

# Consumer Panel minutes

## 11:45 – 15:15 Thursday 23<sup>rd</sup> July 2020

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### Attendees

#### Consumer Panel

Jenny Willott (JW) Panel Chair

Trisha McAuley (TM)  
David Thomas (DT)  
Walter Merricks (WM)  
Jacqueline Minor (JM)  
Claire Whyley (CW)  
Carol Brennan (CB)  
Helen Dolphin (HD)

Harriet Gamper (HG)  
Carol Cairns (CC) Panel secretariat  
Tom Willis (TW)

### Invited guests

Richard Moriarty (RM) CAA Chief Executive (Item 2)  
Paul Smith (PS) Group Director, CMG  
Stuart Holder (SH) Head of Economic Analysis, CMG (Item 4)  
David Bourne (DB) Head of Regulation and Governance, CMG (Item 5)

### Declaration of interests

None.

The meeting was held remotely.

### Item 1: Chair's Update

JW opened the meeting and welcomed speakers and gave an overview of the work of the Panel since the last meeting in April.

The Panel have agreed an updated definition of vulnerability and a paper has been drafted to present to ExCo in September. The other main issue for the Panel has been H7. JW reminded the Panel that there is a H7 workshop on Tuesday 28th July 2020. JW and HG have had meetings with the H7 team in CMG to look at the differences between the Panel and the Consumer Challenge Board (CCB) and explained to the team what can reasonably be expected from the Panel, which has a different role and remit to what the CCB was doing.

In terms of ensuring the Panel's independence, HG has been putting into place 'Chinese Walls' to secure Panel documents on the CAA network. This will mean policy documents and other confidential material will be held securely with access for Panel members only.

HG has organised quarterly meetings between herself and Kate Staples (CAA General Counsel) and similar meetings are being set up for JW.

JW held meetings with Rob Bishton (Group Director, Safety Regulation) to discuss the impact of Covid-19, Health Corridors and consumer confidence in air travel and discussed where the Panel can help in these areas. These issues will be discussed at October's Panel meeting.

The Consumer Panel Annual report was presented to the CAA Board and there were questions about the Panel's work on the environment. The Board highlighted this as an important piece of work for the future. The Annual Report was received well by the CAA Board which thanked the Panel for its work. Dame Deidre Hutton (CAA Chair) and Richard Moriarty (CAA Chief Executive) are keen to see the Panel's remit reach across the CAA and for it not to be confined to CMG and CSP. RM underlined the Panel's 'right to roam' freely.

JW had an introductory meeting with Sir Stephen Hillier the new CAA Chair and invited him to a future Panel meeting. Sir Stephen said that the Panel had an important role to play and was interested to know how it worked and influenced the organisation. He asked how the Panel represented broader consumer interests and for examples of where it has been influential. He also flagged up the importance of the environmental work.

## Questions

CB pointed out that the Office of the Rail and Road Regulator (ORR) has published information on their website about the influence their Consumer Panel has made. She asked if there was scope for the CAA to do this? JW replied that this year's Annual Report had focused more on the influence of the Panel but that it was also useful to look at what others had done.

WM suggested that the timings of the virtual Panel meetings have been over lunch whereas lunch had been accommodated in previous face to face meetings. JW agreed but said that Panel meetings already in calendars would prove difficult to change. She hoped that the Panel would be able to have a mixture of face-to-face and virtual meetings from October.

## Item 2: CAA Chief Executive

JW welcomed RM to the meeting.

RM said he would outline priorities for the CAA and take questions from the Panel.

The CAA needs to be an ambidextrous agile organisation to navigate the unprecedented situation brought about by Covid-19. It will have to focus on tasks in the here and now while also being understanding of the aviation sectors future to retain the CAA's relevance. Airports and airlines are retrenching, there are likely to be many job losses, and it may take the industry 3-4 years to recover. The pandemic has of course impacted both the economy and consumer confidence to travel.

The CAA has been involved in the full range of Covid-19 activities including in safety and security and has had conversations with many entities that we regulate. Enforcing some consumer rights has been a difficult issue for the CAA considering the operational difficulties that airlines have faced.

The CAA has been involved in public health issues and has taken its lead from Public Health England (PHE) and peers in the devolved nations. The CAA's role has been advising PHE and the Department for Transport (DfT) on the passenger and crew journey. Bio security will be as important as physical security from now on.

Government attention is now focused on restart and recovery. The EU withdrawal period begins at the end of the year and the CAA is well prepared for this as we have been planning for the last 2-3 years, but we are not complacent.

What is the CAA's place in the world? Aviation regulation works best when you are working in collaboration with partners. The CAA is taking on new functions next year in relation to space regulation. In addition, there is likely to be focus on consumers post pandemic:

1. Politicians may wish to look at the flexibility of consumer rights going forward (for example around Regulation 261.) RM said he is keen that the Consumer Panel get involved so that the CAA can offer a holistic view when considering the consumer.
2. On holiday and ATOL protection it is important that we don't lose focus on providing good services to those who need them most, and to build on what we have done on accessibility.
3. The digital agenda also poses opportunities and challenges.

