

Consumer Panel minutes

12:00 – 16:00 Thursday 22nd October 2020

Attendees

Consumer Panel

Jenny Willott (JW)		Panel Chair
Trisha McAuley (TM)	(From item 6)	Panel members
David Thomas (DT)		
Walter Merricks (WM)		
Jacqueline Minor (JM)	(To item 5)	
Claire Whyley (CW)	(To item 7)	
Carol Brennan (CB)		
Helen Dolphin (HD)		
Harriet Gamper (HG)		Secretariat
Tom Willis (TW)		

Invited guests

Sir Stephen Hillier (SSH)	(Item 2) CAA Chair
Paul Smith (PS)	(Item 4) Group Director, CMG
Matthew Buffey (MB)	(Item 6 & 8) Head of Consumer Protection, CMG
Nic Stevenson (NS)	(Item 5) Head of strategy, CSP
Gia Kroeff (GK)	(Item 7) CSP
Barbra Perata-Smith (BPS)	(item 7) CSP
Niya Dimitrova (ND)	(Item 8) CMG
Helen Swanbury (HS)	(Item 8) CMG

Declaration of interests

None.

The meeting was held remotely.

1. Chair's Update

JW has held various internal meetings since the last Consumer Panel meeting, including meetings with PS to discuss ADR, MB to discuss passenger locator forms and vulnerable consumers, NS to discuss environmental information and the CAA strategy, and Tim Johnson on the CAA strategy refresh and regulation of spaceflight.

JM and WM attended a meeting on ATOL: the CAA is undertaking review of the ATOL scheme and consideration is being given to advanced payments being ringfenced so they cannot be used as operating capital. Consideration is also being given to whether to move away from flat fees to

graduated tariffs which would better reflect assessed risk. At the meeting JM and WM raised questions including whether these moves might affect consumer choice by raising barriers to entry to the market. Would the changes encourage more orderly exit? The CAA will consult formally in 2021 and would like the Consumer Panel to respond.

HD has been assisting with the airline accessibility questionnaire. Through her work on this, it has become apparent that the difficulty for consumers is not having the knowledge of what they must do while flying, including whether or not they must wear a mask. Consistent information is needed. CW made point that this is a theme and should be considered as part of the vulnerability work.

2. CAA Chair

JW welcomed Sir Stephen Hillier, the new Chair of the CAA, to the meeting. SSH welcomed the role of the Panel as a critical friend.

SSH highlighted some of his headline priorities. He wants the CAA to continue as a world class regulator, ensuring the safety and security of passengers, to ensure that the CAA is agile and that it has the capability to respond well to challenges, and he highlighted consumer confidence as a particular theme.

In the context of Covid-19 the next 6 months will be critical, including ongoing challenges for many businesses in the sector. The CAA will also need to be ready for the recovery period. SSH set out his commitment to ensuring that the Panel is fully engaged with this, and in particular with the current strategy refresh.

He would like to focus on effective ways to protect the consumer interest and mentioned the example of refunds – if a similar crisis happens again then people will rightly expect the industry to behave differently. How we predict and plan for future airline insolvencies is a key question. The CAA has done a remarkable job of looking after people in the past, but it comes at a cost to the organisation because it means focus and resource on other areas is diverted.

Finally, SSH highlighted the CAA's potential role in decarbonisation. The industry plans to be net zero by 2050 and this is the biggest long-term issue facing aviation. What part will consumers play in this? Will they demand it? Or should the CAA (or the Government) be in the driving seat? These are all questions which will need consideration.

Questions

CB stated that first tier complaints handling by airlines needs significant improvement. How can more pressure be brought to bear? SSH would like the CAA to maintain a strong reputation so that people have trust and confidence in the organisation. He has seen negative comments about the CAA in the media over refunds. The CAA does not always have the relevant enforcement powers to meet people's expectations. PS added that the CAA agrees with the Consumer Panel, it would be good to mandate ADR and improve first tier complaints handling, however any legislative changes rest with Government.

