

Title: Mandatory ADR Impact Assessment	Impact Assessment (IA)
IA No: DfT00436	
RPC Reference No: Provided by the RPC on sign-off. N/A for consultation stage impact assessments.	
Lead department or agency: Department for Transport	
Other departments or agencies:	
	Date: 11/10/2021
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Primary Legislation
	Contact for enquiries: AviationConsumerConsultation@dft.gov.uk
Summary: Intervention and Options	RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying Provision
-£20.2m	-£40.8m	£1.8m	

Policy Background

Prior to the COVID-19 pandemic, data showed there were 93.1 million visits overseas by UK residents in 2019 (of which 79.5 million were by air). The overall number of visits overseas has increased steadily over the last 20 years¹. The pandemic has highlighted that there are still areas that could be improved for consumer protections for air travel. Recent survey data (winter 2020) shows that satisfaction with the overall travel experience in the previous 12 months remained steady at 84%, but amongst those who flew during COVID-19, satisfaction was at the lowest since testing began at 77%.² The Global Travel Taskforce committed in its report 'The safe return of international travel' to consulting on stronger and more modern tools to help protect consumers whilst travelling by air. The Department for Transport is consulting on a range of issues to help improve air passenger protections and best practice from industry becomes commonplace.

What is the problem under consideration? Why is government intervention necessary?

Alternative Dispute Resolution (ADR) is an umbrella term for a framework of processes for resolving disputes between consumers and airlines. ADR can be used to help consumers enforce their rights faster and cheaper than court proceedings. ADR was introduced in 2016, however, it is not currently mandatory in the aviation sector. Not all airlines utilise the existing voluntary aviation ADR schemes. This may be for various reasons, such as airlines aiming to resolve all complaints themselves. Some airlines have voluntarily become members of the approved aviation scheme, with approximately 80% of aviation passengers covered by an ADR scheme. Withdrawal from the European Union (EU) has meant that while some airlines are covered by EU approved ADR bodies, these may not be easily accessible by consumers in the UK. Without 100% coverage of consumers by ADR there is a risk that some consumers are blocked from accessing an ADR process – leading to consumers not being able to easily resolve disputes or having to resort to more expensive court proceedings. Use of court time for this purpose would also have implications for other proceedings that need access to court facilities.

What are the policy objectives and the intended effects?

The proposed policy aims to increase consumer protections, by improving access to a form of dispute resolution that is faster and cheaper than other forms of redress such as court proceedings, through mandatory ADR for all airlines flying to and from the UK. It is also expected that mandatory ADR in aviation may encourage airlines to comply with consumer laws and offer redress where appropriate. For businesses that are compliant, we expect the costs of ADR to be low.

¹ [ONS Travel trends: 2019 and ONS Travel trends estimates: UK residents' visits abroad 2019 edition dataset](#)

² [CAA UK Aviation Consumer Survey Wave 9 \(winter 2020\)](#)

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

We have considered the following options:

Option 0 - Do nothing: this option would mean ADR membership would continue to be voluntary and would not be sufficient to deliver the proposed policy objective.

Option 1 - Proposal for mandatory ADR for carriers flying to and from the UK: whilst this option would have increased costs to industry for those not complying with consumer rights laws, it benefits consumers by providing a faster and cheaper resolution mechanism.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** TBC

Does implementation go beyond minimum EU requirements?		Yes			
Is this measure likely to impact on international trade and investment?		No			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes	
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: 0		Non-traded: 0	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date:

22:18, 24 Jan 2022

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2022	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -14.2	High: -26.2	Best Estimate: -20.2

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.6	1	6.0	51.7
High	0.6		9.4	80.6
Best Estimate	0.6		7.7	66.2

Description and scale of key monetised costs by 'main affected groups'

Consumers:

Average annual reduction in compensation payments to consumers through PACT (£1.2 million)

Average annual increase in costs of pursuing ADR cases (£0.7 million)

Businesses:

Average annual increase in charges made by ADR providers – membership fees (£0.3 million) and case fees (£1.6 million)

Average annual increase in internal costs of processing ADR cases (£0.5 million)

Average annual increase in compensation payments to consumers through ADR (£4.6 million). This increase is not included in the Equivalent Annual Net Direct Cost to Business (EANDCB) calculations, since compliant businesses will face no increase in compensation payments.

One-off familiarisation costs for senior staff (£0.1 million) and junior staff (£0.6 million)

Other key non-monetised costs by 'main affected groups'

N/A

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	1	4.4	37.5
High	0.0		6.4	54.4
Best Estimate	0.0		5.4	46.0

Description and scale of key monetised benefits by 'main affected groups'

Consumers:

Average annual increase in compensation payments through ADR (£4.6 million)

Businesses:

Average annual reduction in compensation payments through PACT (£1.2 million). This decrease is not included in EANDCB, since there will be no reduction in compensation for compliant businesses.

Average annual reduction in charges relating to PACT cases (£0.4 million)

Government:

Average annual reduction in chargers relating to PACT cases (£0.04 million)

Other key non-monetised benefits by 'main affected groups'

Reduced costs from court cases (consumers and businesses)

Improved consumer confidence (consumers), which could drive sales for competitive businesses (businesses)

Key assumptions/sensitivities/risks

Discount rate

3.5

This analysis depends to a large extent on the assumptions that have been made regarding the impact of the policy on the number of additional ADR cases raised following the introduction of mandatory ADR

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 2.2	Benefits: 0.3	Net: 1.8	
			9.1

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1.0 Policy Rationale

Policy background

1. The Global Travel Taskforce committed in its report 'The safe return of international travel'¹ to consulting on stronger and more modern tools to help protect consumers whilst travelling by air. The Department for Transport is consulting on a range of issues to help improve air passenger protections and ensure best practice from industry becomes commonplace.
2. Alternative Dispute Resolution (ADR) is an umbrella term for a framework of processes to resolve disputes that can be used to help consumers enforce their rights without going to court. In the event that consumers encounter problems after buying goods and services, they may be able to reach a resolution to these problems through discussions with the business concerned. However, in some instances, consumers may not reach a satisfactory resolution in this way. Seeking redress via the courts is often an expensive and lengthy process which can deter consumers and lead to consumer detriment. ADR schemes can be operated by either public or private bodies, who act as an independent third party to provide a lower cost and faster means of resolving disputes between consumers and businesses. ADR includes mediation, conciliation, early neutral evaluation, expert determination, adjudication, arbitration or a combination of these.
3. Within aviation, ADR is most commonly used to address consumers' compensation claims for delays or cancellations to flights. It is also used in for a variety of other types of dispute, including complaints about denied boarding, damage or loss of baggage, complaints due to problems faced by disabled passengers or passengers with reduced mobility, or alleged unfair trading. There are two Civil Aviation Authority (CAA) approved ADR bodies in aviation. An expert will consider representations from both the consumer and the airline, and make a determination. If a consumer accepts the determination made by the approved ADR body, the determination is binding on the airline. The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 made ADR available for contractual disputes, but does not make airline participation in ADR schemes mandatory. Currently, 22 airlines are voluntarily members of approved ADR schemes, covering approximately 80% of consumers traveling to and from the UK. In the event that the consumer feels their consumer rights have been breached, and they cannot reach a resolution with the airline, for those where ADR is not available, an individual has limited options to seek redress; with court action being costly and time consuming.

