing on 1 July 2014 which would include:

- a code of conduct, developed in accordance with the ACCC's *Guidelines for developing effective voluntary industry codes of conduct*;
- evidence of adequate training and advertising; and
- payment of an accreditation fee.

The AFTA scheme which was ultimately introduced included a Charter and Code of Conduct with the following features:

## Charter

The Charter outlines the following governance structure

- (a) The ATIA Chief Executive (ATIA CEO) who has overall responsibility for ATAS' operation and ensuring that ATAS is aligned with the ATIA Board's strategic direction. The ATIA CEO is responsible for advising the ATIA Board on ATAS and both monitoring and reviewing the scheme's operation.
- (b) The ATIA Compliance Manager (Compliance Manager), who is responsible for assessing applications for ATIA accreditation by first-time and renewing participants, monitoring participants' compliance with the ATAS Charter and Code and reporting to the ATIA CEO or the ACAC accordingly, undertaking investigations into alleged breaches of the Charter and the Code and assisting participants, consumers and the ACAC in resolving customer complaints and other compliance matters. The Compliance Manager is responsible for the day-to-day management of the scheme and overseeing the ATAS Charter and Code including setting policies and procedures.

- (c) The ATIA Complaint Appeal Committee (ACAC), which is an independent review body specifically established under ATAS to review and determine consumer complaints which have been referred to it by a consumer or the Compliance Manager, relating to an allegation of non-compliance with the ATAS Code. ACAC members will be appointed, and required to act, in accordance with the ACAC's Terms of Reference attached to the Charter.
- (c) The ATIA Board is responsible for formally approving the ATAS Charter and Code, commissioning relevant reviews, ensuring ATAS's effective operation more generally (such as setting fees), and taking into consideration any recommendation or report from the ATIA CEO, the Compliance Manager or the ACAC.

The Charter sets out detailed eligibility criteria for accreditation under the following headings:

- Status as a travel intermediary
- Acceptance, release and indemnity deed poll in relation to the Charter and Code
- Consumer protection and engagement
- Business Compliance and Governance
- Financial Assessment
- Commercial Safeguards
- Workforce Development
- Customer Dispute Resolution and Complaints Handling
- Payment of Accreditation Fee

## Code

Clause 3 of the Code sets out the ATAS Code obligations. In particular all accredited ATAS Travel Intermediaries must adhere to the service quality promise set out at clause 3(a):

- (i) Advise consumers of any relevant options and alternatives to satisfy their travel requirements, taking into account their particular interests as well as their arrangements with our travel suppliers;
- (ii) Be receptive to suggestions and feedback they receive;
- (iii) Disclose all relevant information in a plain and easy-to-understand form;
- (iv) Communicate with the consumer and/or the consumer's authorised representative in a timely manner, whether this is in writing or by telephone;
- (v) Monitor external developments affecting how they provide their services, including changes in regulation, codes of practice and other related matters;
- (vi) Ensure that their products and services are fit for any disclosed purpose;

- (vii) Act with due care and skill;
- (viii) Not engage in any acts or omissions of a misleading or deceptive nature;
- (ix) Act fairly and in a reasonable and ethical manner;
- (x) Treat the consumer with respect, consideration and courtesy; and
- (xi) Comply with the Australian Consumer Law.

## Submissions

Six public submissions were received as part of the 2025 review from the following parties:

1. Axis Travel Centre – received 5 June 2025
2. NSW Fair Trading – received 10 June 2025
3. ITC Pacific David Walker – received 20 June 2025
4. South Australian Minister for Consumer Affairs H.A. Micheals MP - received 30 June 2025
5. ATIA – received 30 June 2025
6. Hon Dr Tony Buti MLA, Western Australian Attorney General; Minister for Commerce; Tertiary and International Education; Multicultural Interests – received 22 July 2025

The above submissions have been published in full on the ATIA website -

<https://atia.travel/Accreditation/Scheme-Governance/ATAS-Charter-Reviews>

One confidential submission was received.

In addition, separate correspondence was received from Hon Dr Tony Buti MLA, Western Australian Attorney General; Minister for Commerce; Tertiary and International Education; Multicultural Interests, dated 17 June 2025 expressing support for the ATIA Scheme.

A short survey was also conducted as part of the 2025 Review seeking feedback from ATAS members on a limited number of topics. Four responses were received.

As part of my review I met with members of the Accreditation Advisory Committee on 8 April 2025 to discuss the proposed review.

Finally, I noted that neither CHOICE or the Consumers' Federation of Australia chose to lodge submissions in relation to this review, despite being invited to do so. I have drawn an inference from the absence of submissions from these consumer organisations that they do not have concerns about the operation of the ATIA Accreditation Scheme.

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## Summary of Submissions

### Axis Travel Centre – received 5 June 2025

The Axis Travel Centre (Axis) submission emphasises the need to enhance ATIA's visibility, trustworthiness, and value to travel agents and consumers. Axis outlines several strategic recommendations aimed at strengthening agent credibility, improving industry collaboration, and promoting professional standards.

- **Increase ATIA visibility and marketing:** ATIA is not well recognized among industry partners and consumers compared to AFTA; it should be more actively promoted across all media, government, and industry platforms to build brand awareness and trust.
- **Enhance trust through rigorous audits:** External audits alone are insufficient; unannounced spot audits multiple times a year should be implemented to ensure client funds are properly handled, thereby distinguishing ethical agents and boosting consumer confidence.
- **Raise professional standards and fees:** Mandatory minimum training hours for frontline staff should be established, and agents should be encouraged to charge nominal fees reflecting their expertise and value, similar to other professions, to improve service quality and industry respect.
- **Address supplier practices and industry collaboration:** ATIA should confront airlines and hoteliers who undercut agents by encouraging direct bookings with better perks, promote stronger ties with accredited suppliers like CATO members, and engage experienced small to mid-sized agency experts rather than relying solely on multinational networks.

### NSW Fair Trading – received 10 June 2025

NSW Fair Trading expressed appreciation to ATIA for involving them in the independent review of the Australian Travel Accreditation Scheme, supports the development of industry codes based on ACCC guidelines to ensure consistent standards and consumer protection, and looks forward to the review's outcome while inviting further inquiries.

### ITC Pacific David Walker – received 20 June 2025

The submission by ITC Pacific - David Walker addresses the ATAS Charter and focuses on membership criteria and industry representation. It highlights the need for a more inclusive approach to membership across different travel sectors and clarifies eligibility requirements for accreditation.

