Title: Compensation for delays to UK domestic flights (Regulation EC 261/2004) **IA No:** DfT00435 **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:**	**Impact Assessment (IA)** **Date: 11/10/2021** **Stage: Consultation** **Source of intervention: Domestic** **Type of measure: Primary Legislation** **Contact for enquiries:** AviationConsumerConsultation@dft.gov.uk

1. 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**
-£14.9m	£10.0m	-£1.2m	Qualifying Provision

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

The majority of domestic flights arrive at their destination early, on-time, or with minimal delays (<15 minutes). However, in some instances flights do arrive with significant delays. At present, the rates of compensation payable to customers are set by Regulation EC No 261/2004 (as retained in United Kingdom law). However, these regulations have not kept up with the growth in low-cost airlines and the rates are not representative of the costs of travel. The United Kingdom's withdrawal from the European Union provides an opportunity to bridge a gap in the legislation and rebalance the rates payable when passengers experience delays.

What are the policy objectives and the intended effects?

The policy objective is to ensure that paid compensation for delayed flights is more representative of the costs of travel and to reflect the newer ways consumers are choosing to travel by air (e.g. flying with low cost airlines). Linking compensation to the price of travel, and providing partial compensation for shorter duration delays, would increase fairness for both businesses and consumers. More closely aligning domestic aviation compensation with other domestic modes of travel (e.g. rail and maritime) is intended to increase clarity for consumers.

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

Option 0 - Do nothing: this option would leave the current compensation levels as they are, which could differ significantly from the price of travel.

Option 1 - Amend the current rates for compensation to a proportion of the ticket price for domestic flights: this option would link the amount of compensation for delayed domestic UK flights to the cost of the ticket, and be determined by the length of delay.

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

Does implementation go beyond minimum EU requirements?		N/A		
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: **20:43, 1 Feb 2022**

2. 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: -10.3	**High:** -23.8	**Best Estimate:** -17.0

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.1	1	12.9	**110.7**
High	0.1		17.8	**152.5**
Best Estimate	0.1		15.4	**131.6**

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

Businesses

Average annual cost of compensation for flights delayed by 1-2 hours (£3.2 million), annual average cost of compensation for flights delayed by 2-3 hours (£2.2 million)

Average annual cost of processing compensation claims (£1.2 million)

One-off transition costs associated with familiarisation with the new legislation (£0.1 million) and additional one-off costs associated with changing customer facing materials (£0.01 million)

Consumers

Average annual cost of applying for compensation (£0.8 million)

Average annual reduction in compensation payments for flights delayed by more than 3 hours (£7.9 million)

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

Businesses

We have not been able to quantify the impact on businesses of consumers mistakenly applying for compensation for flights which were not sufficiently delayed or were not delayed for a valid reason. Although compensation would not be paid to consumers in such instances, businesses still incur costs associated with processing these claims.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	1	11.7	**100.4**
High	0.0		15.0	**128.7**
Best Estimate	0.0		13.4	**114.6**

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

Businesses

Reduction in average annual compensation payments for flights delayed by more than 3 hours (7.9 million)

Consumers

Average annual compensation payments for flights delayed by 1-2 hours (£3.2 million), average annual compensation payments for flights delayed by 2-3 hours (£2.2 million)

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

N/A

Key assumptions/sensitivities/risks **Discount rate** 3.5

There are a number of key assumptions impacting upon this analysis. Most notably regarding the proportions of passengers choosing to make a compensation at present, and following the introduction of the proposed policy.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 6.6	**Benefits:** 7.9	**Net:** -1.3	-5.8

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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 (DfT) is consulting on a range of issues to help improve air passenger protections and best practice from industry becomes commonplace.

2. The rules on compensation for flight cancellations and delays are set out in Regulation (EC) No 261/2004 as retained in United Kingdom (UK) law following the UK's withdrawal from the European Union (EU). This regulation applies for passengers departing from a UK airport; departing from another country arriving in an airport in the UK, if the airline is a UK or EU carrier; or departing from another country arriving in an airport in the EU, if the airline is a UK carrier.

3. In the event of cancellation by the airline, the consumer is entitled to a full refund or to be re-routed under comparable transport conditions to their final destination. In addition, for cancellations by the airline and for delays resulting in the passenger arriving more than three hours after the original arrival time, passengers are in some circumstances entitled to compensation for the inconvenience of the delay or cancellation. The Regulations provide set rates depending on the distance of the flight, for all consumers, regardless of ticket price, to compensate for inconvenience.

4. Where a flight is cancelled or delayed by more than three hours, passengers are currently entitled, in some circumstances, to compensation of £220 for flights of 1,500km or less, £350 for flights between 1,500km and 3,500km or £520 for flights not falling under the first two categories.

Problem under consideration

5. The current compensation regime was brought into effect before the growth in low-cost airlines and the current set levels of compensation can often exceed the cost of a ticket many times over. Discussions with industry during stakeholder engagement sessions highlighted calls from airlines for compensation rates to be amended to be more representative of the cost of travel. Low cost airlines have told DfT that the impact of the compensation on their turnover is far more material than it is for standard airlines, indicating verbally it can reach a value equivalent to 3% of their turnover. Unfortunately, they have not shared any evidence to prove this claim because of commercial sensitivities but we expect a cap of the compensation to the ticket price to be very welcome across all airlines and particularly the low-cost section. We welcome evidence to enable us to assess the scale of the problem as part of the consultation process.

6. In addition, the current compensation regime provides limited recourse for passengers who are delayed by less than three hours. Passengers on flights of less than 1,500km which are delayed at arrival by more than 3 hours are in some circumstances entitled to compensation. However, passengers on flights which are delayed by less than three hours are not entitled to compensation.

7. Combined, this creates a situation in which some passengers are overcompensated for the inconvenience caused to them by a delay. This creates an unfair situation for businesses, who are required to pay passengers compensation in excess of the value of the ticket they have sold. On the other hand, the current regime could be seen to undercompensate some passengers,

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/977446/Report-of-the-Global-Travel-Taskforce-accessible.pdf

who have been inconvenienced by a delay, but who do not meet the current threshold for compensation.