Problem under consideration

4. Participation in ADR is mandatory in most regulated sectors, including financial services, energy, telecommunications, gambling and the rail industry, with aviation a notable exception. Within these industries ADR schemes are provided by both public (e.g. Financial Ombudsman Service) and private (e.g. Ombudsman Services) bodies. However, participation in an ADR scheme is voluntary in the aviation sector, which means that some consumers are unable to use ADR.
5. Alternatives for consumers who cannot reach a resolution with the airline, and where ADR is not available are more limited. These consumers can complain directly to the Civil Aviation Authority (CAA) through their Passenger Advice and Complaints Team (PACT). However, decisions by PACT are not binding and they only consider complaints relating to delays, cancellations, downgrades and denied boarding, assistance for disabled and reduced mobility passengers and lost or damaged baggage. Court action is also an option but can be costly and time consuming, deterring many consumers from seeking redress in this way. This policy is considering whether

¹ <https://www.gov.uk/government/publications/global-travel-taskforce-safe-return-of-international-travel>

ADR participation by airlines should be mandatory, enabling all consumers flying to and from the UK to be able to utilise ADR in the event that they require it.

6. Data provided to the Department for Transport (DfT) by the CAA indicates that 300 million passengers made flights to, from or within the UK in 2019. The vast majority of these passengers experience no problems with their journey, but a minority do encounter an issue and there is some evidence to suggest that the detriment experienced by these passengers is significant.
7. According to the 2018 European Commission Consumer Markets Scoreboard², 7.9% of respondents who had made an “airline services” purchase experienced an issue where they believed that they “had a legitimate cause for complaint.” This compares favourably with the 9.3% of “all services markets” respondents who experienced an issue. However, the severity of detriment experienced by airline service consumers was higher than the typical all services markets consumer, scoring an average of 6.0 (out of 10) in terms of detriment severity compared with an all services market average of 5.6. Ranked against other service sectors in terms of severity of detriment, airline services rank third, behind only the home insurance and mortgages sectors.
8. For the minority of passengers who do experience a problem with the service they receive and who wish to complain, navigating the aviation consumer landscape may be confusing. Complaining directly to an airline is likely to be a consumer’s first action when experiencing a problem, but only approximately 80% of aviation consumers are able to refer an eligible complaint to an ADR scheme in the event that they are unable to reach a resolution with the airline. As outlined above, the other 20% may complain to the CAA’s PACT, but it is likely that many passengers are not aware of this, findings are not binding, and are limited to certain types of complaints. The proposed policy would therefore reduce the complexity of the aviation consumer landscape and increase knowledge of the access to redress provided by ADR.

Rationale for intervention

9. **Reduce consumer detriment (equity):** ADR supports consumer rights by providing a mechanism for consumers to raise claims against businesses in cases where they believe consumer law has been breached. As previously stated, around 80% of passengers in the aviation sector travel with airlines that are covered by ADR, leaving 20% without this mechanism to raise cases against airlines. These consumers may be able to complain to the CAA through PACT, however the CAA does not have power to impose decisions on the airline. Alternatively, consumers can take action through the courts, but given the expense and required knowledge to do so this is not available to all consumers. Without mandatory coverage of consumers by ADR, we do not expect 100% voluntary ADR coverage to occur. As a result, intervention is required to ensure that all consumers have an accessible and affordable means of protecting their consumer rights. This proposal seeks to reduce consumer detriment by offering all consumers such a mechanism to make a claim in cases where they believe consumer law has been breached.
10. **Efficiency:** currently the CAA provides a dispute resolution system through PACT, which consumers can use if their airlines does not subscribe to an ADR provider. The CAA has limited ability to reclaim costs of PACT from non-UK based airlines, resulting in a cost to Government in some instances. By introducing mandatory ADR, PACT will no longer be required for these cases, with ADR being offered by ADR providers and funded by airlines.
11. **Imperfect information:** currently consumers may not be aware of which airlines are covered by ADR. As a result, many are unlikely to take this into consideration when choosing which airline to

² https://ec.europa.eu/info/sites/default/files/consumer-markets-scoreboard-2018_en_0.pdf

fly with and will instead base their purchasing decision on more visible factors, e.g. ticket price, suitability of schedule etc.

12. We do not anticipate that the underprovision of ADR will be solved by the market. When making purchases, consumers typically do not have full information about competing firms' quality or how any issue will be resolved (**asymmetric information**). Stakeholder engagement conducted by the Department for Business, Energy & Industrial Strategy (BEIS) indicated that businesses believe participation in ADR is only a relatively minor competitive advantage to businesses. We therefore do not expect there to be further uptake of voluntary ADR. Therefore, without government intervention, ADR will not be available to all passengers travelling to, from or within the UK.
13. We expect that the proposed access to ADR would motivate more businesses to comply with consumer law and offer redress where appropriate (**deterrent effect**). Given that businesses who are signed up to an ADR scheme are required to inform passengers of this, they may reconsider the likelihood of consumers escalating a complaint and may be more incentivised to improve customer satisfaction, in order to avoid complaints, or to provide compensation for existing complaints. This is likely to improve consumer confidence when making a purchasing decision, which could drive sales and provide benefits for competitive businesses.

Policy objective

14. The policy aims to increase consumer protections, by improving access to a form of dispute resolution that is faster and cheaper than other forms of redress such as court proceedings, through mandatory ADR for all airlines flying to and from the UK.
15. It is also expected that the proposed mandatory participation in ADR for airlines would encourage airlines to comply with consumer laws and offer redress where appropriate. For businesses that are compliant, we expect the costs of ADR to be low.

Options considered

Option 0: Do Nothing.

16. In this option we assume no government action. ADR will continue to be voluntary for airlines and we do not anticipate that airlines that are not currently ADR members will decide to join an ADR scheme voluntarily. A proportion of passengers (currently approximately 20%) will continue to be left without the option to take forward cases to ADR.

Option 1: Proposal for mandatory ADR (preferred option).

17. In this option, all airlines operating flights to, from or within the UK would be required to have signed up with a Civil Aviation Authority-approved ADR provider. We anticipate that this option would provide passengers who currently choose not to pursue unresolved complaints, because ADR isn't available (through PACT or the courts system) with the option to pursue these complaints through the ADR system. We therefore anticipate an increase in the number of ADR cases as a result of this option. Consequently, we anticipate an increase in the amount of compensation paid as a proportion of these ADR cases would likely be determined in favour of the consumer.

Alternatives to Regulation

18. The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 made ADR available for contractual issues, but did not make it

mandatory for aviation. There has been uptake of the voluntary scheme, but we do not consider that any more will voluntarily become members. The main incentive to voluntarily use an approved ADR scheme was the introduction of user pays funding for PACT, meaning those who use ADR would not have to pay for the CAA to continue to provide the PACT service.

2.0 Costs and Benefits

Summary

19. To estimate the impacts of the proposed policy, we have estimated the ongoing costs and benefits of a continuation of the current compensation regime (Option 0) and compared these with the estimated costs and benefits associated with the proposed changes (Option 1). The costs and benefits of the proposed change in policy are summarised below and described in detail in the following section of this document.