- **Membership requirements for ATIA:** Full ATIA members must be ATIA accredited, while non-ATIA members can apply to be ATAS participants if they demonstrate membership in an industry body, with ATAS Charter provisions prevailing in conflicts.
- **Industry representation imbalance:** Currently, 68% of ATIA members are retail travel businesses, leading to a perception that ATIA primarily represents this sector. The submission suggests increasing membership among tour operators, wholesalers, corporate members, inbound/DMC members, and promoting various membership categories to better engage all industry sectors.
- **Eligibility and accreditation criteria:** It discusses the definition of 'Travel Intermediary' and eligibility requirements for ATAS participants, including workforce development stipulations such as requiring 50% of consumer-facing retail staff to hold a Certificate III in Travel or equivalent. The submission questions the applicability of this criteria, particularly for wholesalers and tour operators.
- **Encouraging broader membership:** The submission recommends encouraging industry bodies and associations to join ATIA and considers offering free reciprocal membership to not-for-profit organizations to enhance inclusivity.
- **Eligibility criteria for ATAS participants:** Applicants must meet the ATAS definition of a 'Travel Intermediary,' which includes entities domiciled or registered in Australia selling travel products on behalf of suppliers, such as travel management companies, aggregators, online agents, tour operators, wholesalers, and consolidators. Foreign companies registered under the *Corporations Act 2001* may also participate.
- **Fee structure and membership tenure:** The ATAS participation fee is tiered based on total transaction value (TTV), with a suggestion that Category One (under \$1 million TTV) should be reserved only for start-ups, and businesses not reaching this threshold after one year should not be eligible for full membership.
- **Additional recommendations and clarifications:** The submission recommends clearer references to the 'Code of Conduct' in the Charter, recognition of financial assessments by other industry associations to avoid duplication, clarification on who performs financial assessments, and a shift in industry terminology from 'travel agents' to 'travel advisors.'

### **South Australian Minister for Consumer Affairs H.A. Micheals MP - received 30 June 2025**

The submission provides feedback on the ATAS Charter review, highlighting consumer issues in South Australia's travel industry and suggesting improvements to reduce complaints under the ACL. It emphasises the need for clearer communication of suppliers' terms to consumers and raising awareness of ATAS accreditation.

- **Consumer complaints linked to contract terms:** Most complaints in South Australia stem from consumers not understanding or reading the terms and conditions of travel contracts, particularly those of suppliers like airlines and hotels. The fairness of these terms is also a concern.
- **Suggested improvements to ATAS Charter:** It is recommended to consider amendments requiring consumers to acknowledge and accept the terms and conditions of travel suppliers, enhancing transparency and potentially reducing misunderstandings and ACL complaints.
- **Promotion of ATAS accreditation:** Increasing consumer awareness of the ATAS scheme through campaigns or compulsory signage could encourage the use of accredited intermediaries and support the expansion of ATIA membership.

## ATIA – received 30 June 2025

In its submission ATIA identifies recent scheme improvements, governance documents, and proposed recommendations to enhance industry engagement, consumer protection, and operational efficiency.

- **ATAS Background and Governance:** ATAS was introduced in 2014 to replace state and territory government regulation, governed by the ATAS Charter and Code, which include eligibility criteria, a code of conduct, complaint management processes, financial assessment ratios, and complaint appeal committee operations. Membership requires accreditation, with rules applying even to non-members who choose accreditation.
- **Recent Improvements:** Since the last review, ATIA has recognized non-economic loss in dispute resolutions, enabled accreditation for home-based independent contractors, introduced an option for independent external financial assessments, and launched an updated consumer website. The Accreditation Advisory Committee has enhanced industry acceptance, though consumer representation on the committee remains pending.
- **Membership Tier Structure Update:** ATIA proposes splitting the broad existing Tier 5 (\$10M-\$100M Total Transaction Value) into two tiers—Tier 5 (\$10M-\$50M) and a new Tier 6 (\$50M-\$100M)—to create a fairer fee structure that better reflects business size and supports mid-sized businesses' participation and growth. This change requires member approval.
- **Insurance Requirements Adjustment:** Recommendations include removing the mandatory Public Liability insurance requirement for businesses without face-to-face operations and eliminating the mandatory Professional Indemnity insurance for Tour Operator members, reflecting their low claims history and distinct risk profiles. These changes aim to reduce cost burdens while maintaining consumer protection through declarations and tailored coverage.

- **Training Enhancements:** The workforce development requirement be updated to mandate that 50% of consumer-facing staff hold recognized industry training (beyond just Certificate III), with discretionary recognition of prior learning. A biennial continuing professional development program focusing on the Code of Conduct and complaints process is also proposed for tiers 1 through 5.
- **Charter Review Frequency:** The review cycle for the ATAS Charter and Code is proposed to extend from every three years to every five years to allow greater stability and strategic planning.

**Hon Dr Tony Buti MLA, Western Australian Attorney General; Minister for Commerce; Tertiary and International Education; Multicultural Interests – received 22 July 2025**

The submission expressed concerns about consumer protections following the insolvency of travel agent Traveldream, which was not accredited by ATIA. The submission notes that ATIA launched Project A30 in 2024, which aims to review supplier and agency insolvency protections for consideration in 2025. The submission states that such initiatives are important to provide greater protections for consumers and to help bridge the gap left by the 2014 dissolution of the national Travel Compensation Fund, especially for Western Australians relying on lifetime savings for travel

## **Online Survey**

As stated above an online survey was conducted as part of this review. The questions asked of members were:

- How well does the ATAS Charter currently meet its objectives?
- Are you satisfied with the ATIA Accreditation Eligibility Criteria?
- Do you believe this existing governance structure is effective?

The limited survey responses indicated that the ATAS Charter is effective in meeting its objectives, that members are satisfied with the ATIA Accreditation Eligibility Criteria and that the existing governance structure is very effective.



## Findings

### The ATIA Accredited Eligibility Criteria

Are the criteria sufficient to ensure the objectives of ATIA Accreditation are achieved?  
Should changes be made to the criteria? If so, what changes are recommended?

In my view the current eligibility criteria for ATIA Accreditation is largely sufficient to ensure the relevant objectives are achieved. In my view the eligibility criteria are extensive and cover all relevant elements of an effective accreditation scheme.

### Financial assessment

I noted that the ATIA Accreditation Scheme assesses each members financial suitability 'in-house' by dedicated ATIA employees, with an option for third party assessment. In other words, the default position is that member financial assessments will be conducted internally by ATIA staff but members can elect for such an assessment to be conducted by a third party for an additional charge. One reason why an ATIA member may elect to have a third party assessment is due to concerns about the confidentiality of their financial information.

I understand that concerns have been raised in the past about the possibility of confidential information provided by ATIA members being accessed by competitor members within the organisation, for example at the Board level. I also understand that this concern forms the basis for some parties advocating for an external financial accreditation assessment system. In the course of my review I did not identify any evidence to substantiate such concerns. In fact it appeared to me that ATIA maintains the highest of standards in relation to confidentiality.

In its submission Axis argued that external audits alone are insufficient. The business suggested that unannounced spot audits multiple times a year should be implemented to ensure client funds are properly handled, thereby distinguishing ethical agents and boosting consumer confidence.

In my view the current approach to conducting financial assessments is appropriate. ATIA is seeking to keep member costs down by conducting these assessments "in house" rather than mandating that such assessments be conducted by an external third party at an additional cost. The audits are based on an assessment of any potentially relevant risk factors such as changes to directorships, other ASIC notifications which may suggest a material change in business operations and litigation. The conduct of ad hoc unannounced audits which are not based on any identified risk factor are unlikely to be a cost effective approach to ensuring compliance.

I also believe that the ATIA Accredited Financial Assessment Criteria involves a series of relatively straight forward metrics which are well within the competence of the relevant ATIA staff who undertake such assessments.