Rationale for intervention

8. The main rationale for intervention is to correct a gap in the current regulations that were brought in when the UK was a member of the European Union (EU) and prior to significant changes to the composition of the aviation market. These regulations have subsequently not kept up with these changes, leading to an unfair situation for consumers and businesses alike. The proposed policy is therefore required to bridge this gap in the legislation.

9. The proposed policy intends to make changes to legislation that was retained from the EU. The proposed policy intervention is an opportunity created by the UK's withdrawal from the EU, as it would make changes to UK domestic flight delay compensation that is more in line with other modes of domestic transport, and create more fairness for consumers and industry.

10. The key motivation for addressing the current compensation regime is to rebalance the compensation rates paid for delays to flights so that they are proportionate to the costs incurred by passengers and the inconvenience caused to them by delays. At present, the compensation rates, in some instances, provide passengers with compensation far in excess of the amount they have paid for their ticket, thereby causing an undue burden on businesses.

11. The amounts of compensation for delay are set out in Regulation EC No. 261/2004 (as retained in UK law) and cannot be amended through market forces, innovation or stakeholder led change. Therefore, government intervention is required to make any changes to compensation.

12. In addition to reducing an undue burden on businesses in some circumstances, the proposed policy would also increase fairness for passengers who would not currently receive any compensation, but who have been inconvenienced by a significant delay to their arrival time. Delays of 1-2 or 2-3 hours impose a negative externality on passengers on those flights. Their future travel plans may be impacted by the delay and they are forced to spend time awaiting arrival which could otherwise be spent on work or leisure activities.

13. At present, provided a flight arrives within three hours of its scheduled arrival time, many of the incentives ensuring that flights arrive in a timely manner are indirect. If an airline's flights are consistently delayed, it is likely that they will face some reputational damage, which could lead to lower consumer confidence, sales and profitability. The proposed policy would further incentivise airlines to reduce the externality imposed on passengers by delays of between one and three hours.

14. The proposed compensation regime would therefore increase fairness for passengers who have been delayed and rectify the current situation.

Policy objective

15. The policy objective is to ensure that paid compensation is more representative of the costs of travel and to reflect the newer ways consumers choose to travel by air (e.g. flying with low cost airlines).

16. Linking compensation to the price of travel, and providing partial compensation for shorter duration delays, will increase fairness for both businesses and consumers. Aligning domestic aviation compensation with other domestic modes of travel (rail and maritime) is intended to increase clarity for consumers.

17. Due to international conventions the proposed reform would not be possible to take forward at this time for international flights.

Options considered

18. **Option 0 – Do Nothing**. This option would leave the current compensation levels as they are. For domestic flights, this option entitles passengers who are delayed by more than 3 hours in specific circumstances to compensation of £220. Passengers who are delayed by less than three hours are not entitled to any compensation.

19. **Option 1 – Proposal to amend the current rates for compensation to a proportion of the ticket price for domestic flights.** This option would provide a more gradual compensation regime. For example, passengers who delayed by more than 1 hour, but less than 2 hours would receive compensation worth 25% of the value of their ticket. Passengers who are delayed by more than 2 hours, but less than 3 hours would be eligible to claim compensation worth 50% of the value of their ticket. Passengers who are delayed by more than 3 hours would be eligible to claim compensation worth 100% of the value of their ticket. This proposed option would mean that more consumers are entitled to compensation, but the average value of this compensation is likely to be lower than is currently the case. This is the preferred option.

20. The preferred option has been devised by considering the analogous compensation regimes within the maritime and rail sectors and proposing a system which would be fair within the aviation context. The precise trigger points (i.e. what length delay triggers compensation) and compensation amounts are the subject of a question within the main consultation.

2.0 Costs and Benefits

Summary

21. 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). These costs and benefits are summarised below and described in detail in the following section of this document.

Option 0 – Do Nothing

Monetised Costs (impacted party and impact type in parentheses)

- Compensation payments to passengers delayed by more than 3 hours (businesses; direct)
- Internal cost of processing (valid) compensation claims (businesses; direct)
- Costs of applying for compensation (consumers; direct)

Unmonetised Costs

- Costs of processing ineligible compensation claims (businesses; direct)

Monetised Benefits

- Compensation payments to passengers delayed by more than 3 hours (consumers; direct)

22. Table 1 provides a summary of the costs and benefits associated with the Do Nothing option.

Table 1 Costs and benefits of Do-Nothing option

Impact (Impacted Party)	Estimated costs / benefits
Costs	
Compensation payments to consumers (businesses)	£10.6
Internal cost of processing claims (businesses)	£0.2
Consumer costs of claiming compensation (consumers)	£0.2
Total costs	£11.0
Benefits	
Compensation payments to consumers (consumers)	£10.6
Total benefits	£10.6

Option 1 – Do Something: Amend the current rates for compensation to a proportion of the ticket price for domestic flights

Monetised Costs

- Additional compensation payments to consumers delayed by 1-2 hours (businesses; direct)
- Additional compensation payments to consumers delayed by 2-3 hours (businesses; direct)
- Reduced compensation payments to consumers delayed by more than 3 hours (businesses; direct)
- Internal cost of processing (valid) compensation claims (businesses; direct)
- Costs of applying for compensation (consumers; direct)
- Familiarisation costs (transition costs faced by businesses; direct)
- Costs of changing consumer facing materials (transition costs faced by businesses; direct)

Unmonetised Costs

- Costs of processing ineligible compensation claims (businesses; direct)

Monetised Benefits

- Additional compensation payments to consumers delayed by 1-2 hours (consumers; direct)
- Additional compensation payments to consumers delayed by 2-3 hours (consumers; direct)
- Reduced compensation payments to consumers delayed by more than 3 hours (businesses; direct)

23. 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.

