

Mr Patrick Holder
Committee Secretary
Senate Rural and Regional Affairs and Transport Legislation Committee

29 April 2026

By email - rrat.sen@aph.gov.au

Dear Committee Secretary

Submission Re: Inquiry into the Aviation Consumer Protection Bill 2026 and three related bills

1. I am writing to you as **Chair of the Travel Law Special Interest Group of the Australian Lawyers Alliance (ALA)**. The ALA is a national association of lawyers, academics and other professionals dedicated to protecting and promoting access to justice and equality before the law for all individuals.
2. The ALA is represented in every state and territory in Australia. We estimate that our 1,500 members represent up to 200,000 people each year across Australia.
3. We write in response to the Committee's invitation to provide a submission on the Aviation Consumer Protection Bill 2026 (the **Bill**) and the three related bills (the **related bills**). The ALA is grateful for the extension of time to 29 April 2026 to provide this submission.
4. This submission is confined to key issues arising from the Bill and the related bills and provides a high-level summary of the ALA's position, with reference to the following submissions previously made by the ALA on air passenger issues which are attached for your reference:
 - (i) Submission on Green Paper dated 29 November 2023 (the **Green Paper Submission**);
 - (ii) Submission on Aviation Industry Ombuds Scheme dated 16 October 2024 (the **Ombuds Scheme Submission**); and
 - (iii) Submission on draft primary legislation dated 3 October 2025 (the **Primary Legislation Submission**) and supplementary letter dated 8 October 2025 (the **Supplementary Letter**)

Definition of Passenger (Removal of “Direct Consumer Relationship”)

5. The ALA **strongly supports** the Bill’s protection of *air passengers*, rather than requiring a “direct consumer relationship”.
6. This reflects and adopts the ALA’s primary legislation submission that eligibility should be determined by whether the individual is a passenger, rather than by a contractual relationship¹.
7. In that submission, the ALA identified that a “direct consumer relationship” requirement would exclude significant cohorts of passengers, including those travelling on employer-funded tickets and family bookings².
8. The Bill’s approach appropriately addresses this concern and the further issues we identified in our Supplementary Letter regarding inconsistency with the *Australian Consumer Law*.³
9. The conferring of rights upon air passengers rather than individuals with a direct consumer relationship aligns with the ALA’s position that protections should attach to the **passenger experience**, not being party to a contract.

Funding Model – No Increase to Ticket Prices

10. The ALA **supports** the funding approach reflected in the Bill and related bills, to the extent that it does not provide for cost recovery through increased ticket prices.
11. The ALA previously submitted that costs of the scheme should not be passed on to passengers, as this would undermine the purpose of consumer protection reform⁴.
12. This position is consistent with the ALA’s broader concern that reform should not be funded by passengers.

Definition of Airline Service – Code Share Arrangements

13. The ALA **supports** sections 15 and 16 of the Bill, which recognise that more than one airline may be involved in the provision of an airline service.

¹ *Primary Legislation Submission*, 3 October 2025, pp 7 - 8, paras 11–18

² *ibid*, para 15

³ *Supplementary Letter*, 8 October 2025

⁴ *Primary Legislation Submission*, 3 October 2025, p 14, paras 39 - 40

14. This addresses the ALA’s identified concern regarding code share arrangements and the risk of uncertainty as to which airline is responsible for assisting passengers in the event of delays or cancellations⁵.
15. We submit that the inclusion of both operating and marketing carriers within the definition of “airline service” is an important and appropriate clarification.

Recognition of Children’s Rights

16. The ALA **strongly supports** the inclusion of the Convention on the Rights of the Child within the objects of the Bill (section 3(c)) and the further references to children in the body of the Bill.
17. The ALA has previously identified specific issues affecting children travelling by air, including the need to seat minors with accompanying adults at no cost, which we consider should fall within the scope of consumer protections⁶. We are encouraged to see that this is reflected in the Bill, which expressly contemplates seating children 12 and under with their parents or carers as part of an airline service (section 11(3)) although the ALA maintains its position that this right should be conferred on all minors not solely those who are 12 and under.
18. The explicit recognition of children as a cohort of passengers whose rights must be considered is a positive development. This aligns with the ALA’s broader advocacy for accessibility and equitable treatment of all passengers.

Scope of “Eligible Complaint” – Section 17

19. The ALA **supports** the breadth of section 17 of the Bill, which defines an “eligible complaint” as those relating to the provision of regulated services and therefore extending beyond Charter breaches.
20. This is consistent with the ALA’s position that the Ombuds Scheme must be able to address complaints regarding air passenger rights arising under other legislation such as:
 - the Australian Consumer Law; and

⁵ *Primary Legislation Submission*, 3 October 2025, p 10, paras 24 - 28

⁶ *Ombuds Scheme Submission*, 16 October 2024, pp. 14 – 15, paras 29 - 31

- the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention 1999), rather than being confined to Charter obligations⁷.
21. However, for the avoidance of doubt, the ALA reiterates its position that **passenger personal injury claims should be excluded** from the jurisdiction of the Aviation Consumer Ombudsperson.
22. As previously submitted, such claims are legally complex, involve different evidentiary considerations, and are more appropriately dealt with through courts. The ALA is able to provide further submissions on this point if required.

