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TTF AUSTRALIA
Tourism & Transport Forum

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Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

Via email: aviationconsumer@infrastructure.gov.au

Establishing the Aviation Industry Ombuds Scheme

The Tourism & Transport Forum (TTF) is the peak industry group for the aviation, tourism, transport and related infrastructure sectors. A national, member-funded CEO forum, TTF advocates for the public policy interests of our members. TTF represents a broad range of operators which include airports, airlines, tourism and travel operators, accommodation providers, major events and leading private & public transport operators with a state and national presence. TTF is the leading industry voice and plays an important and active role in advocating for the public policy interests of our members.

TTF welcomes the opportunity to provide a submission to the Aviation Industry Ombuds Scheme Consultation Paper, as proposed by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), following the recent release of the Aviation White Paper. TTF thanks members for their valuable input to assist the government in establishing an Independent Aviation Ombuds Scheme (AOS). TTF has responded to the submission in three sections including Design of the Aviation Industry Ombuds Scheme, Complaint Handling and Guidance and Reporting.

Section A) Design of the Aviation Industry Ombuds Scheme

Key Considerations:

- **Addressing post pandemic challenges:** Reflecting on what is still the post-COVID recovery period for the aviation industry, the design of the AOS must consider the challenges that customers, airports and airlines faced during this time. The COVID-19 pandemic brought many challenges to the aviation industry, challenges which continue to impact consumers, airlines and airports today[1]. It is well recognised in the post COVID-19 recovery period that air travel was impacted by operational delays and service disruptions. TTF would recommend that these short-term challenges, which industry has sought to address for themselves, be taken into consideration when designing the scheme.

[1] https://www.casa.gov.au/operations-safety-and-travel/safety-advice/covid-19-advice-industry

- The Ombuds Scheme should be a last resort solution: Whilst the Ombuds Scheme will be a key avenue for consumers to resolve certain disputes, it must be positioned as a last resort mechanism. The primary focus of the scheme should be to encourage scheme members to resolve complaints directly and promptly before escalations occur. The scheme must encourage improved industry performance, reduced delays and an overall enhancement of the customer experience. In doing this, the scheme should promote industry-based efforts to improve overall service performance, with an emphasis on performance metrics around punctuality, customer satisfaction and operational efficiency.
- Clear and simple messaging: The success and applicability of the AOS will depend on its ability to communicate effectively with consumers. The scheme should provide a clear and simple message that outlines:
    - The process consumers should follow to resolve disputes.
    - The responsibilities of airlines and airports in addressing complaints.
    - The role of the AOS as an independent and fair arbitration source in cases where disputes cannot be resolved directly with the consumer.

Objectives of the Aviation Industry Ombuds Scheme

TTF wishes to provide the following recommendations for the scheme's design, with the intention to continue improvements for the industry in line with appropriate consideration of consumer needs and rights. After consultation with our members, TTF finds the following principles must be considered in the making of the AOS:

- Independent: The scheme must carry out dispute resolution processes separately from members and stakeholders of the aviation industry.
- Accessible: This new scheme must be accessible to all aviation customers.
- Fair: It is important that all operations within the AOS are conducted in a fair manner, consistently accounting for all relevant parties within the dispute.
- Transparent: Decisions and consultations undertaken by the AOS must be transparent and provide all parties with a clear understanding of the processes involved.
- Efficient: The success of the new scheme will depend on its ability to resolve complaints with efficiency, minimal delays and in a cost-efficient manner.
- Accountable: The new scheme must not be ambiguous in its dispute resolution process. Regular reviews and reports should ensure the scheme remains up to date and able to carry out all requirements of its important role within the aviation industry.

Powers and Functions

TTF broadly supports the outlined functions in the AOS consultation paper but provides the following points for consideration:

- Dispute resolution: As a whole, the Ombuds Scheme must provide accessible external dispute resolution services. This means ensuring that the Ombuds' services are easy to access, impartial in their judgments, and transparent in their processes. To maintain this, guidelines need to establish the context of the issue at hand, the complexity and intricacies of the dispute and the associated costs. Key features should include:
    - A clear, consumer-friendly platform for lodging complaints.

- Transparent reporting on complaint handling and resolution outcomes.
- Accessibility features to support diverse consumer needs, including accessibility needs.
- Clear and direct feedback for airlines and airports to minimise the prospect of future complaints.
- Dispute resolution should be limited to the conditions of carriage or the relevant consumer law. Consumers should be aware of the policies and hold the appropriate levels of insurance cover.

Governance

TTF recommends AOS operations take place through a governing board with the ability to ensure independence, accountability, and effectiveness in operations. The governing board should consist of an independent chair and equal, independent representation across airports, airlines and consumer advocates. In recognition of the distinct issues faced by airlines and airports, TTF believes these entities should be represented separately and consumers should also have a form of representation. Additionally, we find it important that governance arrangements support a constructive relationship between the AOS and the industry to ensure ongoing improvements for consumers seeking appropriate dispute outcomes. In line with Treasury principal 'Benchmarks for Industry-based Customer Dispute Resolution,' the governing board should have the ability to oversee the functions of the AOS and ensure operations maintain independence, transparency and efficiency.