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 (per annum)**
Costs			
Additional compensation payments to consumers delayed by 1-2 hours (businesses)	£1.8	£2.6	£3.5
Additional compensation payments to consumers delayed by 2-3 hours (businesses)	£1.2	£1.8	£2.4
Reduced compensation payments to consumers	£7.7	£7.8	£7.9
Internal cost of processing claims (businesses)	£0.6	£0.9	£1.3
Consumer costs of claiming compensation (consumers)	£0.4	£0.7	£0.9
Familiarisation costs	£0.1	-	-
Changes to customer facing materials	£0.01	-	-
Total costs	**£11.7**	**£13.9**	**£16.0**
Benefits			
Additional compensation payments for delays of 1-2 hours	£1.8	£2.6	£3.5
Additional compensation payments for delays of 2-3 hours	£1.2	£1.8	£2.4
Reduced compensation payments for delays of 3+ hours	£7.7	£7.8	£7.9

Total benefits	**£10.7**	**£12.3**	**£13.9**

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

Cost and Benefit Methodologies

24. 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

25. In this option we assume no government action. The requirements on airlines to provide compensation to passengers remain as they are now. Passengers who have been delayed in specific cases, on arrival, by more than three hours are able to claim compensation for these delays. This imposes a cost on businesses, relating to cost of the compensation itself and the additional cost of processing compensation claims.
26. The payment of compensation is a transfer from businesses to consumers and is therefore also a benefit to consumers. Consumers also incur some costs relating to the time and materials required to apply for compensation.

Costs to Businesses

Compensation paid to consumers

27. The Civil Aviation Authority's (CAA) flight punctuality dataset[2] has been used to estimate the number of domestic flights currently eligible for compensation. The publicly available dataset contains information about the proportion of flights arriving within a given time period (e.g. flights more than 360 minutes late), relative to the scheduled arrival time. We have multiplied these proportions by the total number of matched flights to estimate the number of flights within each delay category. This process has introduced some error, due to rounding so the figures presented below are intended to be indicative, rather than precise.

28. The 2018 and 2019 versions of this dataset have been filtered to show only domestic flights arriving more than three hours late. Averaging across the two years, we estimate that there are approximately 1,050 domestic flights each year delayed by more than three hours. In total, there were an average of over 230,000 domestic flights per year in 2018 and 2019, meaning that approximately 0.45% of all domestic flights were delayed by three hours or more.

29. To estimate the number of affected passengers, we have used Department for Transport (DfT) analysis of RDC Aviation (an aviation consultancy and data business) which indicates that a typical domestic flight consists of 83 passengers.[3] However, we welcome further evidence to refine our estimate of the number of passengers per domestic flight. Multiplying this number by

[2] https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Flight-reliability/Datasets/UK-flight-punctuality-data/

[3] https://www.rdcaviation.com/

the number of domestic flights provides an estimate of 87,150 passengers delayed by more than three hours each year on domestic flights, representing 0.45% of all domestic passengers.

30. 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.

31. In addition to the length of the delay experienced, the cause of the delay is a key factor in determining if a passenger may claim compensation. Compensation may not be claimed in instances where a delay has been caused by "extraordinary circumstances". Although the current Regulation does not define "extraordinary circumstance, the CAA list acts of terrorism, political unrest, security risks, strikes (unrelated to the airline), weather conditions incompatible with the safe operation of the flight, and hidden manufacturing defects as circumstances which are likely to be considered extraordinary.[4]

32. In order to estimate how many passengers will be eligible to claim compensation, it is necessary to estimate how many flights are delayed for reasons which are not classified as "extraordinary circumstances". The CAA data does not contain any information regarding reasons for delays, so we have used other publicly available data as a proxy.

33. The European Organisation for the Safety of Air Navigation (Eurocontrol) produces an annual report detailing the causes for delays and cancellations to air transport in Europe. The figures below are derived from the 2019 version of this report[5].

34. The parameter we are attempting to estimate is the proportion of flights delayed by extraordinary circumstances. However, the Eurocontrol report does not provide information about the number or proportion of flights delayed for particular reasons and instead presents information regarding the average delay per flight and the reasons for these delays. Nonetheless, in the absence of such information, we assume that the average delay (in minutes) attributed to a particular cause is a reasonable proxy for the proportion of delays attributable to the same cause.

35. The two overarching delay categories presented within the Eurocontrol report are "primary" and "reactionary" delays, the latter referring to knock on delays caused by delays to aircraft or cabin crew from previous flights. In 2019, the average flight was delayed by 13.1 minutes, comprised of 7.4 minutes of primary delays and 5.7 minutes of reactionary delays.

36. The Eurocontrol report provides a detailed breakdown of the causes of primary delays based on the provided International Air Transport Association (IATA) delay codes. This breakdown comprises: Airline, Air Traffic Flow Management (ATFM) en-route, ATFM Airport, Other Airport, Misc, Other Weather, Government, ATFM Weather. For the purposes of determining which of these constitute "extraordinary circumstances" we have assessed each cause on the basis of its constituent IATA Delay Codes and determined which seem likely to be considered "extraordinary circumstances".

37. The categories assigned as part of this exercise have no empirical foundations and are likely to be inexact. Nevertheless, we hope these provide some indication of the proportion of delays caused by "extraordinary circumstances" and therefore the proportion of delayed passengers able to apply for compensation. We welcome any further information from consultation respondees to enable us to refine this estimate.

[4] https://www.caa.co.uk/Passengers/Resolving-travel-problems/Delays-cancellations/Your-rights/Am-I-entitled-to-compensation-/

[5] https://www.eurocontrol.int/sites/default/files/2020-04/eurocontrol-coda-digest-annual-report-2019.pdf

38. Table 3 outlines the categories contained within the Eurocontrol report and the proportion of total delay minutes caused by reasons falling within each category.