Option 0 – Do Nothing

Monetised Costs

- Charges made by ADR providers – membership fees (businesses, direct)
- Charges made by ADR providers – case fees (businesses, direct)
- Charges relating to PACT cases (businesses, direct)
- Charges relating to PACT cases (Government, direct)
- Internal costs of processing ADR cases (businesses, direct)
- Compensation payments to consumers – ADR (businesses, indirect, not included in Equivalent Annual Net Direct Cost to Business (EANDCB))
- Compensation payments to consumers – PACT (businesses, indirect, not included in EANDCB)
- Costs of pursuing ADR cases (consumers, direct)

Unmonetised Costs

- Court costs (businesses and consumers, direct)

Monetised Benefits

- Compensation payments to consumers – ADR (consumers, indirect)
- Compensation payments to consumers – PACT (consumers, indirect)

Table 1 Costs and benefits of Do-Nothing Option (£ millions per year)

Impact (Impacted Party)	Estimated costs / benefits
<u>Costs</u>	
Charges made by ADR providers – membership fees (businesses)	£0.02
Charges made by ADR providers – case fees (businesses)	£5.8
Charges relating to PACT cases (businesses)	£0.4
Charges relating to PACT cases (Government)	£0.04
Internal costs of processing ADR cases (businesses)	£2.8

Compensation payments to consumers – ADR (businesses)	£16.6
Compensation payments to consumers – PACT (businesses)	£1.2
Costs of pursuing ADR cases (consumers)	£3.5
Total costs	£30.4
<u>Benefits</u>	
Compensation payments to consumers – ADR (consumers)	£16.6
Compensation payments to consumers – PACT (consumers)	£1.2
Total benefits	£17.8

Option 1 – Mandatory ADR

20. Table 2 provides a summary of the costs and benefits associated with the proposed policy. **The estimates below represent the additional costs/benefits of Option 1, relative to the Option 0 baseline.** In our analysis, we have assumed that the full impacts of Option 1 are not felt until the third year following the introduction of the policy, as consumers become increasingly aware of the new regulations. As a result, the estimated costs and benefits presented in the table below differ in the first two years of the policy compared with subsequent years. These dynamics are explained in full in the “Timings” section of this document.

Monetised Costs

- Increase in charges made by ADR providers – membership fees (businesses, direct)
- Increase in charges made by ADR providers – case fees (businesses, direct)
- Increase in internal costs of processing ADR cases (businesses, direct)
- Increase in compensation payments to consumers – ADR (businesses, indirect, not included in EANDCB)
- Increase in cost of pursuing ADR cases (consumers, direct)
- Reduction in compensation payments to consumers – PACT (consumers, indirect)

Monetised Benefits

- Reduction in charges relating to PACT cases (businesses, direct)
- Reduction in charges relating to PACT cases (Government, direct)
- Reduction in compensation payments to consumers – PACT (businesses, indirect, not included in EANDCB)
- Increase in compensation payments to consumers – ADR (consumers, indirect)

Unmonetised Benefits

- Avoided court costs (businesses and consumers, direct)
- Improved consumer confidence which could drive sales for competitive businesses (consumers and businesses, indirect)

Table 2 Costs and benefits of Do-Something option compared with Do-Nothing option (£ millions per year)

Impact (Impacted Party)	Year 1	Year 2	Year 3 onwards
<u>Costs</u>			
Increase in charges made by ADR providers – membership fees (businesses)	£0.3	£0.3	£0.3
Increase in charges made by ADR providers – case fees (businesses)	£0.9	£1.3	£1.7
Increase in internal costs of processing ADR cases (businesses)	£0.2	£0.4	£0.6
Increase in compensation payments to consumers – ADR (businesses)	£2.5	£3.7	£4.9
Reduction in compensation payments to consumers – PACT (consumers)	£1.2	£1.2	£1.2
Increase in cost of pursuing ADR cases (consumers)	£0.3	£0.5	£0.7
Familiarisation costs – senior staff (businesses)	£0.1	-	-
Familiarisation costs – junior staff (businesses)	£0.6	-	-
Total Costs	£5.9	£7.4	£9.5
<u>Benefits</u>			
Reduction in charges relating to PACT cases (businesses)	£0.4	£0.4	£0.4
Reduction in charges relating to PACT cases (Government)	£0.04	£0.04	£0.04
Reduction in compensation payments to consumers – PACT (businesses)	£1.2	£1.2	£1.2
Increase in compensation payments to consumers – ADR (consumers)	£2.5	£3.7	£4.9
Total Benefits	£4.1	£5.3	£6.5

Q01. Are there any likely costs or benefits that have not been considered within this impact assessment?

Cost and Benefit Methodologies

21. The following section delineates the methodologies we have used to estimate the impacts of the proposed policy on businesses, consumers and government. In addition to providing a description of the methodology we have used, this section details the data sources that have been used in our analysis and any assumptions that have been made. We note significant uncertainty in some of our data and assumptions. To mitigate, we invite comments on these through specific questions in this assessment, but also welcome more general comments where required.

Option 0 – Do Nothing

22. In this option we assume no government action. Enrollment of airlines with an ADR provider remains voluntary. The associated costs and benefits of this option are set out as follows, which provide a baseline against which Option 1 can be compared.

Costs to Businesses

23. We assume that businesses face three types of costs when dealing with Alternative Dispute Resolution (ADR): 1) internal staff costs to fulfil obligations towards ADR, 2) costs charged by the ADR provider, and 3) compensation to consumers where cases are decided in the consumer's favour.
24. Internal staff costs consist of the internal costs of handling an ADR case, the staff requirement associated with familiarisation with the ADR scheme. In the "Do Nothing" case, we assume that ADR member businesses are already fully familiar and face no costs to amend customer facing material. The only internal costs faced by businesses under this option are therefore the costs associated with handling ADR cases.
25. Many of the calculations contained within this impact assessment depend to a large extent on two key parameters, namely the number of businesses that will be impacted by mandatory airline participation in ADR and the number of ADR cases brought by consumers. Our key source of information for estimating these parameters has been the Civil Aviation Authority's (CAA) "Passenger complaints" data release³. We have based these estimates on data relating to 2018. The CAA do not publish data from any period prior to Q4 2017 and we have determined that data from 2020 would not be representative, due to the impacts of the COVID-19 pandemic on the aviation sector. We have removed complaints made to airports from this dataset, since mandatory ADR for airlines is the focus of this impact assessment.
26. We had initially intended to use data from 2019 in addition to 2018 and use the average of these two years as the primary estimate of the Do Nothing baseline. However, interrogation of the 2019 data indicated that a large airline⁴ was not an ADR member in 2019, although they had been a member of the AviationADR scheme during 2018. This airline has now re-joined an ADR scheme and therefore we have concluded that the 2018 data represents the closest approximation to the current situation.
27. The CAA data contains information about the number and types of complaints made by consumers to the two UK-based aviation ADR providers: Consumer Dispute Resolution Limited (CDRL) and the Centre for Effective Dispute Resolution (CEDR). In addition, the dataset contains information about complaints made directly to the CAA through their Passenger Advice and

³ <https://www.caa.co.uk/Data-and-analysis/Data-for-passengers/Complaints-and-enforcement/Passenger-complaints-data/>

⁴ According to unpublished data from the CAA, this airline carried approximately one sixth of total passengers travelling to, from or within the UK in 2019.

Complaints Team (PACT). The dataset also contains information, where available, about the number of complaints resolved in favour of the consumer, the monetary amount awarded and the number of complaints per million passengers.