Accordingly, I do not believe that any changes need to be made to the current approach to undertaking financial assessments of members.

### **Commercial Safeguards**

I note the accreditation requirement that members must provide current certificates for public liability and professional indemnity insurance policies. If the applicant holds other relevant insurance, certificates of currency may also be provided for these policies.

I noted the ATIA submission which argued for a change in insurance arrangements for some members:

*Section 2.5 (i) of the Charter states that all applicants must provide current certificates for Public Liability and Professional Indemnity insurance policies. This has been in place since the inception of the Scheme and mirrored the then licenced environment.*

#### **Public Liability**

*Over the past 10 years the industry has undergone significant disruption and innovation in how it engages with consumers. With the growth of homebased agents / independent contractors and limited claims by land supply members, greater flexibility is required to be provided to the compliance manager regarding insurance requirements.*

*In drafting this submission we believe that the overall public benefit of Public Liability Insurance is minimal where travel intermediaries:*

- *do not engage in in-person client interactions,*
- *do not deliver services directly, and*
- *do not operate from publicly accessible premises.*

*This finding reflects the low-risk nature of these business models which operate remotely, conduct all business online or over the phone and do not have physical premises open to the public. For such operators, Public Liability Insurance could impose disproportionate cost burden and offers minimal risk mitigation benefit.*

*An increasing number of inquiries from Industry, particularly in the homebased agents / independent contractors segment, have questioned the relevance of this requirement. Making this requirement optional would better align with fairness and flexibility without compromising consumer or industry protection.*

*It also recognises the diversity of business types within the Industry and supports the ongoing viability of small and niche operators. Active declarations would be required as part of the renewal process to ensure those businesses that change their business model have the relevant insurance protections.*

#### **Professional Indemnity**

*Through consultation with land supply businesses and those across the insurance Industry, the benefit offered by Professional Indemnity insurance (PI), is outweighed by the necessity of PL insurance. PI claims from Tour Operators are infrequent, so much so that one broker confirmed they had received zero PI claims from Tour Operators in the past 5 years.*

*When Tour Operators do make claims for errors they will generally rely on the “Errors and Omissions” clause within their PL insurance policies — further supporting that a standalone PI policy is not always vital in this context. PI remains appropriate for most travel agencies and consultants as they provide travel advice and booking services on behalf of third parties. This coverage is less applicable to businesses that operate and deliver their own tours directly to consumers.*

*Removing this requirement for Tour Operators recognises the unique risk profile of these businesses, which typically have direct control over the tour services provided and therefore face different liability exposures compared to those businesses that act as travel agents.*

Accordingly, ATIA argued that the eligibility requirements of the Code should be amended to (1) remove the mandatory requirement that Public Liability insurance be obtained by those members not operating “in person” businesses and (2) remove the mandatory requirement that Professional Indemnity insurance be obtained by Tour Operator members.

I have carefully considered ATIA’s arguments in relation to both of the proposed changes and agree that these changes are sensible and will reduce the costs that each of the two relevant membership groups will have to expend on insurance which provides negligible or no substantive risk coverage.

I also believe that the eligibility requirements should be amended to add mandatory Cyber Insurance for all members. As is well known over recent years there has been an increase in serious cyber-attacks on well-known Australian business, including Optus, Medibank, Canva and Latitude. One of the most recent cyber-attacks involved a key player in the Australian travel industry, namely Qantas.

In terms of the process for requiring the addition of cyber insurance coverage, I believe the most cost effective approach is for ATIA to engage with various insurance providers to negotiate a policy which can be accessed by ATIA members. In this way the cost to each member in taking out such coverage will be reduced.

It would also be worthwhile for ATIA to seek to negotiate with various insurance providers for the provision of each of the other types of insurance which members require namely public liability and professional indemnity insurance. In this way cost could be reduced for members.

Given the time which will be required for ATIA to engage with insurance providers and negotiate a Cyber insurance policy which can be accessed by members, I have delayed the

implementation of the requirement to have mandatory Cyber insurance coverage to take effect from the 2027 renewal period, commencing in April 2027.

**Recommendation 1**

The Charter be amended to:

- \* remove the mandatory requirement of Public Liability insurance from those members not operating in person businesses
- \* remove the mandatory requirement of Professional Indemnity insurance for Tour Operator members
- \* introduce mandatory Cyber Insurance for all members to take effect from the 2027 renewal period, commencing in April 2027.

**Workforce Development**

A further eligibility criteria is that each member must ensure that 50 per cent of its consumer-facing staff holds a *Certificate III – Travel*, or equivalent.

ATIA in its submission made various proposals in relation to this requirement:

*Under section 2.5(J) of the Charter, businesses that are accredited must ensure that 50 per cent of its consumer-facing staff holds a Certificate III – Travel or equivalent. The Compliance Manager will recognise equivalent qualifications or recognition of prior learning of at least 2 years in a front-line travel selling position (TSP) at their discretion and may request that supporting material be provided on submission. Following the pandemic the Industry has had to invest in new pathways to attract, train and retain a workforce that delivers on the needs for our clients and businesses. The existing mandatory Certificate III requirement is no longer considered the only pathway in which people can enter the Industry in the same way it was 10 years ago.*

*Another significant driver of a move away from this program was the lack of consistency across federal and state government training programs that has made it difficult for the Industry to engage with training providers. Cert III also does not provide an appropriate training outcome for those businesses that operate a business type beyond a travel agent or advisory service.*

*To better serve the diversity of the travel Industry the Certificate III should be replaced with a broader category of Recognised Industry Training, which the Compliance Manager will continue to evaluate and accept at their discretion, allowing flexibility to recognise relevant qualifications, certifications or practical experience.*

*To continue our focus on elevating standards across the Industry, ATIA will commit to a staged roll out of a Continuing Professional Development Program based on increasing the knowledge and understanding of Code and Charter. The majority of staff within accredited businesses should be required to complete an ATIA-endorsed*

*online course or attend a seminar every two years that focuses specifically on the Code of Conduct and Consumer Complaints Process, ensuring consistent knowledge and application of Code requirements.*

*This requirement would be mandatory for all tiers (Tier 1 through Tier 5) to guarantee ongoing commitment to best practice, adherence to the Code of Conduct and consumer protection.*

It was not clear to me that the *Certificate III – Travel* qualification was an appropriate requirement for members to satisfy. I also accepted ATIA submissions that the requirement for employees of members to complete this qualification was dated and further that there was some inconsistency between qualifications in different jurisdictions.

The suitability of this qualification was also questioned by other stakeholders. For example David Walker in his submission questioned the suitability of this qualification, particularly for wholesalers and tour operators.

Rather a preferable approach was for a more flexible system which included ATIA providing shorter Continuing Professional Development courses which had been tailored for its membership. Axis appeared to support the idea of introducing mandatory minimum training hours for frontline staff.

The approach of industry associations providing members with access to continuing education courses at a cost is a common model. For example the various State Law Societies and the Australian Institute of Company Directors require members to undertake a specific number of continuing education subjects each year in particular competency areas. In NSW, lawyers are required to undertake 10 units of mandatory continuing legal education each year in the following areas – legal ethics, practice management, professional skills and substantive law.