Table 3 Eurocontrol 2019 report, airline-reported delays

Delay category	**Minutes of delay per flight**	**% of primary delay**	**Extraordinary / Non-extraordinary (deemed)**
Airline	3.41	46%	Non-extraordinary
ATFM en-route	1.55	21%	Non-extraordinary
ATFM Airport	0.92	12%	Non-extraordinary
Other airport	0.39	5%	Non-extraordinary
Misc	0.36	5%	Extraordinary
Other weather	0.31	4%	Extraordinary
Government	0.29	4%	Extraordinary
ATFM weather	0.18	2%	Extraordinary
Total Primary	**7.41**	**N/A**	**N/A**
Total reactionary	**5.69**	**N/A**	**N/A**

39. We have assumed that an equivalent proportion of Reactionary delay minutes were caused by "extraordinary circumstances". The rationale for this assumption is that a reactionary delay is one caused by the "late arrival of aircraft, crew passengers or load" and a proportion of reactionary delays will therefore have been caused by "extraordinary circumstances" leading to a preceding primary delay.

40. Based on this information, we estimate that 85% of delays are caused by non-extraordinary circumstances, meaning that passengers on 85% of all delayed flights are eligible to claim compensation for their delay. We assume that all domestic flights are shorter than 1,500km, meaning that passengers delayed by more than 3 hours are each eligible to claim £220 under the current legislation.

41. Compensation is not automatically paid to eligible passengers and passengers must make a claim with the airline in order to receive their compensation. Therefore, to estimate the value of compensation paid by airlines currently it is necessary to estimate the proportion of eligible passengers who make a successful claim.

42. We use data relating to rail delays and compensation[6] as a source of proxy data for estimating the proportion of eligible passengers who will claim compensation. The primary means through which rail passengers may claim compensation is called Delay Repay (DR). Delay Repay 15 (DR15) provides passengers with compensation of 25% of the price of a single ticket for delays of between 15 and 29 minutes. Delay Repay (DR30) provides passengers with compensation of 50% of the price of a single ticket for delays of between 30 and 59 minutes. If the passenger is delayed by more than 60 minutes, they are entitled to compensation of 100% of the value of a single ticket. If delayed 120 minutes or more the passenger can claim the cost of a return journey if they have a return ticket.

43. Published data indicates that 22% of passengers who were eligible for DR15 claimed compensation compared with 46% of passengers who were eligible for DR30. Although this finding is not perfectly analogous to the proposed aviation compensation schedule, since we do not know the value of the compensation being claimed, it provides some support for our estimates of the proportions of eligible passengers claiming compensation.

44. Air fares are typically of higher value than rail fares and compensation would therefore be of higher value. We hypothesise that this would provide upward pressure on the proportion of eligible passengers claiming compensation for a given percentage compensation.

45. This results in our estimate that 65% of domestic aviation passengers who are eligible to make a claim do so and leads to an estimate of 48,150 compensation cases per year. However, this

[6] https://www.gov.uk/government/publications/rail-delays-and-compensation-2020

value is merely an informed estimate. We note the uncertainty surrounding this estimate and welcome evidence that would enable us to refine this estimate.

46. Combining this information, leads to a central estimate of the total value of compensation **paid of £10.6 million in the Do-Nothing scenario**, out of a total value of payable compensation of £16.3 million.

Table 4 Total value of paid compensation in Option 0

	Value
Number of domestic flights delayed by more than three hours (per annum)	1,050
Average number of passengers per domestic flight	83
Proportion of delays eligible for compensation	85%
Value of compensation	£220
Total value of payable compensation (£ million)	**£16.3**
Proportion of eligible passengers claiming compensation	65%
Total value of paid compensation (£ million)	**£10.6**

Q02. Do you have any further evidence on the number of passengers on domestic flights who are currently eligible to claim compensation?

Q03. Do you have any further evidence on the proportion of eligible passengers who currently make a successful compensation claim for delays of more than three hours?

Internal costs of processing compensation cases (airlines)

47. The total internal cost to airlines of handling compensation cases is driven by the time required to process each case, the value of associated staff time and the number of cases to be handled.

48. We assume that it takes 15 minutes per case to process compensation claims, and use an hourly staff cost of £17.85, which is based on the mean hourly wage of administrative occupations.[7] Together, these give a staff cost of £4.46 per claim. This is multiplied by the estimated number of compensation claims. In the do-nothing scenario, this includes the number of compensation claims made for flights delayed by greater than three hours. This is estimated by the following equation:

Annual Number of Compensation Claims = A x B x C x D

A = Number of domestic flights delayed by more than three hours (per annum)
B = Proportion of delays eligible for compensation
C = Average number of passengers per domestic flight
D = Proportion of eligible passengers claiming compensation

Where *A*, *B*, *C* and *D* are taken from Table 4 above.

[7] 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.

49. This results in a total of 48,150 claims per year, which, combined with a cost to airlines of £4.46 per case, results in a **cost to businesses of £0.2 million in the Do-Nothing scenario**.

50. The assumption on time taken to process compensation claims is not based on evidence, and a consultation question has been asked about this below. Throughout this Impact Assessment, wages are assumed to be static throughout the appraisal period.

Q04. Do you have any further information on the time requirements and internal costs to airlines of processing compensation claims?

Costs to Consumers

Costs of pursuing compensation claims

51. Consumers face indirect costs when they pursue compensation claims, which include the value of the time needed to bring forward a compensation claim.

52. In order to calculate the time cost faced by consumers who bring forward a compensation claim, we assume that it takes a consumer 30 minutes to raise such a compensation claim. Together with a value of time of non-working time of £6.28, this means a cost of lost time per compensation claim of £3.14.[8]

53. To produce the total annual cost to consumers, the time and monetary costs are multiplied by the number of compensation cases per year, which are estimated to be 48,150. This results in a **total cost to consumers in the Do-Nothing scenario of £0.2 million**.

Q05. Do you have any further information on the time required or costs for consumers to pursue compensation claims?

Benefits to Consumers

Compensation paid to consumers

54. As set out above, we estimate current compensation levels of £10.6 million for domestic flights delayed by more than 3 hours. This compensation represents a transfer from businesses to consumers and is therefore a benefit to consumers.