28. It should be noted that many of the businesses considered within the subsequent analysis are non-UK based businesses and would typically not be considered within the remit of this impact assessment. However, many of the estimated costs facing these businesses represent transfers to UK-based consumers. In addition, some of these costs may also represent transfers from businesses (both UK and non-UK based) to non-UK based consumers. Without knowing the magnitude of these incoming and outgoing flows, it has been determined that the impact assessment will provide a more complete picture by considering the impacts to all consumers and businesses, regardless of their location.

Charges made by ADR Providers

29. The CAA's website provides a list of the airlines that are currently members of an ADR scheme⁵. At the time of accessing this list, there were a total of 32 airlines listed as being members of an ADR scheme. Of these 32, 10 were members of a non-UK based ADR scheme and the remaining 22 are members of either AviationADR (the trading name for the scheme operated by CDRL) or CEDR. The proposed reforms would require all airlines to be members of a UK-based scheme, therefore we exclude the 10 members of non-UK based ADR schemes from our assessment of the Do Nothing baseline costs and benefits, based on the assumption that they would join a UK scheme, in addition to the scheme to which they currently belong. We welcome further evidence to gauge the accuracy of this assumption.
30. ADR providers are not publicly funded and therefore raise revenues to cover their operating costs. Charges to airlines vary by ADR provider and this information is not publicly available due to its commercially sensitive nature.
31. Several different charging models have been identified from different ADR providers in different sectors. Many charge a fee per case processed, with the value of this fee varying according to the size of the participating business, in order to mitigate the burden on smaller businesses. Many also charge an annual fee and research conducted by ICF Consulting on behalf of the BEIS indicated that traders reported costs of between £50 and £1,500 to access ADR services in a wide range of sectors⁶. We understand that all airlines are medium or large enterprises and therefore assume an average value towards the upper end of this range of £1,000 per year.
32. This leads to **an estimated annual cost of membership of £22,000 for the 22 airlines who currently belong to an ADR scheme**. However, we note significant uncertainty in this estimate. Due to commercial sensitivities, we cannot be certain that all airlines pay both an annual fee and a per case fee to the ADR provider, nor can we be certain of the magnitude of these fees. The estimates contained within this impact assessment therefore represent our best-estimate of the average fees facing airlines.
33. In addition to the annual charges raised by ADR providers, they also charge a fee per case processed. The size of this fee will depend on the complexity of the case in question and the size of the business. According to ADR providers, costs can vary strongly depending on the length and complexity of a case. It can be as low as around £120 for early resolution within days to £800 - £4,000 for long cases where inspections or expert opinions are needed. More typically, ADR

⁵ <https://www.caa.co.uk/passengers/resolving-travel-problems/how-the-cao-can-help/alternative-dispute-resolution>

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698442/Final_report_-_Resolving_consumer_disputes.pdf

cases cost providers between £200 and £550, which is slightly below but still comparable to per-cost case for Financial Ombudsman Service.

34. Once more, we have been unable to source information relating to the specific costs of cases falling under either of the aviation related ADR schemes and instead settle for a proxy value. The CAA PACT charges airlines a case handling fee of £160, which is at the lower end of the estimates presented in the ICF report for BEIS. However, in the absence of evidence to the contrary, it is assumed that this value provides a sensible estimate of the average cost of each ADR case.
35. To calculate the total cost paid by businesses to ADR providers, it is necessary to consider the current number of ADR cases raised by consumers. In 2018, 36,371 ADR cases were raised by consumers, resulting in the following estimates of per case costs. This yields an **estimated annual cost of of £5.8 million.**

Table 3 ADR charges per case in Do Nothing scenario

	Central
Number of ADR cases	36,371
Cost per ADR case	£160
Total cost of ADR cases (£ million)	£5.8

Q02. Do you have any further information on the costs of ADR membership, both in terms of annual fees and fees charged per case?

Charges relating to PACT cases

36. In instances where the airline in question is not a member of an ADR scheme, passengers may complain directly to the CAA through their PACT service. PACT only handles complaints relating to Regulation (EC) 261/2004 (cancellations, delays, denied boarding and downgrading), Regulation (EC) 1107/2006 (rights of disabled persons and persons with reduced mobility when travelling by air) and the Montreal Convention 1999 (damaged or lost baggage). The CAA recoup their costs by charging businesses a fee of £160 per complaint. However, the CAA have limited means of enforcing this charge to non-UK registered carriers as the CAA does not regulate airlines that are not based in the UK, and they do not have a commercial contract with the airlines. Furthermore, the CAA is not able to charge PACT costs from any airline on complaints relating to the Montreal Convention. Therefore, a proportion of charges relating to PACT cases are paid by Government instead.
37. To estimate the cost to businesses of complaints raised through PACT, we use the 2018 CAA passenger complaints data.⁷ In 2018, a total of 2,701 PACT complaints were logged with the CAA. We estimate that fees relating to 90% of these cases are paid by airlines, and the remaining 10% by Government. This is an assumption that has been verified against information on the Government's contribution to PACT fees in 2018 and 2019. At a per complaint cost of

⁷ <https://www.caa.co.uk/Data-and-analysis/Data-for-passengers/Complaints-and-enforcement/Passenger-complaints-data/>

£160, this results in an estimate of **£0.4 million paid by businesses to the CAA in relation to PACT fees.**

Internal costs of processing ADR cases (airlines)

38. The total internal cost of handling an ADR or PACT case is driven by the time required to process each case, the value of associated staff time and the number of cases to be handled.
39. We estimate that businesses would require around four hours to process one case, consisting of retrieving information relating to the case and communicating with the ADR provider. This is an assumption that is not based on empirical evidence and a consultation question has been asked about this below. We assume that the time required is the same for ADR cases and PACT cases.
40. We multiply this by an hourly staff cost of £17.85, based on the mean hourly wage of administrative occupations.⁸ Throughout this Impact Assessment, wages are assumed to be static throughout the appraisal period. This gives an average processing cost per case of £71 to airlines.
41. Our estimate for the number of ADR and PACT cases per year under Option 0 is the number of cases in 2018, which was 39,072. Multiplying this figure by the average cost per case gives us our estimate for the total processing cost to airlines in the Do Nothing scenario, of **£2.8 million per year.**

Q03. Do you have any further information on the internal costs to airlines of processing ADR cases and the time required to do so?

Compensation payments to consumers

42. In situations where complaints are resolved in favour of the consumer, compensation may be paid by the airline. The total value of this compensation is driven by a) the total number of cases, b) the proportion of cases decided in favour of the consumer and c) the average amount awarded to consumers.
43. It should be noted that air passengers may be travelling for leisure or business purposes. In the latter situation, compensation may therefore be paid to businesses rather than individual consumers. We theorise that those travelling for business purposes would be less inclined to make a complaint in the event of experiencing a problem, since they would not be the beneficiary of any compensation. As such, and without adequate data to estimate the value of compensation paid to businesses, we have made the assumption that all compensation is paid to consumers and welcome evidence to allow us to relax this assumption.
44. Data from the CAA provides an estimate of the proportion of cases decided in favour of consumers. For data produced for a particular time period, the CAA data provides information about the number of cases resolved in favour of the consumer in that period and the number of cases resolved where no remedy was rewarded. In 2018, 66% of ADR cases were resolved in favour of the consumer, with an average award of £690. By comparison, 63% of PACT cases

⁸ This was derived from the mean hourly wage for administrative occupations from Table 14 of the Annual Survey of Hours and Earnings from 2019. The starting point of £13.68 was inflated by two years to bring the value to 2021, then increased by 22% to account for non-wage costs (NI, pensions), resulting in an hourly wage of £17.85.

were resolved in favour of the consumer, however as PACT are unable to make binding decisions, there is no data available on whether, and if so, how much on average may have been paid in compensation.

