



Virgin Australia Airlines Pty Ltd
PO Box 1034
Spring Hill QLD
Australia 4004
T +61 7 3295 3000
virginaustralia.com

28 October 2024

Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
CANBERRA ACT 2600

rrat.sen@aph.gov.au

Dear Committee Secretary

Sydney Airport Demand Management Amendment Bill 2024 [Provisions]

Virgin Australia is pleased to input into the inquiry regarding the proposed Bill to amend the *Sydney Airport Demand Management Act 1997*. We support the intent of the legislative amendments, however, would like to address some issues for the purpose of transparency and operability.

Virgin Australia notes that the detail that underpins the proposed Bill will be in the form of regulations which are not yet drafted. Virgin Australia would appreciate the opportunity to comment on the regulations prior to their assent.

We wish to clearly state that Virgin Australia does not 'hoard' or 'misuse' slots. As part of normal operations, Virgin Australia uses the slot system with the clear intention to provide a reliable and competitive service to our customers. Given that approximately 45 per cent of our aircraft operate through Sydney daily, operations at Sydney Airport are vital for the efficient operation of our network. It is in the best interests of Virgin Australia that the slot system at Sydney Airport is effective.

Virgin Australia continues to perform strongly against its major competitors, achieving a completion rate of 98.6% and an on-time performance (OTP) rate of 73.6% for the month of September 2024. There are many reasons why cancellations occur. As highlighted in Virgin Australia's Aviation Green Paper submission, these are most often due to weather and requirements set by Airservices Australia. There are also occasional day-of-operation cancellations such as engineering, staff sickness and bird strikes. As outlined above, delays at one airport can have significant flow-on impacts to the rest of the network.

The following three main issues are drawn to the Committees' attention.

Efficient decision making for a recovery period.

Virgin Australia is very supportive of the amendments to enhance the recovery period after a major event, like weather, where appropriate. This is beneficial for customers, airlines and airports. Recognising that the Minister (or delegate) is the proposed decision maker, Virgin Australia stresses that decision making on a recovery period needs to be done in a particularly timely manner.

The recovery period is only effective if a decision is made quickly to enable adjustment of networks. A delay in decision making may render a recovery period redundant if aircraft are diverted or flights cancelled because of weather or similar event. Virgin Australia seeks to communicate quickly to impacted customers to enable as much time as possible for them to adjust their travel plans accordingly. The decision to implement a recovery period may require input from multiple government agencies,



Virgin Australia Airlines Pty Ltd
PO Box 1034
Spring Hill QLD
Australia 4004
T +61 7 3295 3000
virginaustralia.com

specifically the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Department), Bureau of Meteorology, Airservices Australia and potentially the Civil Aviation Safety Authority. The breadth of stakeholder engagement could result in delayed decision making. Efficiency and timeliness are essential to maximise the benefits of the proposed recovery period.

Therefore, Virgin Australia recommends that airlines are actively involved in the early stages of a decision to enable the recovery period, rather than waiting for advice from government agencies at the conclusion of the deliberations. Engaging directly and early with impacted airlines ensures the government has all the information regarding operability, and the practical implementation considerations to enable timely decision-making.

Civil penalties

The proposed Bill provides for civil penalties in the case of flight cancellations at Sydney Airport. The wording in the explanatory statement (as well as the drafting of the provisions) creates unintentional obstacles that affect the efficient operations of any domestic carrier. Virgin Australia understands from the Department that the intent is to use existing education and compliance mechanisms, with the civil penalty only applied as a last resort. Notwithstanding this, Virgin Australia wishes to highlight a key issue in relation to the wording.

(i) Impact on day-to-day operations

Virgin Australia has concerns that a penalty could be applied for every cancellation that occurs on any given day as the proposed exceptions may not cover all realistic factors that are outside of the airline's reasonable control (clause 15).

Additionally, Virgin Australia has concerns regarding the interpretation of causal factors leading to an off-slot movement and whether those factors could trigger a civil penalty (clause 17). Delays may be due to a combination of factors, and it is possible that a delay may initially appear to be within an airline's reasonable control, but on closer examination, may be partly or entirely due to factors outside of an airline's reasonable control.

Virgin Australia would prefer that the explanatory statement, and associated Bill, either provides clarity or more open language to enable a fair assessment prior to the enforcement of penalties. For instance, using the existing compliance committee/s and taking a holistic assessment annually to determine patterns of behaviour, rather than once-off application of penalties.

(ii) Impact on long term planning

Virgin Australia has concerns about the evidential burden and some of the language used in the civil penalties which could be open to interpretation and unintentionally penalise legitimate long term planning processes and decision making. For example:

- In clause 19, it is unclear why it is **not** necessary to prove that an airline had no reasonably practicable plans to conduct a particular gate movement permitted by a particular slot (cl 19(3)) for a civil penalty that is specifically designed to address a situation where an airline has no reasonably practicable plans to conduct one or more of the gate movements permitted by the slots. A consideration of an "airline's conduct generally" is not an appropriate measure to trigger a civil penalty in respect of a particular slot, especially when capacity-related decisions vary within seasonal schedules.



Virgin Australia Airlines Pty Ltd
PO Box 1034
Spring Hill QLD
Australia 4004
T +61 7 3295 3000
virginaustralia.com

- In clause 20, the drafting does not work practically for a domestic airline from a planning perspective. Specifically, an airline should not be penalised for failing to return or transfer a slot for a specific air service if the airline redirects the capacity to another market. In this circumstance, the airline may reallocate the slot to a new origin/destination and or request a change to the slot time.

Reporting requirements

The Committee would be aware the aviation industry already undertakes significant reporting through a variety of legislative and government requirements. This includes operational performance data to be reported to BITRE monthly. The proposed Bill requires additional reporting requirements. Virgin Australia is very committed to transparency, but the additional data being collected needs to be fit for purpose, appropriate to the intent of Bill and not become an administrative or cost burden for airlines.

The Department has already acknowledged awareness that airlines need to make decisions regarding networks well in advance, through slot seasons. This is critical to ensure efficient operations. Virgin Australia commends this consideration as part of the regulation development.

We look forward to working with the Committee on the development of the regulations that underpin the legislation.

Yours Sincerely,

Stephen Beckett
General Manager Government and Industry Affairs