JM asked if SSH is comfortable that the CAA has all the powers it needs to do what it wants to. An example is the ATOL funding model – are there alternative funding mechanisms and what risks might these entail? SSH replied that the CAA does not have all powers it needs. Refunds are an example where our powers are not in line with consumer expectations. There will be other things which will arise as consumer expectations are rising.

The Panel Chair thanked SSH for attending a meeting so early into his term and said the Panel looked forward to engaging with him going forwards.

3. Panel Work Program

HG introduced a paper on progress against the Panel's work programme and how new requests for work are handled. The Panel is now 25% of the way into its current two-year work programme and much has been achieved. JW recognised that Panel members have gone above and beyond in terms of workload over the past few months. The Panel has also been asked to consider how consumer confidence in aviation might be strengthened as the CAA starts to look forward towards recovery.

JM stated that industry resilience will be an important issue going forward and insolvency and ATOL will be part of this. Consumer confidence is important – can it be integrated into the work on consumer information? Like the issue on masks, quarantine and testing regimes, getting a clear, true source of information is important.

CB pointed out that *Which?* research shows trust in the travel industry has dropped to a record low of 22%. How redress is handled is especially key.

HD underlined the importance of the vulnerability work. People may not want to begin travelling again because they are worried about contracting Covid as a result of flying. The Aviation Consumer Survey is particularly important, and its results can be used as part of the work on consumer confidence.

DT flagged the emergence of H7 on the agenda and asked if we could have smaller working groups to ensure the Panel doesn't become overwhelmed. JW took an action to do this.

CW agreed better use could be made of small groups and that some things could be delegated to groups. WM agreed.

It would also be helpful to have more context on how each request to the Panel fits into the work programme, what the context is, and how it will be used.

Actions

Action – HG and JW to work up plan on small groups and circulate to Panel.

Action – HG to draft initial short paper on consumer confidence following email conversation with the Panel.

Action – HG to follow up with the team in the Strategy Department on the Aviation Consumer Survey to ensure there is enough time to discuss and include useful questions from the Panel's perspective.

4. CAA Update

PS focused first on Covid-19 and associated impacts on the aviation industry. It is possible that future changes to quarantine rules may help to boost consumer confidence and willingness to travel. In the meantime, significant improvements have been made to airline refund processes.

PS also updated the Panel on the current CAA consultation on '*CAP 1966, Economic regulation of Heathrow Airport Limited: response to its request for a covid-19 related RAB adjustment*'. He stated that the CAA needs to see more evidence of the benefits to consumers which would result from any intervention. The team dealing with the consultation would be pleased to set up a meeting with Panel members to discuss further if this would be useful.

The CAA will consult shortly on economic regulation of air traffic control and PS highlighted that this might be suitable for a small group discussion. In particular it could be helpful to have the Panel's views on the impacts of Covid-19 and staffing levels: it takes a great deal of time to train air traffic controllers but savings now when capacity is lower will mean trade-offs at a later date as capacity rises again.

Finally, PS updated on how the CAA is processing refunds due from ATOL failures. A team within his directorate is working to ensure these are made in a timely fashion, however, it is also key to make sure the right controls are in place to ensure consumers are issued the correct refund.

Actions

Action – HG to follow up with relevant team regarding air traffic control small group discussion.

5. CAA draft strategy

The CAA is refreshing its strategic framework. The Panel previously commented on a draft strategic framework and draft principles, and these documents have since been revised following Board input.

JW fed in a question from TM (who did not attend this part of meeting but had commented on the papers via email) that it was not clear from the paper whether the Panel's feedback had been relayed to ExCo/the Board and what the response was on the Consumer Panel's perspective. NS replied that the Consumer Panel feedback informed what was taken to the ExCo and Board discussions, where it was referenced that the Consumer Panel had fed in. The Board requested shorter papers so background information has been scaled back.