45. To estimate the total transfer from businesses to consumers, we carry out the following calculations. We assume, in the absence of evidence to the contrary, that the average award value in PACT cases is equal to the average award in ADR cases.

$$\text{Compensation paid} = \text{Number of cases} \times \text{Proportion awarded in favour of consumer} \times \text{Mean value of compensation}$$

46. On the basis of 36,371 ADR cases, we estimate that **compensation payments through ADR to consumers total £16.6 million**. For **PACT cases, we estimate compensation payments to consumers totalling £1.2 million**. This results in **total compensation payments of £17.8 million**.

Costs to consumers

47. Consumers face direct and indirect costs when they use ADR. Indirect costs include the value of the time needed to bring an ADR case, while direct costs include charges by ADR providers.
48. Research undertaken by ICF for BEIS (referenced above) elicited from consumers who had used an ADR scheme the time commitment that had been required of them in order to do so. Although the median consumer required between five and 10 hours of personal time to resolve their case, the mean consumer required an average of 14 hours to do so. Together with a value of non-working time of £6.28 per hour, this means a cost of lost time per ADR claim of £88.⁹
49. ADR providers may also charge consumers a nominal fee to access the scheme. Within the aviation sector, Aviation ADR currently provides their service free of charge to consumers. The Aviation Adjudication Scheme operated by CEDR is free to consumers who make a successful claim but reserves the ability to charge a fee of £25 if the claim is “100% unsuccessful” except for cases relating to accessibility under Regulation EC No 1107/2006. The CAA data indicates that 10% of all ADR cases in 2018 were unsuccessful cases brought through the CEDR scheme, leading to a weighted average cost to consumers of £2.59 per case.
50. For PACT cases, it is assumed that there is the same time cost as for ADR claims, at £88 per claim, but there is no monetary cost to consumers for PACT claims.
51. To produce the total annual cost to consumers, the time and monetary costs are multiplied by the number of cases per year. In the do-nothing scenario, we assume that the annual number of ADR cases remains stable year-on-year. In 2018, there were 36,371 ADR cases and 2,701 PACT cases, which we take as the number of cases under Option 0. Combining the above costs per claim with the number of ADR and PACT cases per year results **in costs of £3.5 million to consumers**, which accrue annually, under Option 0.

Table 4 Costs to consumers in Option 0

Type of cost	Value (£ million)
Total cost of lost time from ADR cases	£3.2
Total monetary cost of ADR charges	£0.1
Total cost of lost time from PACT cases	£0.2

⁹ TAG Databook A1.3.1. Values of time per person: value of non-working time. <https://www.gov.uk/government/publications/tag-data-book>

Total cost to consumers	£3.5
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Q04. Do you have any further information on the costs to consumers of pursuing ADR and PACT cases?

Benefits to Consumers

52. The section on costs to businesses above sets out our calculations to estimate the compensation to consumers from airlines through ADR, from which **we estimated annual total compensation payments of £17.8 million**. These payments are a direct transfer from businesses to consumers as a result of successful ADR claims so are felt as a benefit to consumers.

Costs to Government

53. The CAA charge £160 per complaint to PACT, however there is limited mechanism to ensure non-UK registered airlines pay these costs, and they are covered by government in some cases. We assume that Government covers this cost for 10% of cases. This is an assumption that has been verified against information on the Government's contribution to PACT fees in 2018 and 2019.

54. In the Do Nothing case, we expect an average of 2,701 PACT cases each year. Combined with the assumptions set out above in which Government pays the fee in 10% of PACT cases, this translates to a **cost to Government of £0.04 million per annum**.

Option 1 – Mandatory ADR

55. In this option we assume that the proposed changes to ADR take effect and it becomes mandatory for airlines that operate flights to, from or within the UK to enrol with an approved ADR provider.

56. The change is expected to increase the number of ADR cases per year, which introduces costs to businesses but is expected to provide benefits to consumers in the form of increased compensation. In addition to these ongoing costs, this option also entails one-off transitional costs to businesses associated with becoming familiar with the new regulations and making changes to customer facing materials.

Number of affected businesses

57. To calculate the potential impacts of mandatory ADR on businesses, consumers and government, it is necessary to estimate the number of businesses who will be required to join an ADR scheme following the proposed change in policy. As set out previously, 22 airlines are currently members of a UK-based ADR scheme. A further 10 airlines are members of a non UK-based ADR scheme and will be required to join a UK-based ADR scheme as part of the proposed reform.

58. Information provided by the CAA indicates that there are approximately 167 airlines operating "regular" passenger services to, from or within the UK, where "regular" consists of at least a weekly service in the winter. As well as these, there are a number of other carriers operating flights to, from or within the UK. **In total, we estimate that there will be approximately 300 additional airlines who will be required to join an ADR scheme**, including the 10 current members of non-UK based schemes.

Q05. Do you have any further evidence on the number of businesses likely to be affected by this proposed reform?

Number of additional ADR cases

59. The second key parameter to estimate is the number of additional ADR cases which will be raised when the new legislation comes into effect and ADR is mandatory across the sector. Analysis of the 2018 CAA data indicates that there were 36,371 ADR cases raised in 2018 and 2,701 PACT cases.
60. On a per passenger basis, the complaints rate (the number of complaints per million passengers) is much lower for airlines currently covered by PACT only than it is for airlines covered by ADR. We assume that, under Option 1, the complaints rate for airlines currently covered by PACT only will increase to match the current complaints rate for airlines covered by ADR. We base this assumption on the hypothesis that the ability to complain through PACT is lesser known than the ability to complain through an ADR scheme. In addition, decisions made through PACT are not binding (unlike ADR) and we therefore assume that passengers are less likely to bring complaints forward due to lower confidence in achieving a satisfactory outcome.
61. In order to estimate the number of additional cases, it is first necessary to estimate the number of passengers currently travelling on airlines covered by ADR and PACT. The CAA data does not contain a variable reflecting the number of passengers, but it has been possible to estimate this using the provided complaints rate (complaints per million passengers) and total number of complaints. This was calculated for each quarter in 2018 and aggregated to estimate a complaints rate for the whole year.
62. Using the CAA complaints data¹⁰, we calculated that there were 36,371 ADR cases raised in 2018. The same dataset implies that there were 245.6 million passengers flying with airlines who were members of ADR schemes, leading to a complaint rate of 148 complaints per million passengers.
63. To provide some additional confidence in the estimated number of additional ADR cases, we also estimated the complaints rate using a second method. Using the CAA's airlines and passengers data for 2018, we have identified the airlines which we understand to have been members of an ADR scheme during 2018. Within this dataset, any passengers flying entirely within the UK would be counted as "terminal passengers" for both their arrival and destination airports. To avoid double counting, we have removed rows relating to domestic arrivals, so that these passengers are only counted once. From this, we have estimated the number of passengers flying with ADR scheme members in 2018. In total, we estimate that 205 million passengers flew with ADR scheme members in 2018, yielding an estimated complaints rate of 177 complaints per million passengers.