I believe that ATIA should implement a similar system of requiring members to undertake a specific number of units of Continuing Professional Development each year in specific areas of competency.

Before this particular recommendation could be implemented, ATIA would have to design appropriate courses and make them available to members. In my view the process of making initial introductory courses available to members would take some time, with additional courses added progressively over time.

I believe it would be appropriate for the ATIA Board to determine the number of units per year and the specific areas of competency. However I agree with ATIA's proposal that members should undertake an ATIA-endorsed CPD program every two years which focuses specifically on the ATAS Code of Conduct and Consumer Complaints Process.

**Recommendation 2**

I recommend the following changes to the Charter:

- \* The applicant must ensure that 50 per cent of its consumer-facing staff hold Recognised Industry Training, which may include a Certificate III in Travel or other relevant qualifications and certifications as assessed by the Compliance Manager.
- \* Recognition of prior learning, including at least two years' frontline travel selling experience (TSP), may be accepted at the Compliance Manager's discretion, who may request supporting evidence upon submission.
- \* Applicants in Tier 1 through Tier 5 are required to complete an ATIA-endorsed Continuing Professional Development (CPD) program every two years, focusing on the ATAS Code of Conduct and Consumer Complaints Process.

**The ATAS Charter**

I find that the ATAS Charter sets out the objectives, rules and participation arrangements appropriately. However some minor amendments should be made.

The current Accreditation Fee Structure establishes a number of tiers and set fees accordingly. The current structure is as follows:

Category	Existing TTV bands
1	Less than \$1 million
2	\$1m - \$2.5 million
3	\$2.5m - \$5 million
4	\$5m - \$10 million
5	\$10m - \$100 million
6	\$100m - \$250 million
7	\$250m - \$1 billion
8	\$1 billion or greater

ATIA has argued in its submission:

*The current Accreditation Schedule of Fees is comprised of eight tiers, ranging from businesses with less than \$1 million in Total Transaction Value (TTV) through to those with over \$1 billion. These are determined by the Constitution of the Association. A member's annual accreditation fee is based on their TTV from the previous financial year and the number of locations in which they operate.*

*Tier 5, covering businesses with an annual TTV between \$10 million and \$100 million, spans a particularly wide range. This tier is disproportionately broad,*

*resulting in businesses at the lower end of this range being subject to fees that may not reflect their relative size and operational capacity. The Schedule of Fees could be amended to introduce an additional membership tier specifically for businesses with an annual Total Transaction Value (TTV) between \$10 million and \$50 million.*

Accordingly, ATIA has proposed the following new structure:

Category	Existing TTV bands	Proposed TTV bands
1	Less than \$1 million	Less than \$1 million
2	\$1m - \$2.5 million	\$1m - \$2.5 million
3	\$2.5m - \$5 million	\$2.5m - \$5 million
4	\$5m - \$10 million	\$5m - \$10 million
5	\$10m - \$100 million	\$10m - \$50 million
6	\$100m - \$250 million	\$50m - \$100 million
7	\$250m - \$1 billion	\$100m - \$250 million
8	\$1 billion or greater	\$250m - \$1 billion
9	N.A	\$1 billion or greater

I agree that the change in the Accreditation Fee Structure is appropriate for the reasons set out by ATIA in its submission. There is a significant difference in a business with an annual turnover of \$10 million compared with a travel business of an annual turnover of \$100 million.

### Recommendation 3

The Accreditation Fee Structure be amended to include the following new structure:

Category	TTV bands
1	Less than \$1 million
2	\$1m - \$2.5 million
3	\$2.5m - \$5 million
4	\$5m - \$10 million
5	\$10m - \$50 million
6	\$50m - \$100 million
7	\$100m - \$250 million
8	\$250m - \$1 billion
9	\$1 billion or greater

A suggestion was made in the submission from the South Australian Minister for Consumer Affairs H.A. Micheals MP that ATIA members should have an obligation to provide consumers

with copies of the terms and conditions for all suppliers providing services to the consumer. I considered making such a change to clause 4.1 (a) (ii) of the Charter but concluded on balance that such a requirement was not appropriate as it would place a considerable burden on ATIA members and may also burden many consumers with a significant amount of additional written material that they did not want and would not read. As I understand the current approach, if a consumer requests copies of the terms and conditions of various suppliers the ATIA member will seek to facilitate the provision of such documents.



## Other proposed amendments

In David Walker's submission he suggested a range of proposed changes to the Charter. I carefully considered these proposed changes and also sought ATIA's views about each of the proposed changes. The following is a summary of my conclusions in relation to these proposed changes:

1. **Membership change to include individuals.** The current Charter applies to accredited participants which are entities defined as:

*Entity means a sole trader, partnership, trust or company (proprietary limited or limited). It does not include independent contractors, sub-agents, branch offices, or persons employed by an entity.*

I did not believe there was a compelling case to change the categories of entity to include individuals

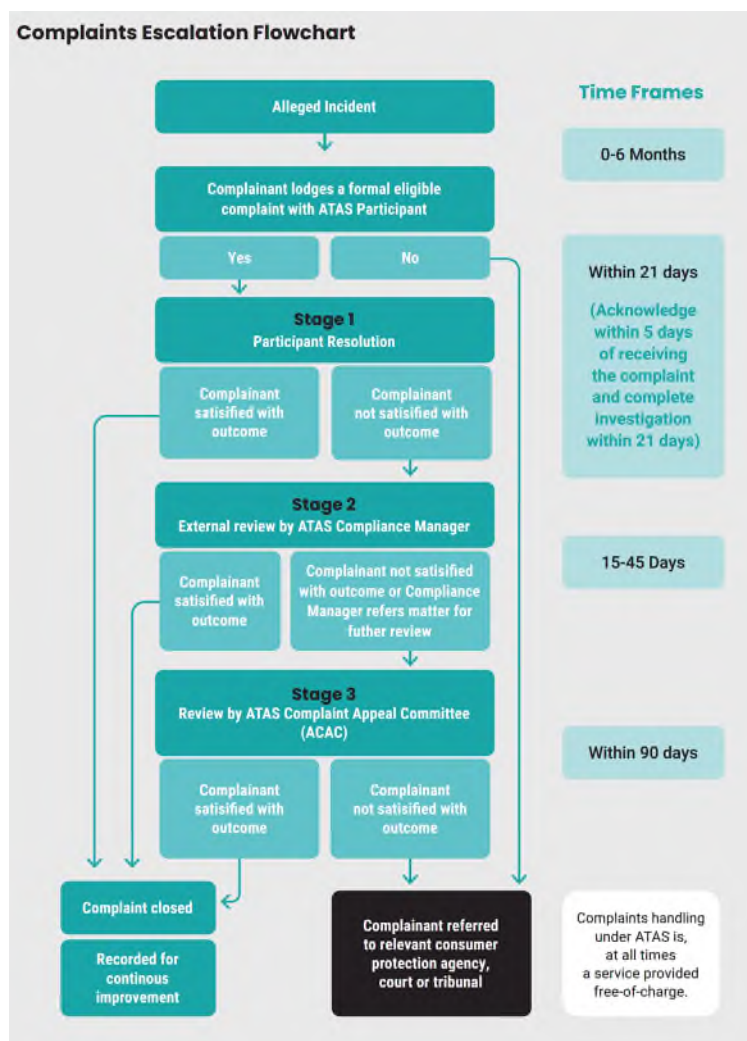
2. **Introduction of different membership categories with different fee structures** - the current membership structure is based on total transaction value (TTV). I did not believe there was a compelling case to change the membership categories in the way suggested.
3. **Encourage industry bodies, associations or other relevant travel industry associations to become a member of ATIA and consideration of offering not-for-profit organisations being free reciprocal membership** – I understand that ATIA is open to both of these ideas. However I did not believe an amendment to the Charter was required as such organisations can currently approach ATIA to request such membership.
4. **Absence of reference to employees in clause 2.5** – the exclusion of employee from this clause is intentional as only entities as defined above can gain accreditation.
5. **Requesting additional documents from applicants – ie Tax File Number (TFN), Certificates of Currency for Insurance, including Workers Compensation, and a copy of the member's Complaints Handling Processes**- it was not clear to me the benefits in terms of accreditation which would arise from ATIA requesting member's TFNs. I also understand that the relevant certificate of currencies and copies of complaints handling processes are currently provided to ATIA as part of the accreditation process.
6. **Category 1 of the Membership Criteria be limited to start ups and members lose accreditation if the business has not achieved TTV of \$1m at the end of the first year of accreditation** – I did not accept this proposal as it would exclude small businesses from the accreditation scheme to the potential detriment of consumers.

