

Department of Infrastructure & Transport
GPO Box 594
Canberra ACT 2601

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Email: avitionconsumer@infrastructure.gov.au

Aviation Consumer Protections – Primary Legislation

The Australian Travel Industry Association (ATIA) welcomes the opportunity to provide feedback on the design of the primary legislation for new consumer protections to improve outcomes for aviation consumers.

ATIA considers the proposed new consumer protections framework to be appropriately focused on addressing the key policy issue at hand, that is, aviation consumer dissatisfaction with how airlines have interpreted their obligations to passengers, lengthy delays in airlines' responsiveness to complaints, and unsatisfactory outcomes from complaints referred to the Airline Customer Advocate.

The proposed regulation of airline services, airport services, and airport accessibility services captures the core elements of the aviation consumer experience. Importantly, all consumers will be protected regardless of whether they book directly with an airline or through an airline's agent (travel agent).

ATIA strongly supports the proposal that travel agents will not be directly subject to the new scheme. This approach is consistent with international practice and reflects the agent-principal relationship that exists between travel agents and airlines. This was recognised by the ACCC in its submission to the Aviation Industry Ombuds Scheme:¹

The ACCC considers that the Aviation Industry Ombuds Scheme should be able to consider complaints [where the travel was booked through a travel agent], and direct an airline to provide the refund directly to the consumer in such circumstances. After reimbursing the consumer, the airline can pursue its own remedies against the travel agent, where the travel agent may have contributed to the problem.

ATIA understands there has been continued advocacy by some stakeholders that travel agents are not in fact the agent of an airline, and as such travel agents should be included in the new consumer protections framework. The agent-principal relationship has been confirmed by the High Court, which has found that travel agents act as the agent of the airline for the supply of airline tickets.²

In addition, Commercial Agreements between agents and airlines makes clear that agents are acting on behalf of airlines in the sale of flights and associated services.

¹ ACCC, [Submission in response to the Aviation Industry Ombuds Scheme consultation](#), p.11.

² High Court of Australia, [ACCC v Flight Centre Travel Group](#), B15/2016 from [76].

Obligations and Oversight of Travel Agents

Relevantly, travel agents are not authorised to sell an airline's product unless they comply with the terms of Commercial / Agency Agreements and other agency terms and conditions, and associated polices. These documents govern how agents are authorised to sell flights and associated services of airlines and place extensive obligations on agents. Common features are as follows:³

- **Traveller Contact Details** – Agents must provide all traveller contact details to the airline in the prescribed format.⁴
- **Fare Rules** – Agents must only distribute fares in accordance with the airline's fare rules – they are not permitted to amend these.⁵ There are also some requirements to ensure that travellers acknowledge and accept these fare rules.⁶
- **Disclosure of Fees** – All fees charged to travellers must be fully disclosed.⁷
- **Distribution of Booking Terms** – Agents must provide travellers with the most up-to-date booking terms as soon as practicable after making a booking, and any time a traveller changes or cancels their flight.⁸
- **Itineraries** – Agents must issue each traveller with an itinerary containing the same information as that contained on an itinerary issued by the airline, noting the airline reserves the right to change this information at any time without notice.⁹

Where an agent fails to meet these obligations, airlines have a range of enforceable tools and remedies available, including:

- **Control of bookings** – Airlines are able to assume control of Passenger Name Records (PNRs), reissue tickets and amend bookings where necessary.¹⁰ Airlines routinely charge fees for such amendments, demonstrating that they have both the means and processes to manage such cases.¹¹
- **Agency Debit Memos (ADM)** – ADMs allow airlines to unilaterally recover funds from agents for what they consider to be ticketing, fare, or refunding errors.¹² More than 35,000 ADMs have been issued in the year to July.
- **Indemnity and Insurance obligations**¹³ – Agents must indemnify airlines against any liability, loss, or costs arising from the agent's own actions, omissions, or breaches. Where a traveller makes or threatens a claim against an airline in such circumstances, the agent is responsible

³ We have provided links to Virgin Australia and Qantas' publicly available documents. Other airlines' agreements are not publicly available, however we understand these to be standard features from consultations with members.

