



To Whom It May Concern

The Regional Aviation Association of Australia (RAAA) welcomes the opportunity to provide a submission in response to the Department Infrastructure, Transport, Regional Development, Communication and the Arts Aviation Customer Rights Charter.

The RAAA acknowledges the Government's plan to establish the Aviation Customer Rights Charter (the Charter) to improve outcomes for the travelling public by clarifying the rights of aviation customers.

The RAAA's primary submission is that regional aviation should be exempted from some of the components of any such scheme. The inclusion of regional airlines in all components of the proposed Charter would result in an unfair operational burden on regional carriers, particularly as their ability to mitigate the effects of unexpected events that lead to flight delays is limited.

The imposition of any additional costs on regional airlines raises a real possibility of adverse impacts for communities in regional and remote locations across Australia. Any new scheme should consider the type of airline operation and the locations they are operating to protect the services they provide to regional and remote communities across Australia.

Safety must also remain the industry's number one priority. Any Charter must not threaten or compromise the world-class safety culture of the Australian aviation industry. There is a real risk that safety could be undermined by factors that put pressure on an operator to avoid a financial penalty as part of their day-to-day operational decision making.

About the RAAA and Regional Aviation

The Regional Aviation Association of Australia (RAAA) is a not-for-profit organisation formed in 1980 to protect, represent and promote the combined interests of its regional aviation organisations across Australia.

Airline members include Alliance, Airnorth, Link Airways, Marooomba, Nexus, QantasLink, Rex, Sharp Airlines, Skytrans, Skippers and Virgin Australia Regional Airlines (VARA). Other members include airports, engineering and flight training organisations, finance and insurance companies and government entities. RAAA's members operate successful and growing businesses providing employment and economic sustainability within regional and remote areas of Australia.

The RAAA has approximately 120 members who together directly employ over 10,000 people, many in regional areas. On an annual basis, the RAAA's Air Operator Certificate (AOC) members jointly turnover more than \$1.5 billion, carry well more than two million passengers and move over 23 million kilograms of freight. Our regional airport members also provide and manage critical infrastructure across Australia.[1]

The RAAA's members provide critical connectivity services between regional communities and city centres which enables those living in remote and regional locations to access services such as healthcare and education. It also facilitates the delivery of services to regional communities including emergency medical or disaster relief services, transport of FIFO workers and the delivery of cargo and mail. Given the geography of Australia and the proportion of Australians residing in remote or regional locations, the regional aviation sector is vital to ensuring Australians can access the services they need.

In addition, regional aviation is critical to the Australian economy, acting as an enabler to the mining, oil and gas, construction, manufacturing, and higher education industries. More than 60,000 Australians work more than 350km from their usual place of residence, with many workers in the mining, oil and gas industries working in very remote areas. The Aviation White Paper notes that there are already limited services available on regional routes and decreasing competition on those routes, and that while 278 regional aerodromes were serviced in Australia in 1984, only 163 were serviced in 2021.

The regional aviation sector was severely impacted by COVID-19. One of Australia's largest regional carriers, Rex, is currently in administration and prior to this Bonza collapsed. Since the 1990s more than twenty regional airlines in Australia have gone out of business. Many regional routes in Australia are operated on an unprofitable basis or require Government subsidies.

Regional Aviation and the Proposed Aviation Customer Rights Charter

The RAAA acknowledges that the issues around passenger consumer rights, and in particular flight delays and cancellations, can be highly emotive and frustrating for members of the travelling public who are directly affected. However, delays and cancellations are often the result of unavoidable safety issues and the problems which arise when servicing remote locations.

Additionally, aviation customers have existing legal rights and protections under existing legislation enacted through the Competition and Consumer Act 2010 (Cth) and airlines and airports also have existing obligations for liability for loss or damage of baggage under the Montreal Convention 1999 and the Civil Aviation (Carriers' Liability) Act 1959 (CACL Act).

[1] <https://raaa.com.au/>

The RAAA acknowledges that the Charter is intended to ensure that aviation customers are receiving appropriate treatment from airlines and airports in Australia. The Charter also draws attention to the need for airlines and airports to improve customer standards, make complaints processes accessible, ensure customer information is available and improve timely responses.