7. **Amendment of reference to “Code” to “Code of Conduct” in Charter** – I did not believe the reference to “Code” in the Charter was the cause of any confusion and as such did not recommend this change
8. **ATIA recognition of other association’s financial assessments** – whilst I do not believe a proliferation of associations in the travel industry is to be encouraged, ATIA has no objection to recognising other financial assessments in the event that such recognition is requested and where the appropriate due diligence can be demonstrated. I did not believe an amendment to the Charter was required.
9. **Clarification of whether financial assessments are conducted inhouse and can be conducted through external third parties** – I was satisfied that these two options were clearly outlined in the Charter.
10. **Change of descriptor from “travel agent” to “travel advisor”** – I was concerned that such a change may generate confusion as it seems to me that most consumers remain more familiar with the term “travel agent” than the term “travel advisor”.

## Code of Conduct

The ATAS Code of Conduct appropriately sets out the standards of good practice that participants must follow in their day-to-day practices. I do not believe that any amendments are required to either the Code, ACAC's Terms of Reference or its role in relation to ATIA Accreditation.

The complaints handling process under the Code is explained in the following graphic:



As is apparent the process above first provides the ATIA member with an opportunity to seek to resolve the complaint with the consumer. The member has 21 days to resolve the complaint. If the complaint is not resolved within this timeframe, the complaint will be investigated by the Compliance Manager who has between 15 to 45 days to investigate and resolve the complaint. If the complainant is unhappy with the outcome they can appeal to the ACAC within 14 days. The ACAC has up to 90 days to hear the matter and make a decision. An appeal to ACAC does not have to allege an error of law, rather the ACAC will consider the complaint afresh (de novo).

ATIA publishes detailed dispute resolution data on its website. I have extracted the dispute resolution data for the last three years below to assess the effectiveness of the scheme:

## 2023

	Complaints Received	Not ATAS	Reviewed and resolved at Stage 1	Reviewed, Escalated to Compliance Manager and resolved at Stage 2	Monies Returned to Consumers
January 2023	82	6	79	6	\$9,496
February 2023	82	11	57	11	\$22,824
March 2023	83	3	68	6	\$4,289
April 2023	41	3	33	5	\$9,369
May 2023	68	6	56	17	\$42,439
June 2023	45	3	34	7	\$18,546
July 2023	59	1	46	7	\$3,795
August 2023	48	4	38	11	\$19,777
September 2023	29	4	22	5	\$3,374.74
October 2023	36	0	33	4	\$10,894
November 2023	36	0	33	5	\$985
December 2023	31	3	27	3	\$1,196

## 2024

	Complaints Received	Not ATAS	Reviewed and resolved at Stage 1	Reviewed, Escalated to Compliance Manager and resolved at Stage 2	Monies Returned to Consumers
January 2024	47	4	43	0	\$0
February 2024	38	4	27	8	\$12,576
March 2024	25	2	20	4	\$2,916
April 2024	30	1	25	3	\$5,400
May 2024	42	7	28	5	\$10,830
June 2024	33	2	26	3	\$33,955
July 2024	37	4	24	8	\$931
August 2024	56	11	39	6	\$8201
September 2024	29	2	20	7	\$3220
October 2024	41	2	36	6	\$6103
November 2024	44	4	35	4	\$2576
December 2024	29	1	22	3	\$0

## 2025

	Complaints Received	Not ATAS	Reviewed and resolved at Stage 1	Reviewed, Escalated to Compliance Manager and resolved at Stage 2	Monies Returned to Consumers
January 2025	29	5	20	6	\$6303
February 2025	42	9	25	6	\$5900
March 2025	34	1	31	7	\$4122
April 2025	28	1	22	5	\$2475

The above tables show the following trends:

Year	Complaints received	Resolved Stage 1	Percentage Resolved	Resolved Stage 2	Percentage Resolved	Compensation \$
2023	640	526	82%	87	96%	146,984.74
2024	451	345	76%	57	89%	86,708.00
2025	133 (399)	98 (294)	74%	24 (72)	92%	18,800.00 (56,400.00)

I noted that the figures in each of the various tables do not correlate in all respects. I have assumed that this is because complaints may be reported towards the end of a particular year, ie December and not resolved until the following January or reported in a particular month and not resolved until one or two months later.

The second issue to note is that the figures for 2025 are for the first four months. I have extrapolated the figures to show full year figures however the actual final figures may differ from the extrapolated figures.

One can identify from the above tables a number of significant indicators of the effectiveness of the complaints handling system:

- a significant number of complaints are being resolved at Stage 1 directly by the ATIA member – 82% in 2023, 76% in 2024 and 73% in 2025
- the percentage of complaints being resolved by the member at Stage 1 is declining
- the total number of complaints being resolved at Stages 1 and 2 is very high at 96% in 2023, 89% in 2024 and 92% in 2025
- the percentage of complaints being resolved at the combined Stages 1 and 2 has remained constant over the 2023 to 2025 period
- the total number of complaints received by ATIA over the three year period 2023 to 2025 has been declining
- the total decline in complaints received over the three year period is approximately 38% (accepting that the current trajectory of complaints for 2025 continues as forecast)
- the level of compensation paid to consumers is also reducing in absolute terms and also when measured on a per complaints received basis - \$317 in 2023, \$192 in 2024 and \$141 in 2025.

Each of the above indicators supports the view that the ATAS complaints system is highly effective. The majority of complaints are being resolved by ATIA members at Stage 1 and very few complaints are unable to be resolved at Stages 1 and 2. Also the level of

compensation per complaint is reducing, although it has to be acknowledged that this is a less clear cut indicator of the effectiveness of the complaints handling system.

