



Australian Government

Department of Infrastructure, Regional Development and Cities



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## Session 6 – Achieving Regulatory Convergence

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# Australia's approach to competition

- Significant differences across States in approaches to competition
- Two approaches:
  - Including competition clauses in ASAs
  - Applying national competition laws
- Australia's approach is to allow airlines the commercial freedom to compete against each other, subject to the underlying commercial rights in bilateral air services arrangements.

# Australian competition framework

- Legislative framework - *The Competition and Consumer Act 2010*
- Protects against a range of unfair competition principles:
  - abuses of a dominant competitive position with the intention of substantially damaging a competitor,
  - actions intended to prevent a potential competitor from entering a market, or
  - misuse of market power such as predatory pricing.
- Overseen by a single independent regulatory authority, the Australian Competition and Consumer Commission.

# Australian competition framework

- Australian and international airlines are able to compete aggressively and fairly in the Australian marketplace, without the need for a broader overarching multilateral fair competition policy.
- Australia includes in its bilateral air services agreements:
  - general competition principles, including fair and equal opportunity for airlines to operate, and non-discrimination and tariff clauses; and
  - clause which effects the application of Australia's competition laws.

# Australian competition framework outcomes

- The application of free competition has helped to facilitate the growth of the aviation industry in Australia, the expansion of new direct routes, and the opportunity for carriers to serve new markets.
  - In the decade to 2018, international passenger numbers to and from Australia increased by over 74%.
  - The number of international airlines operating services to and from Australia also increased during this period.

# Australian consumer protection framework

- Australia welcomes the ICAO 'Core Principles on Consumer Protection'.
- The Australian framework balances consumer protections with consumer choice.
- Australia supports increased regulatory convergence in the context of international aviation but believes it is also important to ensure consistency with frameworks applicable to other industries.

# Australia's 'economy wide' approach

- Australia is a signatory to the 1999 Montreal Convention.
- A separate framework covers domestic flights.
- The Australian Consumer Law applies to the whole economy and includes:
  - Remedies in the case a contract is not fulfilled in a timely and satisfactory manner.
  - Requirements of timely service with due care.
  - Prohibits companies engaging in misleading or deceptive conduct, as well as false or bait advertising practices.
  - Prohibits component pricing.

# Consumer choice

- Allows passengers to choose products with conditions and service standards appropriate to their needs and facilitates competitive fares.
  - Ensures airlines can experiment with different business models.
  - Customers still have a legitimate expectation they will be protected from deceptive and misleading practices.
  - Air travel is more accessible and consumers have a wider degree of choice on inclusions and service standards.

# Dispute resolution

- Dispute resolution is an important element of any consumer protection framework.
- Airline Customer Advocate established by major Australian airlines in 2012.
  - Offers a free and independent service to eligible customers to facilitate the resolution of complaints about airline services.
  - Annual reports show a high level of customer satisfaction with the outcomes reached.

# Australian consumer protection framework outcomes

- There was previously an instance in Australia where representations on airline websites misled consumers about their rights to refunds and resupply in the event of significant flight delays or cancellations.
- Following an Australian Competition and Consumer Commission investigation - major airlines entering into legally enforceable undertakings.
- One airline agreed to pay a \$1.95 million penalty.

# Regulatory convergence

- Australia supports efforts to achieve increased regulatory convergence.
- Benefits of liberalisation could be compromised if Governments seek to re-regulate parts of the industry with detailed rules.
- International aviation industry is already highly regulated – important for safety and security.
- Additional regulation should be avoided unless there is a demonstrable need.