Option 1 – Changes to Compensation

55. In this option we assume that the proposed changes to the compensation regime take effect. We assume that there are no changes to the number of flights delayed, although note that the new compensation regime may provide incentives to airlines to reduce delays. The new compensation regime results in changes to the amount of compensation paid to consumers, as well as costs associated with processing a larger number of compensation claims. As with the Do-Nothing

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

option, the compensation paid by airlines represents a transfer from businesses to consumers. Consumers also face costs associated with applying for a larger number of compensation claims.

56. In addition to the ongoing costs described above, this option also entails one-off transitionary costs to businesses associated with becoming familiar with the new regulations and making changes to customer facing materials.

57. We have based the calculations within following section on our assessment of the impacts of the proposed policy once they have been fully realised. We have estimated that this will not take place until the third year of the policy and that there will be two years in which the market adjusts to the proposed policy. The impacts in these years are discussed in the "Timing" section below and the estimates presented in this section represent our assessment of the costs and benefits of the policy in Year 3 onwards.

Costs to Businesses

Compensation paid to consumers

58. The proposed changes to compensation levels are likely to have two contrasting effects. In the first instance, there is likely to be a reduction in compensation for passengers who are delayed by more than 3 hours. Under the previous compensation schedule, they would have been eligible to receive a compensation payment of £220, whereas the value of their compensation is capped at 100% of the value of their fare under the proposed reform.

59. Conversely, passengers who are delayed by more than one hour, but less than three hours, would not currently receive any compensation. Under the new proposal, passengers would be entitled to compensation of 25% of the ticket price if their journey is delayed by more than one hour. If their flight is delayed by more than two hours, they would be eligible for compensation worth 50% of the value of their ticket. If their flight is delayed by more than 3 hours, they would be eligible for compensation worth 100% of the value of their ticket. This will mean that some passengers are now eligible for compensation who previously would have received no compensation.

60. In order to estimate the impacts of these changes, we have once again used the CAA's flight punctuality dataset for 2018 and 2019 to estimate the number of flights within each category (61 to 120 minutes, 121 and 180 minutes and 181 minutes or more). From this, we have again assumed a value of 83 passengers per domestic flight

61. Combining these data sources, we estimate the following number of passengers within each delay category:

Table 5 Estimated number of passengers within each delay category (2018/19)

Delay Length	**Number of flights per annum (2018/2019)**	**Number of passengers per annum (2018/2019)**
1-2 hours	8,728	724,424
2-3 hours	2,344	194,552
3 hours or more	1,050	87,150

62. As above, we assume that 85% of delayed flights are delayed for reasons which would allow for compensation to be claimed.

63. Under the proposed reform, those delayed by 1-2 hours would be able to claim compensation of 25% of their ticket value, those delayed by 2-3 hours would be able to claim compensation of 50% of their ticket value and those delayed by 3 hours or more would be able to claim compensation of 100% of their ticket value. This differs from the current situation in which compensation of a fixed value is paid to passengers. Based on RDC Aviation data obtained by DfT, we estimate that the average domestic ticket value is £65, leading to compensation values

of £16.25, £32.50, and £65 for delays of 1-2 hours, 2-3 hour and 3 hours or more respectively. This average ticket value reflects the cost of an economy ticket, inclusive of government taxes, but does not include add-ons, such as luggage, extra legroom etc.

64. Our choice of average ticket values, and consequent compensation, makes the implicit assumption that there is no correlation between ticket value and average delay length. We welcome further evidence to inform this decision as part of this consultation.

65. Compensation will not be paid automatically and passengers who have experienced a delay would be required to make claim with the airline in order to receive the compensation for which they are eligible. As set out in the Do Nothing option, we do not anticipate that all eligible passengers will make a claim for the compensation to which they are due.

66. Previously we have estimated that 65% of passengers able to claim a £220 compensation would do so. Given the decrease in average compensation value between what is currently available and what is being proposed, we anticipate a decrease in the proportion of eligible passengers who will make a claim for compensation. The magnitude of this decrease is not known and must therefore be estimated. We estimate the proportion of passengers claiming by using proxy data and subjective judgement.

67. As above, we use data relating to rail delays and compensation[9] as our source of proxy data for estimating the proportion of eligible passengers who will claim compensation. We have previously estimated that 65% of eligible passengers will claim the £220 compensation due under the existing regulation and hypothesise that eligible passengers will be less motivated to claim the lower amounts of compensation due under the proposed policy.

68. This leads to our central estimates of the proportion of passengers claiming compensation as 30% for those eligible for 25% compensation, 45% for those eligible for 50% compensation and 55% for those eligible to claim 100% compensation. Again, we highlight the uncertainty in these estimates. This uncertaintly has been reflected in the subsequent sensitivity analysis, but we welcome further evidence to refine these estimates.

Change in compensation paid to passengers delayed by more than three hours

69. Firstly, we consider the magnitude of the impact for those passengers delayed by more than three hours who would previously have been eligible to receive £220 compensation. Under the proposed legislation, these passengers are now eligible for compensation of 100% of their ticket value, for which we assume an average of £65. Given the change in compensation value, this impact reflects a transfer from consumers to businesses.

70. In 2018 and 2019, there were an average of 1,050 UK domestic flights delayed by more than three hours, representing 0.45% of all domestic flights. This analysis assumes no growth in domestic air travel over the next 10 years. We estimate that these passengers would be eligible to claim total compensation of £4.8 million and would go on to claim a total of £2.6 million.This represents a **decrease of £7.9 million in compensation paid to passengers delayed by more than three hours compared with Option 0.** This represents a benefit to businesses and cost to consumers as a result of the proposed policy change.