The rights within the Charter will inform the Aviation Industry Ombudsperson's complaints resolution process and underpin any determination the Ombudsperson may give to resolve a complaint in a particular way.

Specifically, the Charter states that aviation customers have the right to:

1. Be treated with dignity and respect, in an accessible and inclusive environment
2. Accurate, timely and accessible information and customer service
3. Prompt and fair remedies and support during and after cancellations, delays, and disruptions
4. Safe and timely baggage handling and fair remedies for damage and delays
5. The protection of their personal information
6. Provide feedback, make complaints, and exercise their rights without retribution

The RAAA agrees with these high-level outcomes however caution needs to be applied to some of the specific details that will be covered in the detail of the Charter.

It is important to note that if the Charter is applied to all regional airlines, it has the potential to impact regional and remote communities across Australia in adverse ways including increases in prices or reduction in services.

The RAAA submits that given the following factors, that operators who operate predominantly on regional routes be excluded from parts of the Charter because:

1. The operating conditions of regional airlines are materially different to those of airlines operating between capital cities. Many regional carriers operate aircraft into remote locations where there are no back up aircraft or crew available, and no engineering services available.
2. Many regional routes are serviced by a very limited flight schedule meaning passengers cannot easily be transferred to alternate flights to avoid delays. In these circumstances, regional carriers face a significantly higher burden in attempting to ensure flights are not delayed or cancelled, whilst also ensuring flights are operated safely.
3. The consequences of destabilising events are vastly magnified when they occur in regional and remote locations, with the result that there is less ability for operators to mitigate or avoid cancellations or delays in those locations in many instances.
4. Given the high costs associated with operating some regional routes, the lower or inconsistent demand on some routes and the size of businesses operating regional flights, regional carriers are more sensitive to any additional per passenger costs.
5. Regional carriers provide critical services and connectivity which should be fostered and supported by the Federal Government.
6. Regional carriers often have limited customer service staff and do not employ in house legal departments, meaning the management of claims via the Charter would be disproportionately burdensome.
7. The failure of regional carriers can have a significant effect on the connectivity of regional locations within Australia. This can be seen with the recent example of Rex. Although Rex continues to operate there is the potential for a substantial number of routes to be disconnected from Australia's aviation network if Rex ceases to operate.

There is a real risk that if costs are increased on some regional routes, including by imposing costs associated with flight cancellations or delays, that regional carriers will either stop servicing the routes or even cease to be able to operate at all.

Given the factors outlined previously, and the importance of preserving and supporting the regional aviation industry in Australia, the RAAA submits that the Charter should not apply unilaterally to regional airlines.

To exclude regional carriers will not deprive consumers who have purchased tickets for carriage on regional flights of a benefit. There is an existing regime under the Australian Consumer Law which will continue to apply, and which ensures consumers are adequately protected.

The RAAA has specific concerns with a number of the proposed requirements. Many are impractical for a regional operator and would be difficult to deliver. For example, under Proposed Right 3 it states the following.

- Customers should receive a refund for a cancelled flight within 14 days of the cancellation being notified, regardless of the fare type, where an alternative flight has not been agreed. The refund should be to the full amount paid by the customer, including baggage charges, pre-purchased meals, extra leg room fees and any payment fees and charges. And,
- The default position of airlines will be the provision of a refund in the original form of payment (including cash, credit, or flyer reward points), with a travel voucher only being issued if the customer chooses that option.

These are problematic as they may place an administrative burden on the regional airline where they do not have the capacity, both staff or IT system, to be able to manage the refund in the specified timeframe.

Also, the customer may not have booked directly with the airline and could have booked through a third party like a travel agent. In this instance the airline is not aware of how payment was made and does not hold any of the payment details (credit card/PaIPal/Applepay) that would be required to pay the refund.



Factors Affecting Delays or Cancellations in Regional Aviation

There are numerous reasons for flight delays and flight cancellations by regional airlines in Australia. These can be stand-alone factors or, in some instances, a combination of factors that ultimately result in major flight delays or flight cancellations.

Weather

The safe carriage of a flight is very much dependent on the prevailing weather conditions at the departing aerodrome location, the flight route to be flown and at the destination aerodrome. Adverse weather outcomes are generally flight planned when possible, however the changeability of weather as a natural phenomenon cannot be fully predicted or accounted for. It is well recognised both internationally and in Australia that weather is one of the highest contributing factors to flight delays and flight cancellations.