On People RM said that the CAA is only as good as its people and how they work together. We need to focus on what capabilities we have and on wellbeing, diversity and encouraging modern ways of working. Covid-19 has proven that we can work remotely, and we now need to ask what does the new normal look like? A recent colleague survey showed that most people want to work more flexibly in the future.

RM mentioned the voluntary pay cut CAA colleagues have agreed to since lockdown and said that he was keen to stop this at the end of September. Colleagues have demonstrated goodwill and have balanced work with challenges at home.

RM concluded by saying that there was big part to play for the Consumer Panel and that he cherished their independence, views and challenge and their role as a critical friend to the CAA.

JW thanked RM and agreed the CAA was facing a number of challenges.

#### Questions

CB said that passenger refunds had been a major issue and said that consumers had spent 52,000 hours trying to get into contact with companies to get their money back (citing a recent Which? report.)

RM said that this was a difficult issue for the CAA. The CAA focus has been on airlines rather than tour operators (which are being handled by the CMA). Most airline staffing, and operational models were lower due to remote working and social distancing rules. Anti-fraud protections meant that refunds could often not be processed by staff working remotely. The CAA have produced a review on refunds.

It was stressed to the airlines that payments could not be used as working cash flow because they might be facing financial difficulties. The CAA have worked with major UK airlines and some non-UK airlines and most have improved their systems and 90% of payments have been made or are being made. Consumer communications by airlines was difficult at the beginning as airlines didn't have call centres fully operational. They are now dealing with the backlog and the CAA are considering enforcement against some airlines who are not making improvements.

PS said that he had worked closely with Which? on the issues they raised, and they have shared data with the CAA.

HD asked about information on face coverings and was concerned that there had not been much information from airlines and airports concerning who is exempt. Different guidance meant that consumers may not be aware of the correct information for their flights.

RM replied that there had been uncertainty and lack of clarity on this subject. Communications Directors across airlines and Government (including the CAA Communications Director, Richard Stephenson) are developing a single and consistent communications plan.

HD said she was concerned that in some cases if an individual did not have medical evidence for not wearing a mask that they may not be allowed to travel.

PS wondered if there was a role for badges or lanyards identifying people exempt from having to wear a face mask.

JW said that the Consumer Panel would be happy to help with this issue.

WM said that as the airline industry is encouraging people back into the air a single source of truth on what is expected of consumers is required e.g. is it safe to fly. On the potential reform of EU 261 has the CAA already started to think about what policy options may be available?

RM said that WM's first point on if it was safe to fly was a good one and he would take it away, most consumers are not aware of how air filters work on aircraft and the importance of bio security for example. RM would like the Consumer Panel's input on strengthening confidence.

CW asked what CAA's role on physical and non-physical consumer accessibility is going forward?

RM said that the CAA were looking at practical ideas like lanyards and extra assistance for the journey through the airport. However, the whole journey needs to be looked at in terms of accessibility as we haven't got the end-to end journey right yet.

CW suggested that it would be useful to look at other services that go beyond what airlines are doing to measure this.

RM said that he was keen that the CAA pick up the Heathrow Airport research report on accessibility mentioned by CW to see what we can learn from it.

RM said that the CAA's new Chair sees the Consumer Panel as a key part of the organisation and that the Panel would be even more important in the next few years to hold the regulator's feet to the fire in terms of how well it serves consumers.

### **Item 3: CAA Update -Strategic and Consumer Work**

#### **Refunds**

PS said that on the issue of credit notes and vouchers the government has confirmed it will stand behind refund credit notes for ATOL. Consumers will also be entitled to cash back if they don't want a voucher (CAA has published guidance on this.) The week beginning 27th July the CAA will put out a document giving a commentary on each airline and an assessment of their individual positions. He said that UK airlines have agreed or are close to agreeing how to clear backlog on refunds.

#### **Questions**

CB said that the airlines don't seem to have got the message that it is beneficial to respond to consumers and so gain loyalty and that it seems a shame that airlines haven't done more to handle complaints effectively.

PS said that a lot of airlines have struggled with the sheer volume of requests and complaints and the availability of their staff due to Covid-19. Some airlines are more agile and so could respond more quickly.

## **Economic Regulation**

PS said that he recognised the different role that the Panel will play compared to the Consumer Challenge Board and the nature of that role. CMG will work with the Panel to get to the right place within the time available. Heathrow have made a submission to reopen the price control this year and next on the basis that they should get additional money for losses that they have suffered this year. The airlines will react strongly to this and it would be useful to engage with the Panel on this matter.

The CMA published a final report for the NERL price review and have put out a summary with a full report following in two weeks' time. CMA agreed with the CAA and NATS on a process that will be followed and includes how the impact of Covid-19 is being considered.