Table 5 Number of complaints and complaints rate in 2018

	Value
Number of ADR cases	36,371

¹⁰ <https://www.caa.co.uk/Data-and-analysis/Data-for-passengers/Complaints-and-enforcement/Passenger-complaints-data/>

Total number of passengers flying with ADR airlines (CAA Complaints Data)	245 million
Complaints rate (CAA Complaints Data)	148 complaints per million
Total number of passengers flying with ADR airlines (CAA Airlines & Passenger Data)	205 million
Complaints rate (CAA Airlines & Passenger Data)	177 complaints per million

64. We estimate from the CAA Airlines & Passenger Data that 275 million unique passengers flew to, from or within the UK in 2018 and that 66 million (24%) of these passengers flew with non-ADR member airlines. Assuming the complaints rates calculated above, we estimate that between approximately 9,800 and 11,700 ADR cases would have been raised if these passengers had flown with ADR-member airlines. We use the (rounded) midpoint of these two numbers, 10,800, as the central estimate for the number of additional ADR cases. This gives an expected total of 47,171 ADR cases per year in the central scenario.

65. However, there is significant uncertainty in this estimate. There is some missing data within the CAA complaints dataset and key numbers have been rounded, leading to errors in our estimated passenger numbers. In addition, our passenger number estimates derived from the CAA airlines data are subject to some error due to the uncertain ADR status of some airlines at the time. Furthermore, some airlines which were operational in 2018 are no longer in business and there is uncertainty in future passenger demand. To account for this, we apply an adjustment of $\pm 25\%$ to the central estimate of additional ADR cases, leading to high and low estimates of 13,500 and 8,100 respectively. The $\pm 25\%$ adjustment is an assumption used to illustrate the scale of uncertainty in our central estimate.

66. An additional effect of mandatory ADR is the elimination of PACT cases brought by consumers for these claims. We assume that no PACT cases would arise in Option 1 due to the introduction of the proposed policy of mandatory ADR participation by airlines.

Q06. Do you have any further evidence on the likely impact of mandatory ADR participation by airlines on the number of ADR cases brought forward by consumers?

Costs to Businesses

Increase in charges made by ADR Providers

67. It is assumed that there are no changes to the charges brought by ADR providers assumed within the Do Nothing option. To recap, it has been assumed that airlines are charged £1,000 per annum to be a member of an ADR scheme. In addition, we use the same estimate of £160 per ADR case as in the Do Nothing option.

68. As specified previously, an estimated total of 300 additional businesses will be required to join a UK-based ADR scheme. In addition, the 22 airlines who are currently members of a UK-based ADR scheme will continue to pay an annual membership fee. This leads to an **additional cost to businesses of £0.3 million per annum compared with the Do Nothing case.**

69. In addition to the annual membership charges, ADR providers raise revenues by charging airlines for each case which is raised. As set out in the 'Number of additional ADR cases' section, our best estimate is for an additional 10,800 ADR cases to be raised following the introduction of

mandatory ADR, **leading to an additional cost to businesses of £1.7 million compared with the Do Nothing case.**

70. To account for uncertainty, high and low estimates of the number of additional ADR cases of 13,500 and 8,100 respectively have been assumed. These values result in a range of costs associated with additional ADR case charges of **between £1.3 million and £2.2 million compared with the Do Nothing case.**

Compensation payments to consumers

71. A further effect of an increase in the number of ADR cases brought against airlines is likely to be an increase in compensation payments made to consumers who successfully bring ADR cases against airlines. In 2018, 66% of ADR cases were decided in favour of the passenger and we anticipate that this proportion will continue to hold following the introduction of mandatory ADR.¹¹ In addition, the average award for ADR cases decided in favour of the consumer is currently £690 and we also assume that this will be the average award in the Do Something case.
72. On the basis of 10,800 additional ADR cases in the central scenario, we estimate that total compensation through ADR of £20.4 million per annum will be paid following the introduction of mandatory ADR. **This represents an increase of £4.9 million in terms of ADR compensation compared with the Do Nothing option.**
73. As previously explained, the increase in ADR cases is partially offset by the decrease in PACT cases and associated compensation. Having assumed zero PACT cases under the proposed policy, there is no compensation provided through PACT in the Do Something case. **This represents a decrease of £1.2 million compared with the Do Nothing option.**
74. Overall, we estimate **an increase in total compensation of £3.8 million per annum compared with the Do-Nothing case.**
75. High and low estimates of the number of additional cases, lead to a **range of estimated additional total annual compensation of between £2.5 million and £5.0 million.**
76. Although these costs clearly have a profit impact to businesses, we do not count this compensation towards the estimated EANDCB calculations and subsequent Business Impact Target (BIT). These payments are to rectify breaches of consumer law, rather than imposing new obligations on businesses and we therefore do not expect compliant businesses to face any additional costs relating to the payment of compensation to consumers.

Internal costs of processing ADR cases (airlines)

77. In Option 1, we calculate the internal costs of processing ADR and PACT cases in the same way as in the Do Nothing: the time required to process each ADR case is multiplied by the value of associated staff time and the number of cases to be handled.
78. We present low, central, and high estimates to reflect uncertainty in the number of ADR cases after the introduction of mandatory ADR.

¹¹ <https://www.caa.co.uk/Data-and-analysis/Data-for-passengers/Complaints-and-enforcement/Passenger-complaints-data/>

79. In the central scenario, we assume that there will be 10,800 ADR cases per year. In the low estimate this drops to 8,100 ADR cases per year, while the high estimate assumes 13,500 ADR cases per year. There are no PACT cases in Option 1. Taking these estimates alongside an estimated average internal cost to airlines of £71 per case gives us the figures set out in Table 6 below, yielding a **central estimate of an additional cost to businesses of £0.6 million per year**.

Table 6 Additional internal cost to airlines of processing ADR cases

Cost	Low	Central	High
Additional internal cost (£ million)	£0.4	£0.6	£0.8

Familiarisation costs

80. This section sets out how familiarisation costs are calculated. Familiarisation costs are the direct and indirect costs to businesses of familiarising themselves with the requirements of ADR when they sign up to an ADR provider.

81. We anticipate that airlines will incur small familiarisation costs when they sign up to an ADR service. These familiarisation costs include the internal labour costs of reading the ADR guidance.

82. We estimate **a one-off familiarisation cost of £0.6 million to airlines** in the central scenario. The central scenario includes only airlines that operated a regular passenger service in the UK in 2019, while the high cost scenario includes all airlines that operated a service in the UK in 2019. Within the full sample of airlines, a number belong to parent companies. In the low estimate, we assume that these airlines are required to familiarise only once, through their parent company. The three estimates also include different assumptions on reading speeds, as set out below.

83. Familiarisation costs to airlines are estimated by the following equation. The expected number of employees required to familiarise with the guidance is multiplied by the expected time taken for each staff member to familiarise with the guidance. This is then multiplied by the hourly staff costs of these individuals.

$$\text{Familiarisation costs} = \text{Employees} \times \text{Time} \times \text{Costs}$$

Expected number of employees required to familiarise

84. The number of employees required to familiarise with the guidance will depend on the number of businesses that sign up to an ADR provider as well as the size of each business.