I also reviewed the ACCC website to identify any enforcement actions against participants in the travel industry over the last three years since the previous independent review which was completed in June 2022. In that period there have only been three enforcement matters:

- |                  |  |
|------------------|--|
| 26 June 2025     | MTA - Mobile Travel Agents Pty Ltd - paid a \$16,500 penalty after the ACCC issued the company with an infringement notice for an alleged breach of the Franchising Code of Conduct  |
| 28 November 2024 | Webjet Marketing Pty Ltd – the ACCC commenced legal proceedings alleging that the company had made false and misleading representations to consumers about flight prices and bookings. This matter was settled by consent on 28 July 2025 with Webjet admitting misleading and deceptive conduct and agreeing to pay a pecuniary penalty of \$9 million. |
| 8 October 2024   | Qantas Limited – agreed to pay a pecuniary penalty of \$100 million and \$20 million in compensation for misleading consumers by offering and selling tickets for flights that it had already decided to cancel, and by failing to promptly tell existing ticketholders of its decision.   |

As is apparent there has been limited ACCC involvement in relation to conduct by travel industry participants over the last three years since the last independent review.

Also based on anecdotal evidence, there appear to have been very few cases taken by consumers against travel industry participants through the various state and territory consumer claim tribunals since the 2022 review. In my role as a General Member of the Consumer and Commercial Division of the NSW Civil and Administrative Tribunal over the last 18 months I can only recollect two consumer matters relating to a travel agency operator which came before me, both of which involved non-ATIA accredited travel operators. Whilst there have been significantly more consumer claims against airlines in state consumer tribunals, these tribunals do not have jurisdiction in relation to most airline matters as they involve Federal jurisdiction which is governed by the *Civil Aviation (Carriers' Liability) Act 1959*.

While I believe that the ATIA complaints handling system is highly effective, I think more can be done to bring it to the attention of various consumer regulators and consumer Tribunals. In my view, if either of these types of organisations were aware of the ATIA complaint handling process they are highly likely to suggest to the consumer that they seek to utilise that process in the first instance prior to either lodging a formal complaint with the regulator or commencing a consumer claim in a Tribunal.

**Recommendation 4**

ATIA take steps at the beginning of each calendar year to write to the ACCC and each of the state and territory consumer law regulators as well as each of the state and territory consumer Tribunals to advise them of the option of consumers utilising the ATIA complaints handling system. To this end ATIA should develop a brief brochure which outlines the complaints handling process and includes relevant contact information.

**The ATIA Complaints Appeals Committee (ACAC)**

I reviewed the number of complaints which were appealed to the ACAC and the disposition of these complaints:

Year	Number	Breach	No Breach
2023	6	3	3
2024	4	2	2
2025	8	3	5

The above table shows that the number of appeals to the ACAC is very low and has remained at a consistently low level over the relevant period.

While ACAC's operations were suspended from 2020 to 2022 due to COVID, the appeal numbers for the period prior to 2020 show a similar trend to the above table:

Year	Number	Breach	No Breach
2016	1	1	0
2017	5	2	3
2018	8	4	4
2019	2	1	1

It is also apparent that the ACAC has consistently made findings both in favour and against the relevant consumer.

I have found that the ACAC is very effective in terms of:

- a) the resolution of Complaints referred to it; and
- b) being structured to be able to operate efficiently and effectively.

Accordingly, I make no recommendations for amending the ACAC's Terms of Reference or its role in relation to ATIA Accreditation.

## Other Observations

### Frequency of Charter Reviews

In its submission ATIA raised a concern about the frequency of Charter Reviews. Currently, independent reviews are conducted every three years. ATIA has argued that this should be extended to every five years. Specifically ATIA argued:

*ATIA recommends amending the Charter review frequency from every three (3) years to every five (5) years to match with current best practice for established regulations and codes. As the accreditation Scheme has matured, the core governing principles have remained largely consistent over the past two review cycles.*

*Between formal review periods the Association has made enhancements to eligibility and enhancements to the ACAC powers following requests to do so. ATIA has shown a commitment to enhancing the Scheme to ensure continuing relevance to both industry and consumers. This proposed change better aligns with strategic planning cycles and allows for a more meaningful assessment of long-term outcomes and the impact of previous Charter reviews.*

*Given this maturity a five-year review cycle is more appropriate. The foundational aspects of the Scheme do not require re-evaluation on a triennial basis. A longer review interval will promote greater stability, enable deeper insights and reduce administrative burden while ensuring the Scheme remains effective and responsive to future needs.*

In the ACCC's *Guidelines for developing effective voluntary industry codes of conduct*, issued in 2011 (*Guidelines*) the ACCC state that voluntary industry codes should be independently reviewed every three years. However other regulators such as ACMA generally subscribe to the view that industry codes of conduct should be reviewed every three years. Also The Treasury states in its *Policy Guidelines on Prescribing Industry Codes* that such Codes are to be reviewed every five years.

I also noted that the ACCC generally sets the initial authorisation period for a new industry code at five years. After the expiry of the initial five years the organisation/s must apply to have their industry code reauthorised and then seek further reauthorisations usually every five years.

Therefore despite the comment by the ACCC in their *Guidelines* that industry codes should be independently reviewed every three years, I believe that five years is a more appropriate timeframe. Not only is the ACCC guidance quite dated being from 2011, but the view of The Treasury and the ACCC's own practice appears to support a five year review period.

#### **Recommendation 5**

The independent review period for Charter Reviews be increased to every five years with the next review scheduled for 2030.



## Risks of increasing numbers of unaccredited travel intermediaries

I noted as part of my review that ATIA membership has been declining over the last few years. The following table lists the number of members who have ceased membership or had their membership cancelled from 2019 to 2025:

Year	Number
2019	22
2020	22
2021	43
2022	18
2023	27
2024	38
2025	45

While the chart shows an increase in ceased or cancelled memberships, I also noted that there is significant ongoing demand from new applicants. ATIA maintains a steady intake and rejects approximately 16% of applications for failing to meet its criteria.

The concern in relation to this trend is that less travel intermediaries are subject to the accreditation and dispute resolutions processes set up under the Charter and Code. Accordingly, this increases the risks for consumers in terms of potentially contracting with travel intermediaries which do not meet financial and solvency standards, which do not have complaint resolution processes in place and are not subject to oversight by an association such as the ATIA.

The above risks are exacerbated by the establishment of a separate travel related association the Council of Australian Tour Operators (CATO) which has a separate accreditation system, but as far as I understand does not currently have a formal dispute resolution process.

Accordingly, I believe there is a potential risk of re-regulation of the travel industry in terms of licensing and a mandatory complaints handling process due to (1) an increase in travel intermediaries operating outside the formal ATIA and CATO accreditation systems and (2) a significant number of travel operators not being subject to a formal and independent dispute resolution process. The fact that CATO does not have such a dispute resolution process in place at this time increases these risks.

In relation to CATO I understand that there has been some discussions between ATIA and CATO on the two associations re-amalgamating in the future.