Regional carriers, which tend to operate smaller aircraft into more remote airports, face an increased burden of responding to weather conditions than larger airlines which operate larger aircraft between capital cities.

Where weather conditions prevent safe operation of aircraft, flights cannot operate and need to be cancelled or delayed. This is entirely outside the control of the airline.

Air Traffic Control (Airservices Australia)

Airservices Australia (Airservices) is the Government owned organisation that solely provides air traffic control services across 11-percent of the world's airspace, including over mainland Australia.[2]

Airservices has implemented an active Ground Delay Program (GDP) at several major airports across Australia that seeks to better manage arrivals and departures at those airports. In short, the GDP effectively means airlines are given an exact time window when they can depart or arrive. This is actively managed daily via the airports' slot management (booking) system. So, while an airline may schedule a flight for a particular arrival or departure time ultimately this can be affected by factors like network congestion or weather events as described previously.

Enroute air traffic volumes and constrained airport traffic capacity can also require an airline to slow down in flight to delay the arrival time and better sequence the airline traffic into the arrival aerodrome.

Some regional airlines only operate one or two services a day or week into or out of a regional aerodrome or remote community. Appropriately they will be as flexible and accommodating with their passengers' needs as much as they possibly can, however many regional flights 'hub' through larger regional cities or major city airports and the regional airline can be impacted by the late arrival of passengers onboard other in-bound flights. When this occurs, it is outside the influence of our member airlines' operations as they can be very much constrained by the operations of another airline or airport capacity constraint.

Airservices has expressly recognised that regional aviation faces its own unique challenges and given the difficulties faced by airlines operating in these remote locations, the inclusion of regional airlines in the Charter would impose an unfair burden on those carriers by imposing liability on those carriers in circumstances where the operating conditions will sometimes make delays and cancellations unavoidable.

[2] <https://www.airservicesaustralia.com/>



Airport Infrastructure

There are many factors that relate directly to an aerodrome, its infrastructure and the daily operations that can contribute to flight delays. Some of these include.

- Planned runway and taxi-way maintenance works
- Unplanned runway pavement failures requiring immediate repair
- Aerobridge mechanical failures or other gate issues
- Foreign Object Debris (FOD) on runways and/or taxiways
- Airport security screening delays
- Baggage handling delays or equipment breakdowns
- Ground handling services provider delays/issues
- Booking systems/computer outages
- Fuel supply, refuelling delays, and distribution infrastructure issues

These issues are particularly relevant to regional carriers who operate to remote airports which usually have a single runway and limited other services.

Passenger Management Issues

- Passenger late check-ins and no shows
- Passengers fail to board
- Disruptive passengers
- Medical emergencies landside and airside
- Terminal issues with security/fire alarms evacuations



Conclusion

Regional aviation provides critical services in Australia. Many routes are serviced by small operators, operating small aircraft, in circumstances where the operator has very limited ability to control flight cancellations or delays. Requiring regional operators who service these routes to be covered by Charter will be burdensome and has the potential to reduce the ability of operators to service particular routes.

The question of which airlines will be required to be covered by the Charter needs to be well considered in the context of the problem that it is trying to address. This includes looking very closely at other overseas jurisdictions and their experience in running such schemes and the potential for unintended consequences or unfavourable outcomes from such a scheme.

Safety must also remain the industry's number one priority. Any Charter must not threaten or compromise the world-class safety culture of the Australian aviation industry. There is a real risk that safety could be undermined by factors that put pressure on an operator to avoid a financial penalty as part of their day-to-day operational decision making.

The imposition of any additional cost burdens on regional airlines raises a real possibility of adverse impacts for communities in regional and remote locations across Australia. Any Charter should consider the type of airline operation and the locations they operate so as to protect the services provided to regional and remote communities across Australia. This should involve excluding certain airline operators or locations from the proposed scheme.

The RAAA submits that given all the factors above, any Aviation Customer Rights Charter should not apply to operators who operate predominantly on regional routes. Any Charter needs to focus only on specific issues that it is intended to address and not be a catch-all approach that then has a range of unintended consequences for regional aviation organisations.



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