85. We estimate that the number of staff required to familiarise with the ADR guidance as set out in Table 7. At micro businesses, we assume that one senior employee will be responsible for dealing with ADR complaints, and due to the size of such businesses they will be the only person required to familiarise with the change in legislation. At small businesses, a further 10 junior employees will be required to familiarise, which rises to 20 junior employees at medium and large businesses. This approach is based on a method used by a recent impact assessment on ADR produced by BEIS.¹² We have asked a consultation question below to gather more evidence on

¹² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1004037/rccp-alternative-dispute-resolution-ia.pdf

this.

86. 167 commercial airlines operated a regular passenger service in the UK in 2019. Of these, 22 airlines are already enrolled in ADR with a UK provider. We also include other airlines that operated a flight to, from or within the UK in 2019, and therefore estimate that 300 businesses would sign up to an ADR scheme under the proposed policy.
87. Due to their nature, we assume that airlines fall within the medium or large business category based on the number of their employees. Therefore, we assume that each business that subscribes to an ADR service as a result of the policy would require one senior employee and 20 junior employees to familiarise with the ADR process.
88. In total we estimate that an additional 300 medium or large businesses would enrol in ADR schemes as a result of the proposed reform and would incur familiarisation costs. We do not anticipate that any small or micro businesses would be required to familiarise as a result of the proposed reform.
89. This implies that a total of 300 senior staff and 6,000 junior staff would be required to familiarise with the requirements of ADR in the central scenario.

Table 7 Expected number of employees required to familiarise per business, by business size

Business Size	Senior employees required to familiarise	Junior employees required to familiarise
Micro	1	0
Small	1	10
Medium or large	1	20

Expected time taken to read the guidance and familiarise with the requirements

90. The expected time taken to familiarise with the ADR guidance has been estimated using Better Regulation Framework guidance about the reading speeds (words per minute) for technical documents and the widely used assumption that technical documents need to be read three times to be properly understood and based on a reading speed of 75 words per minute.¹³ Our estimates are based on the requirement to read guidance documents containing 10,000 words. It is estimated to take 400 minutes (6.67 hours) for each employee to familiarise with the guidance.

Hourly staff costs

91. We assume that familiarisation would first be conducted by a member of staff at management level and therefore base the wage rate on the hourly wage for managers, directors and senior officials, of £35.37 per hour.¹⁴ In addition, junior customer staff would also be required to familiarise themselves with the requirements of being members of an ADR scheme. Their labour costs are calculated using the hourly wage of sales and customer operations staff, of £14.00.¹⁵

¹³ Technical reading speeds from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609201/business-impact-target-guidance-appraisal.pdf

¹⁴ This was derived from the mean hourly wage for managers, directors and senior officials from Table 14 of the Annual Survey of Hours and Earnings from 2019. The starting point of £27.11 was inflated by two years to bring the value to 2021, then increased by 22% to account for non-wage costs (NI, pensions), resulting in an hourly wage of £35.37.

¹⁵ This was derived from the mean hourly wage for sales and customer operations staff from Table 14 of the Annual Survey of Hours and Earnings from 2019. The starting point of £10.73 was inflated by two years to bring the value to 2021, then increased by 22% to account for non-wage costs (NI, pensions), resulting in an hourly wage of £14.00.

92. Combining these hourly staff costs with the expected number of employees required to familiarise and the expected familiarisation time results in the familiarisation costs given above.

Q07. Do you have any further information on the likely amount of staff-time and cost required for businesses to familiarise themselves with the requirements of an ADR scheme?

Costs to Consumers

93. Costs to consumers under Option 1 are calculated in the same way as for the do-nothing scenario, which are set out in the Costs to Consumers section for Option 0. We take the same average time costs and ADR charges per case and multiply by the number of expected cases. As before, there is no monetary cost for PACT cases.

94. Under Option 1 we expect that there will be an increase in the total number of ADR cases and reduction in number of PACT cases. In the central scenario we estimate that the change in legislation will lead to an increase of 10,800 ADR cases per year, giving a total of 47,171 cases per year. We also anticipate a reduction to zero PACT cases per year, a reduction of 2,701 cases per year.

95. These figures give an estimate for the additional cost to consumers of Option 1 compared with Option 0, as set out in Table 8 below. Due to uncertainty in changes to the number of ADR and PACT cases we have developed low and high estimates for the additional cost to consumers, alongside the central scenario. All three estimates are presented in Table 8 below. The total cost to consumers under mandatory ADR is greater than in the Do Nothing scenario because of the increased number of ADR claims as a result of the proposed reform.

Table 8 Additional costs to consumers in Option 1

Type of cost	Value (£ million)		
	Low	Central	High
Total cost of lost time from ADR cases	£0.7	£0.9	£1.2
Total monetary cost of ADR charges	£0.02	£0.03	£0.03
Total cost of lost time from PACT cases	- £0.2	- £0.2	- £0.2
Total cost to consumers	£0.5	£0.7	£1.0

Benefits to Businesses

Decrease in charges relating to PACT cases

96. The increase in charges relating to ADR cases is partially offset by the reduction in the number of PACT cases. In the Do Nothing case, there are 2,701 PACT cases per annum (based on 2018 CAA data) and it is assumed that this falls to zero following the introduction of mandatory ADR. Therefore, there is no cost to businesses associated with PACT cases in Option 1, **representing a saving to businesses of £0.4 million compared with the Do Nothing case.**

Benefits to Consumers

97. Due to the increase in ADR cases brought against airlines, we expect an increase in compensation payments made to consumers who successfully bring ADR cases against airlines. This is partially offset by the reduction in the number of PACT cases.

98. As described above, we estimate **an additional £3.8 million of compensation per year compared with Option 0.** This is a direct transfer from businesses to consumers as a result of successful ADR claims, so is a benefit for consumers.

Costs to Government

99. The reduced number of PACT cases in the Do Something case implies that there is **no cost to Government of paying PACT charges, which is a reduction of £0.04 million per year.**

Unmonetised costs and benefits

Cost of court action for consumers and businesses

100. The option to take a case to court is available to consumers under both options. However, it is more likely that a consumer will take a case to court in absence of ADR. Therefore, we anticipate that the introduction of mandatory ADR would reduce the value of court costs paid by consumers and businesses to resolve disputes. This benefit has not been monetised due to a lack of available evidence on the number of such disputes that are taken to court. However, we expect that the money and time associated with pursuing court action means that there are a small number of such cases currently, and therefore that this benefit of the policy will be small.

Improved consumer confidence and associated impact on sales

101. Strong enforcement of consumer rights within aviation can strengthen consumer confidence and in turn increase spending within the sector, particularly for competitive businesses. The provision of mandatory ADR will contribute to enforcing consumer rights and is therefore expected to deliver these benefits. However, the value of such benefits has not been monetised in this appraisal due to the complexity and uncertainty involved with doing so.

Timing of Costs and Benefits

102. In the Do Nothing case, we assume that costs and benefits are constant across the 10-year appraisal period and that there are no transition costs since this option represents the status quo.