Ombuds Powers – Compensation for Delay (Sections 46–47)

23. The ALA submits that the powers of the Aviation Consumer Ombudsperson under section 46 should **expressly and clearly include compensation for flight delay**.
24. While section 46(3)(c) and section 46(4) provide a framework for determinations, the ALA’s consistent position⁸ has been that:
- passengers should be entitled to compensation for unreasonable delay within the airline’s control; and
 - the Ombudsperson should have power to make **binding determinations awarding such compensation**.
25. The ALA has specifically recommended that the Ombudsperson be empowered to:
- make binding decisions to compensate damage occasioned by delay; and
 - award monetary losses flowing from cancellations and delays, including consequential loss⁹.
26. The ALA refers the committee to our Green Paper Submission of 29 November 2023, pp 12–13 which explains the legal basis for this submission in detail. In short, the *Australian Consumer Law* provides for recovery of ‘loss or damage’ under sections 236 and 267, including

⁷ *Primary Legislation Submission*, 3 October 2025, pp 18, para 54; *Ombuds Scheme Submission*, 16 October 2024, pp 7–8, para 11

⁸ For example, *Ombuds Scheme Submission*, 16 October 2024, pp 7–9, para 11; paras; *Green Paper Submission*, 29 November 2023, pp 17–18, paras 33 - 37

⁹ *Ombuds Scheme Submission*, 16 October 2024, pp 7–8, para 11

reasonably foreseeable loss arising from a failure to comply with consumer guarantees. However, the scope of such compensation—particularly in relation to inconvenience and distress—remains uncertain and difficult for consumers to enforce.

27. The ALA submits that the inclusion of a clear statutory right to compensation for delay and monetary losses flowing from cancellations and delays, including consequential loss would not be inconsistent with Australian law or section 47 of the Bill. However, its absence remains a significant gap in Australian law¹⁰ and lack of specific provision creates ambiguity as to the Ombudsperson’s powers and result in determinations on a case-by-case basis with no guidelines rather than a systematic way¹¹.

Exemptions – Section 9 and Regional Airports

28. The ALA **strongly opposes** the Government’s intention to use section 9 of the Bill to exempt airports with fewer than 1 million passengers per year from the new aviation consumer rights framework.

29. The ALA’s position is that the scheme should apply to the following without exemption¹²:

- all commercial airports; and
- all passengers travelling within, to or from Australia.

30. The exclusion of airports with fewer than 1 million passengers would:

- a. **Disproportionately impact regional passengers**

Regional passengers are more reliant on aviation for essential travel, including access to specialist medical treatment. The ALA has previously highlighted the importance of protecting passengers travelling for time-critical purposes such as medical appointments¹³.

¹⁰ *Green Paper Submission*, 29 November 2023, pp 10–11, 17

¹¹ *Primary Legislation Submission*, 3 October 2025, p 18, para 55

¹² *Ombuds Scheme Submission*, 16 October 2024, pp 10–11, para 15

¹³ *Green Paper Submission*, 29 November 2023, p 11, para 10

b. Create a two-tier system of rights

Passengers travelling on connecting flights with the same airline could have different rights depending on the disrupted route, which is inconsistent with the ALA's position that protections should attach to the **passenger journey**.

c. Introduce complexity and uncertainty

An airport-based limitation risks fragmentation of rights across different legs of a journey and undermines the objective of a simple and accessible framework.

d. Undermine the effectiveness of the scheme

Excluding regional airports creates gaps in coverage and reduces the accountability of airlines operating in those markets.

31. For these reasons, the ALA submits that **no exemptions should be granted** under section 9 for classes of airports.

Conclusion

32. The ALA broadly supports the direction of the Bill and the related bills and acknowledges that a number of its key recommendations have been adopted, including:

- defining protections by reference to air passengers;
- recognising children's rights;
- addressing code share arrangements; and
- expanding the scope of eligible complaints.

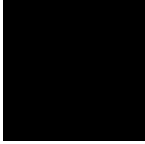
33. However, the ALA submits that the Bill should be strengthened by:

- expressly providing for compensation for the inconvenience and consequential losses caused by unreasonable flight delay within an airline's control; and
- ensuring that the framework applies uniformly to all passengers, including those travelling through regional airports.

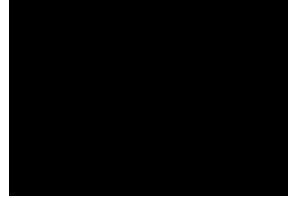
34. The ALA thanks the Committee for the opportunity to provide this submission.

Please direct correspondence to Chris Haynes, Policy & Advocacy Manager, Australian Lawyers Alliance, on [REDACTED] or at [REDACTED]

Yours sincerely,



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Chair, Travel Law Special Interest Group
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