AOS Membership

Membership of the AOS should include a range of stakeholders within the industry including airlines, airports and government agencies. Membership has the potential to be reviewed to ensure the scheme is working efficiently and fairly. Factors such as size and scale of an organisation could be considered with a potential review process.

Funding

The funding model for the AOS should strike a balance by having the government, airlines and airports contribute, while ensuring that the system remains cost-effective, equitable, and fair. To maintain fairness, costs should be tied to the entities responsible for complaints, following a 'user pays' principle. This approach ensures that those who use the scheme more heavily will share responsibility of the operating costs, preventing cross-subsidisation between sectors. To incentivise airlines and airports to resolve complaints in reasonable time, and before reaching the Ombuds' level, the funding model should include a significant variable component based on the number of complaints. TTF encourages thorough consultations with the industry in 2025 to refine this model and ensure the scheme operates sustainably.

Existing models

TTF recommends, using elements of existing ombuds models with proven success to shape the AOS.

Telecommunications Industry Ombudsman

The Telecommunications Industry Ombudsman (TIO) for Australia offers a well-established model of independent dispute resolution[2]. Key elements from this scheme align with our recommendations and are an ideal representation of how the AOS could work:

- Tiered Resolution Process: The TIO operates in stages, giving telecommunications providers an opportunity to resolve complaints before they are escalated to the Ombuds level.
- Funding Structure: The TIO relies on a user-pays funding model, whereby entities that contribute to more complaints are held accountable for larger costs.

UK Civil Aviation Authority (CAA) ADR Scheme

The United Kingdom's CAA's Alternative Dispute Resolution (ADR) scheme provides a consistent international reference for managing aviation disputes[3]. Under this system, both airlines and airports are required to participate in ADR schemes, providing passengers with a clear pathway to resolve disputes when airlines fail to do so directly.

- Timely Responses: In the UK, airlines are required to respond to complaints within eight weeks of receiving them. This structured timeline ensures a prompt response and prevents delays within the complaint handling timeline.
- Mandatory Participation: A significant feature of the UK model is that all airlines are required to participate in the ADR scheme, ensuring universal coverage and consistent resolutions.

Section B) Complaint handling

A key aspect that will uphold the integrity of the AOS is clearly defined eligibility criteria. The AOS should have no intention to intervene with disputes that fall outside of its established remit. The eligibility criteria for handling complaints should be clearly defined and strengthened beyond the current framework provided by the Airline Customer Advocate. Key improvements to the complaint-handling process could include:

- Clear definition of a complaint: The eligibility criteria should clearly define what constitutes a complaint, distinguishing it from simple queries or requests for clarification.
- Scope of services: The scope of services and issues that can be addressed by the scheme should be clearly communicated, acknowledging that the scope may vary between different members.
- Prior attempts at resolution: Before submitting a complaint to the AOS, customers should be required to attempt a resolution directly with the scheme member involved.
- Complaints related to accessibility standards: Once the new aviation-specific disability standards are developed, the criteria should be updated to address eligibility for complaints related to these standards.

[2] https://www.tio.com.au/complaints/what-expect

[3] https://www.caa.co.uk/our-work/about-us/alternative-dispute-resolution/

Furthermore, the scheme should set additional limits to exclude complaints that fall outside its defined remit, including:

- Frivolous complaints: Multiple complaints from the same individual or complaints lacking merit should not be permitted.
- Complaints under legal proceedings: Complaints that are part of ongoing legal action should be excluded.
- Resolved Complaints: If a complaint has already been addressed through direct engagement with the scheme member, the Airline Customer Advocate, or a prior interim Ombuds Scheme, it should not be eligible for reconsideration.

Section C) Guidance and Reporting

The publication of AOS operations is vital for the scheme's ability to uphold transparency and accountability, ensuring continuous improvement for the industry. AOS reports should emphasise the role of the Ombuds and the application of their powers to members. Reports should include data on complaints, resolution rates, case studies, trends, metrics and case processing times. These insights will also provide clarity for the wider industry and public. To ensure comprehensive governance, annual reports should also cover strategic, financial, and risk management topics.

While the AOS's reports should focus on complaint management and scheme performance, it should not duplicate broader aviation industry trend analyses. These are already extensively covered by other bodies like the Bureau of Infrastructure, Transport, and Regional Economics and the Australian Competition and Consumer Commission.

It is crucial that Scheme members, particularly smaller operators, fully understand their obligations under the Ombuds Scheme. To facilitate this, the AOS should provide regular guidance. This will help members effectively manage complaints and improve dispute resolution processes. TTF also recommends that the AOS should undergo a review after its first year of operation to ensure it is functioning as intended and to make necessary adjustments based on feedback and performance data.

Conclusion

The Tourism & Transport Forum appreciates the opportunity to contribute to the development of the Aviation Industry Ombuds Scheme. Our submission reflects the views and needs of our diverse aviation industry members, focusing on creating a fair, independent and efficient dispute resolution system. We look forward to continued collaboration with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to ensure the scheme promotes transparency, accountability and consumer trust, encouraging improvements in industry performance and customer satisfaction.

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