103. In the Do Something case, we assume that the familiarisation costs are one-off transition costs that will be incurred at the time of the proposed reform. We assume that the costs of membership are constant across the 10-year appraisal period. The other costs are all, to some extent, dependent upon the number of ADR or PACT cases brought forward by consumers. We assume that it takes until Year 3 for consumers to be fully aware of their ability to pursue complaints using ADR and therefore assume that there will be a period of adjustment during which the number additional ADR cases is lower. These assumptions are set out in the table below:

Table 9 Number of additional ADR and PACT cases by year

Year	Number of additional ADR cases	Number of PACT cases	Total number of cases
Year 1	5,400 (50% of Year 3 value)	0	41,771
Year 2	8,100 (75% of Year 3 value)	0	44,471
Years 3-10	10,800	0	47,171

Q09. Do you have any further information on the likely timing of impacts associated with mandatory airline participation in ADR?

Business Impact Target Calculations

104. Utilising a Price Base Year of 2021 and a Present Value Base Year of 2022, the Do Something option has been estimated to have an Equivalent Annual Net Direct Cost to Business (EANDCB) of £4.7 million and a BIT score of 23.7.

Sensitivity Analysis

105. **High/Low scenarios:** The estimated number of new ADR cases is a key parameter driving the expected costs and benefits resulting from this proposal. We have estimated this parameter on the basis of assuming that the latent complaints rate within the non-ADR portion of the aviation sector is the same as within the portion of the sector currently covered by ADR. The additional assumed ADR cases result in a transfer of compensation from businesses to consumers, but also imposes costs on both parties, relating to the costs of raising and responding to each additional case and the charges levied by ADR providers to cover their costs. In our central scenario we estimate 10,800 additional ADR cases per year as a result of the policy. The sensitivity analysis includes high and low estimates for the number of additional ADR cases, at 8,100 and 13,500 respectively.
106. **Switching values:** The NPSV of this proposal is negative. In order for the NPSV to be positive it would require a sizeable reduction in the total number of ADR and PACT cases compared with the current level. This would represent a significant change compared with our central scenario, which anticipates an increase in total number of cases from around 39,000 cases per year to around 47,000 cases per year.
107. Alternatively, the inclusion of non-monetised benefits (reduced court costs and increases in consumer confidence) could result in a positive NPSV. We do not expect that they are large enough to do so, but the size of these benefits are highly uncertain and we welcome further evidence from consultation respondents to allow us to quantify these benefits.

3.0 Risks and unintended consequences

108. Signing up to ADR can result in a potential 'double jeopardy' for airlines when facing a claim against them. Should the claim first be unsuccessful through the ADR provider, consumers may then take the claim to court. This would result in increased internal costs to airlines due to the time taken to process the case both through ADR and court. However, this scenario is not expected to be common as consumers will face a cost of taking the case to court, and this option already exists for airlines signed up to ADR. We expect that most consumers will accept the decision of ADR providers.
109. The benefits of this proposed policy rely on it generating a greater number of ADR cases, and thus resulting in higher levels of compensation for consumers. It is highly likely that the number of ADR cases will increase as a result of the proposal, but the size of the increase is uncertain. For the number of ADR cases to increase, it will be necessary for consumers to be aware of the ability to raise an ADR case where this was not previously possible. If the proposed change to ADR was made, consumers would be notified as is the current practice, in the event

they are not satisfied with the outcome of a complaint to the airline. In addition, we would consider other means of communicating any change.

110. In addition, it is possible that introducing mandatory ADR would incentivise airlines to resolve more cases without the need for ADR, which would be beneficial. This would require the airlines to improve their clarity in communications to explain in a satisfactory way why claim compensation is not due, and to pay compensation when it is due. This could be assessed by monitoring the total number of complaints made to ADR over time.

4.0 Wider impacts

Innovation Test

111. The proposed policy is not expected to impact innovation, nor are the impacts of this policy anticipated to be influenced by unforeseen innovation.

Small and Micro Business Assessment

112. The 2020 BEIS Business Population Estimates¹⁶ indicate that there are 245 businesses operating within the “passenger air transport” sector (Standard industrial classification of economic activities – 511). Of these, 135 (55%) are deemed to be micro businesses (1-9 employees), 60 (25%) are deemed to be small businesses (10 – 49 employees), 25 (10%) are deemed to be medium businesses (50 – 249 employees) and 25 (10%) are deemed to be large businesses (250+ employees).
113. These figures only include businesses that are based in the UK, while our figures include all businesses operating flights within, to and from the UK. The figures also include a wider variety of businesses than those included within this Impact Assessment – and we expect that the majority of businesses affected by this policy will fall into the medium and large categories. This is because this proposal will affect airlines, who are expected to employ at least 50 people.
114. Despite this, it is possible that small or micro businesses could be affected by the change in legislation, though this would be restricted to a minority due to the number of employees required to operate an airline. In these cases, small businesses may be disproportionately affected by some of the costs of the policy. Familiarisation costs are likely to be proportionately larger for small and micro businesses because it is likely that a larger proportion of employees will be required to familiarise at smaller businesses than at larger businesses, which may often have dedicated teams for processing compensation claims. Similarly, small and micro businesses are likely to face proportionately larger internal processing costs per compensation claim than larger businesses because they may not have dedicated teams to do so and do not have the economies of scale that larger businesses do.
115. However, the key driver of the cost to businesses is the number of ADR claims they are expected to face. The increases in compensation and ADR case fees as a result of the legislation will be proportionate to the complaints made by passengers, and so will not place disproportionate burden on small or micro businesses. Due to their size, small and micro businesses are expected to face a very small number of ADR claims in comparison to larger airlines.

¹⁶ <https://www.gov.uk/government/statistics/business-population-estimates-2020>

116. Small and micro businesses have not been exempted from this proposal. Doing so could create perverse incentives for larger airlines to establish small businesses to operate routes in order to avoid the proposed legislation.

Q10. Do you have any further evidence on how small and micro businesses might be affected by this policy compared with medium and large businesses?

Equalities Impact Assessment

117. The Equalities Impact Assessment is contained within a separate document.

Justice Impact Test

118. Engagement with Ministry of Justice Impact Test will be conducted as part of the policy development following consultation.

Trade Impact

119. This proposal is not anticipated to have impacts on imports, exports, overall trade or investment flows between countries.
120. However, this proposal may impose additional requirements for foreign businesses: in the case that airlines based outside the UK are already signed up to an overseas ADR provider, they may also be required to sign up to an ADR provider located in the UK.

5.0 Post implementation review

121. We will make further consideration about a Post Implementation Review (PIR) as part of the policy development following consultation.
122. A PIR concerning this policy could make use of existing publicly available data to assess the extent to which the policy has reduced consumer detriment. There are a number of questions contained within the CAA's ongoing UK Aviation Consumer Survey which would provide pre- and post-implementation evidence of the efficacy of the policy. Q20 within this survey asks those who have flown within the last 12 months how satisfied they are with a variety of aspects of their journey, including the extent to which they were satisfied with the "handling of any complaints you made to the airport or airline". This, and other related metrics, could be monitored to assess the extent to which the policy has improved consumer satisfaction. If it were possible to cross-break this question according to the airline the passenger travelled with, a difference-in-differences analysis could take place to determine the extent to which any change can or cannot be attributed to the policy.
123. In addition to this outlined social research based approach, the CAAs complaint data could be monitored and analysed to examine the extent to which sector-wide mandatory ADR leads to an increase in ADR cases. This data is segmented according to the airline in question, so it would be possible to observe the extent to which complaints to airlines who are currently not ADR members increases, relative to trends amongst airlines who are currently ADR members.