Table 6 Compensation to passengers delayed by more than 3 hours

Item	**Value**
Number of domestic flights delayed by more than three hours (per annum)	1,050

[9] https://www.gov.uk/government/publications/rail-delays-and-compensation-2020

Average number of passengers per domestic flight	83
Proportion of delays eligible for compensation	85%
Average value of compensation	£65
Total value of payable compensation (£ million)	**£4.8**
Proportion of eligible passengers claiming compensation	55%
Total value of paid compensation – Option 1 (£ million)	**£2.6**
Total value of paid compensation – Option 0 (£ million)	**£10.6**
Difference between Option 0 and Option 1 (£ million)	**-£7.9**

Change in compensation paid to passengers delayed by one to three hours

71. Secondly, we estimate the magnitude of the impact for the introduction of compensation for flights which previously would not have attracted compensation. In 2018 and 2019, there were an average of approximately 2,340 UK domestic flights delayed by 2-3 hours, representing 1% of all domestic flights. We estimate that these passengers would be eligible to claim total compensation of £5.4 million, with £2.4 million of this claimed. No compensation was paid to passengers delayed by 2-3 hours under Option 0, therefore this represents an **increase of £2.4 million in compensation paid to passengers delayed by 2-3 hours**.

Table 7 Compensation to passengers delayed by 2-3 hours

Item	**Value**
Number of domestic flights delayed by more than three hours (per annum)	2,340
Average number of passengers per domestic flight	83
Proportion of delays eligible for compensation	85%
Average value of compensation	£32.50
Total value of payable compensation (£ million)	**£5.4**
Proportion of eligible passengers claiming compensation	45%
Total value of paid compensation (£ million)	**£2.4**

72. In 2018 and 2019, there were an average of 8,730 UK domestic flights delayed by 1-2 hours, representing 3.7% of all domestic flights. We estimate that these passengers would be eligible to claim total compensation of £10.0 million, with £3.0 million of this claimed. No compensation was paid to passengers delayed by 1-2 hours under Option 0, therefore this represents an **increase of £3.5 million paid to passengers delayed by 1-2 hours**.

Table 8 Compensation to passengers delayed by 1-2 hours

Item	**Value**

Number of domestic flights delayed by more than three hours (per annum)	8,730
Average number of passengers per domestic flight	83
Proportion of delays eligible for compensation	85%
Value of compensation	£16.25
Total value of payable compensation (£ million)	**£10.0**
Proportion of eligible passengers claiming compensation	35%
Total value of paid compensation (£ million)	**£3.5**

Q06. Do you have any further information on the proportion of passengers who will claim for compensation of different values?

Internal costs of processing compensation cases (airlines)

73. Internal processing costs to airlines in Option 1 are calculated in the same way as for the Do-Nothing case. We take the same average time costs per case and multiply by the number of expected cases.

74. Under Option 1 we expect that there will be an increase in the total number of compensation claims. Using the figures in Table 6,
75. Table 7 and Table 8 above, we estimate that there will be a total of nearly 331,000 compensation claims per year, which translates to a total internal processing cost to businesses of £1.5 million per year in lost time. Compared with the internal processing costs associated with Option 0, **this results in an additional cost to business of £1.3 million as a result of the proposed policy change.**

Familiarisation costs

76. This section sets out how familiarisation costs are calculated. Familiarisation costs are the direct and indirect costs to businesses of familiarising themselves with the proposed compensation scheme requirements.

77. We anticipate that airlines would incur small familiarisation costs as a result of the change to the compensation package for delays, which includes the internal labour costs of reading the new compensation regulations and guidance.

78. We estimate a **one-off familiarisation cost of £0.1 million** to airlines in the central scenario. Our estimate includes all airlines that operated a domestic passenger 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.

79. 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.

Familiarisation costs = Employees x Time x Costs

Expected number of employees required to familiarise

80. The number of employees required to familiarise with the guidance would depend on the number of businesses affected by the change in compensation regulations as well as the size of each business.

81. We estimate that the number of staff required to familiarise with the compensation guidance as set out in Table 9. At micro businesses, we assume that one senior employee would be responsible for dealing with compensation, and due to the size of such businesses they would be the only person required to familiarise with the change in legislation. At small businesses, a further 10 junior employees would 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 the Department for Business, Energy and Industrial Strategy (BEIS).[10] We have asked a consultation question below to gather more evidence on this.

82. Based on the CAA's "UK airport data"[11] release, we estimate that sixty-four (64) commercial airlines operated a domestic passenger service in the UK in 2019, which we take as our central estimate of the number of airlines required to familiarise. 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 airline will require one senior employee and 20 junior employees to familiarise with the proposed compensation process.

83. Taken together with Table 9, this implies that a total of 64 senior staff and 1,280 junior staff would be required to familiarise with the requirements of compensation in the central scenario.

Table 9 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

84. The expected time taken to familiarise with the 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.[12] Our

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

[11] https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Airports/Datasets/UK-airport-data/

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

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

85. 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.[13] In addition, junior customer staff would also be required to familiarise themselves with the new compensation regulations. Their labour costs are calculated using the hourly wage of sales and customer operations staff, of £14.00.[14]

Q07. Do you have any further information on the likely amount of staff-time and cost required for businesses to familiarise themselves with the proposed changes to compensation?

Changes to customer facing materials

86. Alongside the staff familiarisation costs, there is an additional internal cost involved with adjusting website T&Cs and customer communications as a result of the proposed change in compensation regulations. In order to estimate this cost to businesses, we first calculate cost of IT professional time required to update website T&Cs and customer communications. We estimate that 8 hours of IT professional time is required, at a cost of £22.23 per hour.[15] The assumption on time taken to process compensation claims is not based on evidence, and a consultation question has been asked about this below. This is multiplied by the number of airlines operating domestic flights in the UK, which was 64 in 2019.

87. Together, this implies a **total one-off cost to airlines of £11,400.**

Q08. Do you have any further information on the likely amount of staff-time and cost required for businesses to make changes to consumer facing materials?

Costs to Consumers

Costs of pursuing compensation claims

88. Costs to consumers under Option 1 are calculated in the same way as for the Do-Nothing scenario. We take the same average time costs per case and multiply by the number of expected cases.

89. Under Option 1 we expect that there will be an increase in the total number of compensation claims. Using the figures in Table 6,

[13] 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.

[14] 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.