While some may see the risk of re-regulation in terms of licensing and a mandatory complaints handling process as low, one only has to consider the current proposals by the Australian Government for an Aviation Industry Ombuds Scheme and the reasons why the government has chosen to introduce this scheme. As stated in *The Aviation Industry Ombuds Scheme – Consultation paper* dated August 2024:

*The Australian Government's decision to establish the ombuds scheme was informed by the views of Australian aviation customers, consumer advocates, the aviation sector, and experts in consumer protection and complaints handling.*

*Submissions received through the 2024 Aviation White Paper process made clear that aviation consumers are dissatisfied with how Australian airlines and airports have interpreted their obligations to customers, and how the industry has responded to customer complaints. These issues were particularly acute during the reopening period following the COVID-19 pandemic, when there were historically high rates of delayed and cancelled flights.*

*Aviation customers have existing legal rights and protections under the Australian Consumer Law (ACL), enacted through the Competition and Consumer Act 2010 (Cth). The ACL is a national law and is jointly administered by the Australian Competition and Consumer Commission (ACCC) and state and territory consumer protection agencies. The ACL contains consumer guarantees that set out basic rights and obligations that businesses must meet when supplying products or services, including flights and other aviation services. For example, the ACL contains guarantees that services will be rendered with due care and skill, be fit for purpose, and be supplied within a reasonable time. The ACL also provides that appropriate remedies, including refunds, will be available to affected customers when service providers do not meet these obligations, including when services are not delivered within a reasonable time.*

*However, submissions received through the Aviation White Paper process identified a range of instances where aviation customers' rights have not been upheld in practice. For example, despite the protections of the ACL, submissions described situations where customers experienced difficulties accessing remedies, such as refunds, or redeeming travel credits for cancelled or significantly delayed flights.*

*Submissions also reported long delays in airlines' responsiveness to complaints, and unsatisfactory outcomes from complaints referred to the industry-led dispute resolution body – the Airline Customer Advocate (ACA). The ACA was established in 2012 to provide complaint resolution services to customers of major Australian airlines (Qantas, Jetstar, Rex and Virgin Australia). Rex withdrew from the scheme in mid-2024. The ACA is funded and managed by participating airlines. It was originally established in response to the Australian Government's 2009 Aviation White Paper, which found that the aviation industry needed to "establish a mechanism for consumers to have unresolved complaints examined by a third party, such as an industry ombudsman, independent of the airline involved.*

The risk of some level of reregulation is increased by instances of high profile failures of travel intermediaries who are outside the ATIA and CATO accreditation systems. For example earlier this year there were news reports about the collapse of online travel agency Traveldream. In a relevant news article on this collapse a representative of CHOICE was quoted as stating the collapse exposed major weaknesses in consumer protection for those booking travel online. The spokesperson also made reference to the previous Travel

Compensation Fund, that would compensate customers if a travel agent became insolvent. The recent collapse and the benefits of the previous TCF were also referred to in the submission from Hon Dr Tony Buti MLA, Western Australian Attorney General.

The above shows quite clearly that various governments at the Federal and state levels could determine that the travel industry should be reregulated if they were faced with increasing consumer dissatisfaction and rising numbers of travel intermediaries that were not subject to accreditation or an effective dispute resolution process, such as the ATIA process. While it is very unlikely that governments would wish to reintroduce a TCF system in the future, more likely responses would include the introduction of a Travel Agent Ombudsman similar to the proposed Aviation Industry Ombuds or the introduction of a prescribed mandatory industry code pursuant to section 51AE of the *Competition and Consumer Act 2010* (CCA). Other mandatory industry codes which have been introduced under this provision include codes for the dairy, grocery, electricity, franchising, gas, and horticulture industries.

**Recommendation 6**

ATIA continue discussions with CATO to explore the possibility of a re-amalgamation of their accreditation systems, particularly in relation to the provision of an independent dispute resolution process.

**Visibility of ATIA and the ATIA Accreditation Scheme**

A constant theme not only in submissions but also in previous reviews is that the public profile of ATIA and the ATIA Accreditation Scheme needs to be enhanced.

As stated by Axis, ATIA is not well recognised among industry partners and consumers compared to AFTA - it should be more actively promoted across all media, government, and industry platforms to build brand awareness and trust. The South Australian Minister for Consumer Affairs H.A. Micheals MP also noted that increasing consumer awareness of ATAS through campaigns or compulsory signage could encourage the use of accredited intermediaries and support the expansion of ATIA membership.

I agree that steps need to be taken to improve the visibility of ATIA and the ATIA Accreditation Scheme whilst acknowledging that the traditional means of raising visibility can be very costly. Having said this Recommendation 4 will increase ATIA's visibility amongst consumer regulators and consumer tribunals.

**Recommendation 7**

ATIA to continue undertaking further targeted research into ways of raising the visibility and recognition of ATIA and the ATIA Accreditation Scheme amongst relevant stakeholders and the general public.

## ACCC notification and authorisation

During the course of my review, questions were raised with me about two issues which would involve ATIA and ATIA members engaging with the ACCC.

The first issue was the possibility of various ATIA members making it a condition of their business that a supplier contracting with their business must be an accredited member of ATIA. Such conduct is characterised as full line forcing and can be engaged in without contravening the CCA if the conduct does not substantially lessen competition in a market.

Often companies that are wishing to engage in such exclusive dealing will notify the conduct to the ACCC so as to have complete legal protection for their conduct. The cost of notifying exclusive dealing is currently \$2500 per application.

I believe that ATIA members implementing policies where they will only deal with accredited ATIA members and notifying such conduct to the ACCC would be strongly advisable in order to reduce risks associated with using unaccredited travel intermediaries which are not subject to accreditation standards and dispute resolution processes. In my view such conduct would result in significant public benefit given the robustness of the ATIA accreditation and dispute resolution systems.

Having said that, rather than make a recommendation as part of this review to pursue this option, I have decided to suggest that ATIA undertake further work and consultation with its stakeholders in relation to this issue prior to making any decisions. The main reason for this approach is that there may be a range of unintended consequences of encouraging members to implement such policies and to seek notification from the ACCC, which need to be fully explored.

### **Suggestion 1**

ATIA undertake further research in relation to members implementing policies whereby they will only deal with accredited ATIA members, including seeking of legal advice and, subject to such advice, to determine whether to actively encourage members to implement such policies and to also formally notify such conduct to the ACCC.

The second issue is whether ATIA should seek an ACCC authorisation for the ATIA Accreditation Scheme, specifically the Charter and the Code. There are many benefits arising from authorisation including insulating the organisation from any potential legal action by third parties against ATIA for a breach of the CCA. Other benefits include raising the profile and credibility of the ATIA Accreditation Scheme in the industry and in the minds of travel consumers.

In order to obtain authorisation, ATIA would have to satisfy the ACCC that their Accreditation Scheme consisting of accreditation standards and disciplinary processes generated tangible and meaningful public benefits which exceeded any potential anti-competitive detriments.

