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Aviation White Paper Branch  
Domestic Aviation & Reform Division  
Department of Infrastructure, Transport, Regional Development, Communications and the Arts  
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**RE: Aviation White Paper**

Flying is an essential service for many Australians. It connects regional communities, provides access to vital medical services, unites family and friends for important occasions and helps Australians explore more of their country. Recent years, including the COVID-19 pandemic, have shown a number of weaknesses in consumer protection within the aviation sector.

Consumers regularly struggle to obtain satisfactory outcomes when flights are cancelled or delayed. Many people have been left out of pocket or have been given credits they are unable to use. Restoring consumer confidence and trust in the aviation industry is critical to the growth of the sector and will benefit both the community and the economy in the lead up to 2050.

CHOICE and Consumers' Federation of Australia welcome the opportunity to contribute to the Aviation White Paper (**Aviation White Paper**). The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (**the Department**) should ensure that the White Paper includes a policy section and recommendations which strengthen consumer protections. The White Paper should also include a section on the role of competition in the aviation sector, including both airlines and airports.

In July 2021, CHOICE produced a major report which investigated consumer issues within the travel and tourism sector.<sup>1</sup> This report was informed by a survey which received over 4,000 responses from members of the community. CHOICE's research found there are a number of key problems in the aviation sector. These problems include:

1. Consumers are unaware of the consumer protections available to them, which led some to cancel arrangements in ways that then affected their ability to obtain a refund.
2. Consumers find it hard to obtain information on their rights to receive a remedy. This is because of difficulty contacting providers, delays and complex agency arrangements that make it difficult to understand whether refunds were progressing.

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<sup>1</sup>CHOICE, 2021, 'Consumer Protection for Australian Travellers: A plan for clarity, consistency and fairness', <https://www.choice.com.au/consumer-advocacy/policy-submissions/2021/july/report-on-fairer-consumer-protections-for-australian-travellers>

3. The rights and remedies available to consumers are inconsistent and often unsatisfactory. These have been largely determined by the terms and conditions of each operator and/or travel agent, which are often difficult to understand. Outcomes have included:
  - a. Consumers being out of pocket, for example, due to inability to obtain any refund or excessive cancellation fees; and
  - b. Consumers receiving credits or vouchers that they are in reality unable to use.
4. Consumers lack protection when companies become insolvent.

Many of these problems remain ongoing. Consumers continue to experience challenges in redeeming travel credits which they are entitled to. In February 2023, Qantas had \$800 million worth of unused travel credits<sup>2</sup>. In February 2022, CHOICE submitted a complaint to the ACCC regarding the possible use of unfair contract terms in Qantas's Flight Credits Policy.<sup>3</sup> The complaint argued that Qantas customers who booked a flight after 30 September 2021 could only use credit obtained from that booking to book a flight that costs the same or more than their original fare. If the consumer wanted to book a flight for less than their credit amount, they would have to buy a new ticket.

Consumers have also reported other issues with redeeming credits, including 12-month credit expiries, faulty online systems, long refund wait times and poor customer service. This highlights one of the many challenges consumers face with the aviation sector.

Consumer confidence in the aviation industry has been severely affected by the ongoing lack of consumer protections. These challenges are not isolated to the pandemic period. There is widespread community support for strong consumer protections around long-term travel protections. CHOICE's research in 2021 revealed that 90% of Australians support laws being changed to make it easier to access refunds.<sup>4</sup>

## Policy recommendations

The Department should consider policy recommendations which will improve consumer protections. The White Paper should include a policy section on consumer protections, with recommendations to improve outcomes. As a starting point, we encourage the Department to include the following five policy recommendations in the White Paper:

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<sup>2</sup>Sydney Morning Herald, 2023 'Qantas under pressure to scrap expiry date on \$800m unused credit'  
<https://www.smh.com.au/business/consumer-affairs/bit-of-a-trick-qantas-under-pressure-to-scrap-expiry-date-on-800m-unused-credits-20230224-p5cnbh.html>

<sup>3</sup>CHOICE, 2022 'Qantas flight credit policy unfair to customers'  
<https://www.choice.com.au/travel/on-holidays/airlines/articles/qantas-flight-credits-failure>

<sup>4</sup>CHOICE, 2021, 'Consumer Protection for Australian Travellers: A plan for clarity, consistency and fairness',  
<https://www.choice.com.au/consumer-advocacy/policy-submissions/2021/july/report-on-fairer-consumer-protections-for-australian-travellers>

### **1. Implement minimum consumer protections that make it easier for consumers to receive a refund.**

Governments should improve consumer protections for people who book travel or tourism services that cannot be provided due to circumstances outside the control of the business and consumer.

- a) For bookings where the ultimate service is to be provided by a business that operates in Australia, consumer protections should include:
  - i) a requirement that consumers can choose to receive a refund or a credit/voucher;
  - ii) that any fees or charges deducted from a refund must be limited to the business's reasonable costs. The ACCC should produce specific regulatory guidance on what constitutes reasonable costs.
  
- b) For bookings involving funds remitted to travel or tourism businesses based entirely overseas that are not otherwise subject to the Australian Consumer Law, the Federal Government should work with industry groups, consumer organisations and foreign governments to establish mechanisms that enable Australian based consumers to obtain refunds. The Government should use trade agreements to provide greater certainty to Australian consumers about their refund rights when booking international travel.

### **2. Mandate minimum requirements for travel vouchers/ credits.**

Governments should mandate minimum requirements for vouchers/credits provided by travel and tourism businesses in lieu of a service, similar to those that apply to gift cards. These should include:

- a) a minimum term of three years;
- b) the ability to transfer the credit or voucher to another person;
- c) the ability to split over multiple bookings;
- d) an obligation on travel and tourism businesses to convert credits or vouchers to a refund in certain circumstances including at the expiration of the term; and
- e) an obligation to treat bookings made with credits or vouchers in the same way as bookings paid for in cash.

### **3. Introduce a mandatory industry code of practice**

The Federal Government should introduce a mandatory industry code applying to all airlines and large travel and tourism businesses taking money from Australian-based consumers. Small travel businesses should be given the option to sign on to the code. The code should include:

- a) minimum requirements for consumer protection, including additional refund protections for people experiencing financial hardship;
- b) minimum requirements for customer service including commitments to manage high-demand times using consumer friendly methods, like call back services;
- c) a maximum timeframe for businesses to provide refunds or other remedies; and
- d) a governance structure that includes a code compliance committee to identify and address systemic issues in the sector (similar to financial services codes).

#### **4. Establish a new travel and tourism industry ombudsman**

The Federal Government should establish a new travel and tourism industry ombudsman, similar to the Telecommunications Industry Ombudsman or the Australian Financial Complaints Authority. All airlines, along with large travel and tourism suppliers, large travel agents and large intermediary companies should be required to participate in the industry ombudsman scheme. Smaller travel and tourism businesses should be able to opt-in to the scheme. The ombudsman should:

- a) be initially established and funded by government with a plan for transition to an industry-funded model;
- b) be responsible for investigating complaints against travel and tourism businesses;
- c) have the power to issue determinations and decisions which industry are obliged to act on; and
- d) be required to comply with the Benchmarks for Industry-based Customer Dispute Resolution Schemes.

#### **5. Mandate information standards providing key information to consumers at point of purchase**

The Federal Government should introduce a mandatory information standard on the information that must be provided to consumers at the time they make a travel purchase. This should include what refund a consumer will receive if a business is unable to provide a service, information on how to lodge a complaint and, for travel agents and intermediaries, a breakdown of fees and commissions.

Yours sincerely,



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