⁴ See, for example, [Virgin Australia Travel Agent Main Agreement](#), Part C, clause 10 (g); [Qantas Standard Agency Terms and Conditions](#), clause 5.4.

⁵ See, for example, [Qantas Standard Agency Terms and Conditions](#), clause 4.1

⁶ See, for example, [Virgin Australia Travel Agent Main Agreement](#), Part F, clause 4.

⁷ See, for example, [Virgin Australia Travel Agent Main Agreement](#), Part F, clause 5(b); [Qantas Standard Agency Terms and Conditions](#), clause 3.1(b)-(d)

⁸ See, for example, [Virgin Australia Travel Agent Main Agreement](#), Part C, clause 10(f).

⁹ See, for example, [Virgin Australia Travel Agent Main Agreement](#), Part F, clause 7.

¹⁰ See, for example, [Qantas Standard Agency Terms and Conditions](#), clause 6.3; [Virgin Australia Travel Agent Main Agreement](#), Part A, clause 6(c) and [Ticketing and General Booking Policy](#), clause 2.3.

¹¹ See, for example, [Qantas Standard Agency Terms and Conditions](#), clause 6.4.

¹² See, for example, [Qantas ADM Policy](#); [Virgin Australia ADM / ACM Policy](#), April 2024.

¹³ See, for example, [Virgin Australia Travel Agent Main Agreement](#), Part C, clause 10; [Qantas Standard Agency Terms and Conditions](#), clause 14.

for managing and, if directed, settling the claim at their own cost without reimbursement from the airline. Agents are also required to maintain adequate insurance, including Public Liability and Professional Indemnity cover.

- **Termination and suspension of sale rights** – Airlines can terminate an Agency agreement and/or remove or suspend an agent’s authority to issue tickets on the airline’s ticketing stock in the event of certain breaches.¹⁴
- **Refunds to customers** – Agents must provide these in accordance with the fare rules of the airline, and in manner and timeframe as stipulated by airlines.¹⁵

These mechanisms clearly demonstrate that airlines, as principals, retain ultimate responsibility for the conduct of their agents, and have both the means and the processes to hold agents accountable when necessary.

In addition to obligations under Agency Agreements, Commercial Agreements and the Australian Consumer Law, accredited agents must also comply with the elevated standards of the Australian Travel Accreditation Scheme (ATAS) Charter and Code. ATAS provides a robust, independent dispute resolution service to consumers at no cost. ATIA’s accreditation scheme was developed with full oversight by the Consumer Affairs Forum and CHOICE and follows the ACCC best practice for industry codes of conduct. Consumer bodies have direct say and oversight over the complaints process, and industry and consumer bodies have equal voice in the process.¹⁶

For these reasons, ATIA maintains that the proposed aviation consumer protections framework is appropriately focused on airline conduct and does not need to extend to travel agents. As recognised in the consultation paper, airlines are responsible for their products and for managing the conduct of their authorised agents. Extending the framework to cover travel agents could complicate accountability and weaken the clarity of consumer protections. Travel agents already operate under detailed commercial agreements and existing regulatory oversight, so including them would duplicate protections, create unnecessary regulatory burden, and distract from the framework’s core objective of improving consumer outcomes in relation to airline conduct.

Yours sincerely

Ingrid Fraser

Director of Public Policy & Advocacy
Australian Travel Industry Association

¹⁴ See, for example, Virgin Australia’s [Travel Agent Main Agreement](#), Part A, clauses 6a and 6b; [Qantas Standard Agency Terms and Conditions](#), clause 14.

¹⁵ See, for example, [Qantas Standard Agency Terms and Conditions](#), clause 6.5 and [Qantas \(081\) Refund Policy](#) Virgin Australia [General Booking and Ticketing Policy](#), clause 4.

¹⁶ Further details on ATAS and the complaint resolution process have been provided in previous submissions by ATIA.