There are many current authorised industry codes which provide insights into the elements of an effective industry governance systems, including Codes for the following industries:

- Australasian Performing Right Association Limited
- Australian Banking Association Ltd
- National Lotteries and Newsagents Association Ltd
- Australian Medical Association (NSW) Limited
- Mortgage and Finance Association of Australia
- Finance Brokers Association of Australia Limited
- Medicines Australia

For the same reasons as above concerning the notification issue, rather than make a recommendation as part of this review to pursue this option, I have decided to suggest that ATIA undertake further work and consultation with its stakeholders in relation to this issue prior to making any decisions. The main reason for this approach is that there may be a range of unintended consequences of seeking ACCC authorisation of the ATIA Accreditation Scheme which need to be fully explored, particularly in relation to cost and complexity. The ACCC may require various changes to the ATIA Accreditation Scheme as part of the grant of authorisation which may significantly increase the costs of administering the system by, for example, requiring complaint investigations or financial accreditation assessments to be undertaken by external third parties.

**Suggestion 2**

ATIA undertake further research in relation to whether to seek ACCC authorisation of the ATIA Accreditation Scheme consisting of the accreditation system and disciplinary processes, including the provision of legal advice and, subject to that advice, to consult with ATIA stakeholders on the benefits and costs of seeking ACCC authorisation of the ATIA Accreditation Scheme.

## Appendix A - Summary of Australian Consumer Law – key provisions

Section 18 states that a person must not engage in conduct that is misleading or deceptive, or is likely to mislead or deceive, in trade or commerce.

Section 29 establishes prohibitions against making false or misleading representations in trade or commerce related to goods or services, including claims about quality, standard, price, origin, sponsorship, testimonials, and repair facilities, as well as conditions, warranties, guarantees, and contractual rights under Australian law.

Consumer services supplied in trade or commerce come with statutory guarantees ensuring due care, skill, and fitness for purpose. These guarantees protect consumers by setting minimum standards that suppliers must meet when providing services.

- **Guarantee of due care and skill:** Services supplied to consumers must be performed with reasonable care and skill.
- **Guarantees of fitness for purpose and expected results:** If a consumer communicates a specific purpose or desired result, the services must be reasonably fit and capable of achieving that purpose or result, unless the consumer did not rely on the supplier's skill or judgment.
- **Guarantee of reasonable supply time:** When no fixed time for service supply is agreed upon, services must be supplied within a reasonable time.
- **Contract terms limiting guarantees:** Contract terms that exclude or limit these guarantees are generally void, except for certain limits on liability in non-consumer services contracts.

Consumers have specific rights when suppliers fail to meet guarantees related to the supply of services in trade or commerce. These rights include requiring remedies, terminating contracts, and recovering costs or damages depending on the nature of the failure.

- **Action against service suppliers:** Consumers can take action if a supplier fails to comply with a guarantee, unless the failure is due to another party or uncontrollable causes. Remedies depend on whether the failure is major or minor, with options to require fixes, recover costs, or terminate contracts. Damages for foreseeable loss can also be claimed.
- **Definition of major failure:** A major failure occurs if a reasonable consumer would not have acquired the services knowing the failure, if the services are unfit for common or particular purposes and cannot be easily remedied, or if the supply creates unsafe conditions. Multiple failures taken together may also constitute a major failure.

- **Multiple failures consideration:** Two or more failures combined can be considered a major failure if a reasonable consumer would not have acquired the services fully aware of all failures. This applies regardless of any prior action taken by the consumer.
- **Contract termination effects:** When a consumer terminates a contract due to supplier failure, termination is effective once communicated or reasonably indicated. The consumer can recover payments made and the value of any unconsumed consideration for the services.

## Appendix C - References

- AFTA Response to Independent Report for ATAS Charter Review, 2022
- AFTA Travel Accreditation Scheme, Review report 2022, by Graham McDonald
- Assessment of the potential amalgamation of the ATIA Accreditation Scheme and the CATO Accreditation Program, by Clearward, May 2025
- ATAS Consultation Paper – 2022 ATAS Charter Review
- ATAS Charter
- ATAS Code of Conduct
- *Bestjet Travel Pty Ltd v The Australian Federation of Travel Agents Ltd* [2016] QSC 81
- Collapsed tourism agent Traveldream may have taken customers' money while insolvent, ABC, 31 May 2025
- Four Year Review of ATAS Charter and Code of Conduct, by Hank Spier
- Guidelines for developing effective voluntary industry codes of conduct, ACCC, dated 2011
- Policy Guidelines on Prescribing Industry Codes, The Treasury, 2011.
- Rightsizing regulation: Review of small business experiences with regulatory policymaking processes, NSW Small Business Commissioner, October 2024
- The Aviation Industry Ombuds Scheme – Consultation paper, Department of Infrastructure, Transport, Regional Development, Communications and the Arts, August 2024
- Travel Industry Transition Plan, COAG Legislative and Governance Forum on Consumer Affairs, December 2012



## Appendix C – Michael Terceiro - Qualifications and Experience

Michael Terceiro is an experienced Competition and Consumer Lawyer who operates his own law firm, Terceiro Legal Consulting (TLC). He specialises in helping businesses solve consumer protection and competition law problems. Michael set up his firm 18 years ago, in 2008 after working at the ACCC for 15 years.

Michael represents clients in ACCC consumer and competition investigations and litigation, assists clients in designing and implementing consumer and competition law compliance programs and is regularly appointed as an independent compliance program reviewer by many large companies, including:

- Airbnb Ireland UC
- Aldi Foods Pty Limited
- Baby Bunting Pty Ltd
- Dusk Australasia Pty Ltd
- hiPages Group Pty Ltd
- Chrisco Hampers Australia Limited
- Cotton Seed Distributors Ltd
- Dell Computers Pty Ltd
- InvoCare Limited
- LG Electronics Australia Pty Ltd
- Ozsale Pty Ltd
- Sumo Power Pty Ltd
- Thermomix In Australia Pty Ltd
- Wilson Security Pty Ltd.

Michael has also been appointed by the ACCC as:

- the Independent Auditor of the ACCC mandated divestiture of Genesee & Wyoming Australia by Brookfield/GIC
- the independent Auditor of the ACCC mandated divestiture of the Bingo Banksmeadow waste processing facility following the approval of the Bingo - Dial a Dump merger
- the ACCC approved auditor of the McLaren Automotive Takata Airbag Recall.

Other current roles include

- General Member, Consumer and Commercial Division, NSW Civil and Administrative Tribunal since 2024
- Deputy Chair, Mortgage and Finance Association of Australia Disciplinary Tribunal since 2010
- General Editor of Australian Business Law Review since 2019
- Deputy Chair, SME Committee, Law Council of Australia since 2015 (voluntary)
- Expert Competition and Consumer Law Consultant to Lexis Nexis since 2018

- Expert Competition and Consumer Law Consultant to CCH/Wolters Kluwer since 2019
- College of Law Assessor since 2022.

During Michael's time at the ACCC, he worked in a number of roles including as a Director of Enforcement and the Director in charge of the Sydney Mergers and Asset Sales Branch. Michael's teams ran many well-known consumer and competition law investigations and cases. Michael managed more than 600 investigations, including about 100 merger clearances, and ran 30 court cases. His team's success rate in litigation was over 90%.

Michael's formal qualifications include:

- Bachelor of Arts, Macquarie University
- Bachelor of Laws (Hons), Macquarie University
- Master of Laws, University of Sydney
- Master of Dispute Resolution (With Excellence), University of New South Wales
- Professional Certificate in Arbitration, University of Adelaide.