## **ATOL**

CMG are busier than ever with failures at the small/medium end of the market and there is potential for further failures once furlough comes to an end. Preparatory work has been done in light of this and a new claims portal developed.

## **Questions**

WM commented that complaints culture was in a different place (less positive) than marketing culture in some companies that have consumer facing issues.

HG pointed out that the Panel had done some work on NERL a few years ago and suggested that they have input to the price control.

PS said that they were currently looking at the process and suggested that HG engage with Matt Claydon who is leading the work.

## **Item 4: Proposed Approach to Renewing Gatwick Airport LTD's Commitments**

SH presented a set of slides updating the Panel on current developments concerning the economic regulation of Gatwick Airport Ltd (GAL) and invited comments on current thinking on a possible policy approach in advance of sessions with ExCo and the Board in September (set out on Slides 6-8).

## **Questions**

HD asked about the service targets and rebates on slide 6 and the wording 'no informal targets for this at present' and asked if this was correct. SH said that GAL do have KPIs and penalties in their contract with the service provider, but GAL do not pay rebates to airlines for poor service as this is outside of GAL's control.

TW said that she thought that there was not enough consumer-facing research and that the consumer experience is missing. The regulatory framework is set around targets that airlines have agreed with airports. Commitments should be based on consumer outcomes.

CW said that GAL was not meeting punctuality targets during the summer and that they are meeting standards under the regime but not meeting them from the point of view of the consumer interest.

SH pointed out that GAL has a lighter touch framework than Heathrow and that there is a reluctance to impose additional obligations unless there is a smoking gun. He said that passenger research did give quite good feedback on many aspects of GAL's service and that they were often good at responding to customers. In terms of punctuality he said that the passenger survey did not highlight punctuality and delays as a major concern.

JW asked if the consumer research had informed GAL's service standards? SH said that they had.

CB said that departure lounge seating was mentioned as a minor issue on the survey but with social distancing this would make it a bigger issue in the future. She also mentioned that there was no mention of sustainability.

SH said that sustainability is not mentioned in the Act although Gatwick Airport is sustainability minded and asks consumers about this and if they can do more. For example, they are looking at the use of electric vehicles.

DT asked, 'when is a price cap not a price cap if discounts are in place'?

SH pointed out that there were currently 2 price caps for GAL: a cap on the published price and a cap on price after discounts. GAL is proposing only to have a cap on the former in future. He suggested that the CAA monitor the level of discounts going forward.

TM said that the policy programs are not ambitious from a consumer focus.

JW said that there are advantages to having GAL negotiating deals but that the Consumer Panel would like to see the link between research done with consumers and what agreements and service levels are put in place.

TW said she would like to see current consumer research being consumer outcomes-based and that GAL ought to have a consumer engagement strategy.

## **Item 5: ATOL**

DB presented slides to the Panel outlining the scope of ATOL and some key policy issues. He posed several questions for the Panel to consider:

- Scope of protection. If UK withdrawal from the European Union means the UK has complete freedom to determine the scope of protection, where should we end up?
- ATOL funding – does it make any difference to consumers whether protection funding tends towards the collective (e.g. ATT as a mainstay) or the individual (cost of protection borne by individual members).
- "Package plus" – what is more important, between allowing package protections to be diluted, as against giving agents accountability that they cannot deliver on. Or is improved disclosure the answer?

### **Questions**

CB said that she would welcome a clear and easily accessible approach for consumers and that she liked the idea of a collective ATOL scheme. She asked if the minimum £2.50 charge could be set at a higher price for more expensive holidays.

JM asked how this work fitted in with the airline insolvency review and suggested that it would make sense to bring the two schemes together.

DB said that the airline insolvency review was at a key stage in government thinking to reform the area of consumer risk. The review was commissioned by the government, independently run and has reported and issued recommendations. The Queens Speech included legislation measures to improve the repatriation of airline customers, but the work has had to be paused due to Covid-19.

JW suggested that there was an opportunity to make things simpler by separating out repatriation from refunds and having collective sliding scales for holidays so that people can understand what their protection is.

Action: Consumer Panel to input on ATOL policy over the next year as policy is developed.

## **Item 6: Members Updates**

WM drew the Panel's attention to the CAA consultation on ADR schemes published earlier in the week. The consultation had gone out without the Panel being able to see it first.

HG said the Panel could still respond formally.

Action: HG/WM to draft response for panel members review.

HD said that CAA were designing a survey on airport and airline procedures in relation to accessibility during the pandemic. HD was asked to make sure that the right questions were included about changes that have been put into place.

WM pointed out that the Verita report on ADR schemes still hasn't emerged. HG replied that there have been some issues with the report that have delayed it including having to anonymise it. It will be shared with the Panel as soon as possible.

## **A.O.B**

JW highlighted the H7 workshop on Tuesday 28<sup>th</sup> of July and thanked Tom for organising the meeting.

## **Next Meeting**

22<sup>nd</sup> October