[15] This was derived from the mean hourly wage for IT operations technicians from Table 14 of the Annual Survey of Hours and Earnings from 2019. The starting point of £17.04 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 £22.23.

90. Table 7 and Table 8 above, we estimate that there will be a total of approximately 331,000 compensation claims per year, which translates to a total cost to consumers of £1.0 million per year in lost time. Compared with Option 0, in which we estimated costs to consumers of £360,000, **this represents an increase in costs to consumers of £0.9 million.**

Reduced compensation payments (for delays of more than three hours)

91. Compared with Option 0, Option 1 results in reduced compensation for eligible passengers experiencing delays of more than three hours. We estimated that these passengers would claim compensation worth £10.6 million in Option 0, falling to £2.6 million in Option 1, **representing a decrease in compensation of £7.9 million.**

Benefits to Consumers

Additional compensation payments (for delays of 1-3 hours)

92. Compared with Option 0, Option 1 results in additional compensation for passengers facing eligible delays of 1-2 hours and 2-3 hours, who would previously have received no compensation. **Passengers delayed by 1-2 hours are estimated to receive compensation worth £3.5 million and passengers delayed by 2-3 hours are estimated to receive £2.4 million.**

Unmonetised Costs and Benefits

Costs associated with ineligible compensation claims

93. The preceding analysis assumes that only eligible passengers make claims for compensation. In reality, there is likely to be some uncertainty as to whether a passenger may make a claim or not. Firstly, the passenger may not have perfect information about the length of the delay they experienced and may claim when their delay was not of sufficient length. Similarly, passengers may not be aware that their flight was cancelled for an "extraordinary" reason and they are therefore not able to claim compensation.

94. Although consumers making such claims will not receive any compensation, airlines are nonetheless required to process them to determine if the consumer is eligible for compensation. We expect that this imposes a cost on airlines but have not been able to estimate this cost due to a lack of information about the number of ineligible claims. In addition, there will be a cost to consumers of making an ineligible claim and this cost has also not been quantified. We expect these costs to be greater in the Do Something case, due to the greater number of delayed flights for which compensation could potentially be claimed.

Q10. Do you have any information about the number of ineligible claims for compensation which are currently made and how this might increase following a change in the regulations?

Timing

95. When estimating the costs to airlines of providing compensation to passengers, we do not anticipate that the full impacts will be realised immediately following the introduction of the proposed policy, given the time required for consumers to become fully aware of the new rules.

96. For those delayed by more than 1 hour, but less than 3 hours, we anticipate that there will be an adjustment period, during which these passengers become increasingly aware of their ability to claim compensation for their delay. At present, they are not eligible for compensation and we

believe it unreasonable to assume that the proportions of eligible passengers claiming compensation would immediately reach the assumed long-term proportions.

97. Therefore, we assume a gradual phasing in of compensation associated with these delays, whereby the proportions of eligible passengers claiming compensation are 50% of the final level in Year 1, 75% in Year 2 and reach the final, previously outlined, levels in Year 3 onwards.

98. For those delayed by more than three hours, we anticipate, in the central case, that the proportion of passengers choosing to make a claim will decrease from 65% currently to 55% in Year 3, as passengers become increasingly aware of the lower levels of compensation to which they are entitled. We assume that 60% of eligible passengers will claim compensation in Year 1, 57.5% in Year 2 and 55% in Year 3 onwards.

Business Impact Target Calculations

99. Utilising a Price Base Year of 2021 and Present Value Base Year of 2022, the proposed policy has been estimated to have an Equivalent Annual Direct Costs to Business of £6.6 million and Equivalent Annual Direct Benefits to Business of £7.9 million, yielding a BIT score of -5.8.

Sensitivity Analysis

100. Many of the estimates contained within this impact assessment are dependent on a number of key assumptions. Where possible, we have based these assumptions on empirical evidence, but the proportion of eligible passengers claiming compensation has been based largely on subjective judgement. Therefore, we have determined that it is important to test the sensitivity of our results to changes in these assumptions.

101. In the central estimate, we have assumed that 55% of passengers eligible for compensation of 100% of their ticket will make a claim, 45% of passengers eligible for compensation of 50% of their ticket will do so and 35% for compensation of 25% of their ticket will do so.

102. To test the sensitivity of our results to these assumptions, we assume two further sets of values. In the first, passengers are assumed to be relatively insensitive to the value of their compensation. In the second, passengers are assumed to be more sensitive to the value of their compensation. The values assumed are presented in Table 10.

Table 10 Sensitivity Analysis – proportions of eligible passengers claiming compensation

	Low sensitivity	Central	High sensitivity
Proportion of passengers currently claiming delay compensation	65%	65%	65%
Proportion of passengers who will claim 100% compensation	60%	55%	50%
Proportion of passengers who will claim 50% compensation	55%	45%	35%
Proportion of passengers who will claim 25% compensation	50%	35%	20%

103. The assumed proportions of eligible passengers claiming compensation result in a wide range of estimated paid compensation in the Do Something scenario. When it is assumed that passengers are highly sensitive to the value of compensation to which they are eligible, we estimate that a total of £6.2 million compensation is paid. When it is assumed that passengers

are relatively insensitive to the value of compensation paid, we estimate that £10.8 million of compensation is paid. The compensation values under different scenarios are set out in Table 11 below.

Table 11 Sensitivity of changes in compensation amounts to the proportion of passengers claiming compensation (Year 3 onwards)

	Low Sensitivity	Central	High Sensitivity
Additional compensation payments for delays of 1-2 hours	£5.0	£3.5	£2.0
Additional compensation payments for delays of 2-3 hours	£3.0	£2.4	£1.9
Reduced compensation payments for delays of 3+ hours	-£7.7	-£7.9	-£8.2
Change in compensation paid	£0.3	-£2.0	£-4.3

104. Costs to consumers and internal processing costs for businesses are also sensitive to the assumptions around the proportions of passengers claiming compensation. In the scenario where consumers are more price sensitive, the lower amounts of compensation available in Option 1 lead to a lower number of compensation claims, resulting in a lower time cost to consumers and processing costs to businesses. If consumers are assumed to be relatively price insensitive, the lower amounts of compensation available do not reduce consumers' willingness to claim compensation to the same extent, and a higher number of compensation claims are brought, resulting in relatively higher time costs to consumers and processing costs to businesses. These are set out in Table 12 below.

Table 12 Sensitivity of consumer costs and internal business costs to the proportion of passengers claiming compensation (Year 3 onwards)

	Low Sensitivity	Central	High Sensitivity
Additional costs to consumers	£1.2	£0.9	£0.5
Additional costs of processing compensation claims	£1.8	£1.3	£0.8

3.0 Risks and unintended consequences

105. We have identified a number of potential risks and unintended consequences resulting from the proposed policy. Firstly, we have identified that the policy could result in a reduction of the "base" ticket price in order to reduce the amount of total compensation available. Any fall in revenue could be offset by charging greater fees for optional extras, such as additional baggage, priority boarding etc. Whilst there is potential for this risk to occur, it will be mitigated through careful policy design following the consultation process to identify the definition of ticket price.

106. The benefits to consumers are largely dependent on their knowing that they are eligible to claim compensation for the delays they experience. In addition, these benefits are dependent on consumers being sufficiently motivated to claim compensation. Neither of these factors are known and therefore there is some uncertainty whether the benefits to consumers will be fully realised.

107. The estimated costs and benefits of the policy are also dependent on changes to the compensation regime not changing the extent to which flights are delayed. The current compensation regime arguably provides airlines with an incentive to avoid delays of over three hours, while providing little incentive to minimise delays of less than three hours, although the

desire to provide good customer experience does incentivise the minimisation of delays. The nature of airline scheduling means that we do not believe there is much scope to "game" the system. However, the possibility that a change to the compensation regime could change airline behaviour should not be discounted entirely.

108. Our sensitivity analysis has assessed the extent to which our conclusions are dependent on key assumptions. Most notably, we have tested the extent to which the assumed proportions of eligible passengers choosing to make a claim affects the estimated impacts of the policy. This sensitivity analysis has demonstrated that, if a sufficient proportion of passengers decide to make a compensation claim, the proposed policy could lead to businesses paying more compensation than they currently do. In addition, there would be a significant additional cost to businesses from processing the larger number of compensation claims that would be raised following the introduction of the proposed policy.

4.0 Wider impacts

Innovation Test

109. **Automation of compensation payments:** innovation to automatise the compensation process would result in compensation being transferred to 100% of passengers that are eligible for compensation. This would raise the number of compensation payments under both options, resulting in an increase in the total value of compensation and an increased internal cost of processing claims. However, such a change would have a greater impact on Option 1 because the average likelihood of passengers to make claims when they are eligible to is lower under this option than in Option 0. Therefore, as well as increasing the costs to businesses of both options, such a change would cause Option 1 to be relatively more costly to businesses than Option 0, but would provide greater benefits, in the form of increased total compensation, to consumers. If there were to be such a change to compensation payments, it would be necessary to revisit the calculations of the costs and benefits presented in this Impact Assessment, and it may be sensible to propose a change to the structure of compensation. The automation of compensation payments would also bring benefits to businesses in reduced costs of processing claims, due to the reduced resource requirement compared with the current process.

110. **Improvements in punctuality:** innovation that may reduce the number and length of delays would reduce the costs to businesses of both options. This is because there would be a decrease in the number and value of compensation payments to consumers, as well as a reduction in the internal costs of processing claims. Such an improvement would result in improved quality of service so does not warrant any action.

Small and Micro Business Assessment

111. The 2020 BEIS Business Population Estimates[16] 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).

112. These figures only include businesses that are based in the UK, while our figures include all businesses operating domestic flights within the UK, some of which may be based outside the

[16] https://www.gov.uk/government/statistics/business-population-estimates-2020

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.

113. Despite this, it is possible that small or micro businesses could be affected by the proposed change in policy, 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 proposed policy. Familiarisation costs are likely to be proportionately larger for small and micro businesses because it is likely that a larger proportion of each organisation's 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.

114. However, the key driver of the cost to businesses is the number of compensation claims they are expected to face. The changes to compensation as a result of the proposed policy would be proportionate to the delays faced by passengers, and so would 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 compensation claims in comparison to larger airlines.

115. Small and micro businesses have not been exempted from this proposed policy. Doing so could create perverse incentives for larger airlines to establish small businesses to operate routes in order to avoid the proposed policy. Additionally, the exemption of small and micro businesses from this proposed change would result in them being subject to a different compensation scheme to larger businesses, which would be confusing for consumers.

Q11. 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

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

Justice Impact Test

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

Trade Impact

118. This proposal focuses on compensation for **domestic** flights within the UK and so is not anticipated to have impacts on imports, exports, overall trade, or investment flows between countries. It is also not expected to impose additional requirements on foreign businesses.

Competition Assessment

119. The proposed changes to compensation will link compensation payments to the value of tickets rather than a fixed level of compensation. As low-cost carriers tend to charge lower ticket prices than other types of carrier, this will result in relatively lower average compensation values for low-cost airlines.

5.0 Post implementation review

120. A Post Implementation Review (PIR) could involve additional data collection around the amount of compensation being awarded. As set out above, a key determinant of the costs to businesses of this proposal is the proportion of passengers claiming compensation at different delay lengths. For rail, Rail Delays and Compensation statistics are published, and a PIR for this proposal could include similar analysis of compensation claimed by aviation passengers.[17] This could be combined with data on the proportion of flights delayed by different lengths of time to assess the amount of compensation that businesses are providing to consumers. A PIR could also assess the extent to which changes in compensation has made the policy clearer for consumers, and could do so by making use of survey data.

121. We will make further consideration about the PIR as part of the policy development following consultation.

[17] Rail Delays and Compensation 2020. https://www.gov.uk/government/publications/rail-delays-and-compensation-2020