CB thanked the team for including reference to the consumer principles, which was done following feedback from the Panel.

The team will consult on the strategy in spring 2021. NS was content with how the process with the Panel had worked this time and suggested a similar format going forwards. A small group could discuss in January, with consultation with the whole Panel at the February and then April Panel meetings.

Actions

Action – NS to request small group discussion on revised strategy before consultation with the whole Panel at the February and April Panel meetings.

6. Consumer vulnerability

HG gave an update on the consumer vulnerability work which the CAA is taking forwards following Panel focus on this area. HG explained that the paper the Panel commented on in August was presented to the CAA's Executive Committee (ExCo) in September. ExCo were supportive and agreed to adopt the Panel's definition of vulnerability. ExCo supported embedding the concept of

vulnerability across the whole organisation and each ExCo director has nominated a contact for their group. HG and MB are now talking to all of these people to see where the concept of vulnerability touches on the work they do and if there is there other work being done in the different directorates where these considerations might be relevant. Some groups provide regulatory services (such as licensing or enforcement), others are customer facing (such as PACT), and others still are cross cutting (such as Communications which owns the CAA's various websites).

HG explained that they are looking to devise a process to demonstrate how they are embedding vulnerability and show how they comply with the Public Sector Equality Duty. This could be done in various ways – for example by adding items to the CAA business plan for each group or viewing a lack of compliance as a risk to the business. Directors may be asked to compile a section for the CAA Annual Report each year.

HG explained that they will also consider what training might be needed and how this could be delivered, as well as how else to raise awareness (for example through seminars).

Early in 2021 MB and HG will provide a follow-up ExCo paper setting out the areas where the CAA thinks vulnerability is applicable and suggesting processes for how the CAA operationalises how it recognises and responds to vulnerability. HG will seek Consumer Panel feedback on the paper before it is presented. A third paper will probably be needed after that to show what each group is doing and how they are embedding the approach. It's likely to be a long-term culture change issue but one which we all hope will continue to get traction.

Actions

Action – HG to seek Consumer Panel feedback on the next draft ExCo paper before it is presented.

7. Environmental Information

BPS set out the context for the discussion: decarbonisation is one of the biggest issues currently facing the industry. There has been a shift in public sentiment on this issue, reflected in our Aviation Consumer Survey, and supported by a number of external events, such as court judgements on airport expansion and the legislation by parliament of the net zero target. The Committee for Climate Change's 'Net Zero' report has brought the consumer back into play highlighting the need for conscious consumption and thus better information to do this. All these elements have shown the time is right to reconsider the provision of environmental information to consumers, in order to enable more informed decision-making and support the government's decarbonisation programme.

BPS explained that the team carried out desktop research, including analysis of consumer perceptions and current information provision. The Panel has already seen and commented on a draft insight note based on this research. This note will be used as a working paper to socialise the issue with stakeholders, as due to Covid-19 stakeholders do not currently have the bandwidth to respond to detailed consultations.

HD asked whether the document is aimed at the general public. She also felt that some mention ought to be made of Brexit and its implications. BPS answered that they are not currently consulting on the document, so it is not aimed at the public at this stage. On Brexit, this is a good point, which was noted in previous feedback from the Panel. BPS will update the insight note to include this feedback.

CB asked if there is information on the proportion of consumers that currently pay for offsetting. BPS replied that such figures were not included in the insight note as the figures available are anecdotal.

The team intend to carry out future qualitative work to explore why stated and revealed preferences are currently so different.

HD suggested there may be things people could do other than pay extra. Some people might not be able to afford to pay more but if information could be provided on other things that could be done (such as eat X fewer hamburgers in a given period or drive your car for Y fewer miles) then people might be able to engage with that. BPS thought this was a good suggestion and took an action to consider it further.

JW highlighted a common factor in the case studies, which was that a given market could change through consumer influence. For example, traffic light systems are very straightforward, so consumers can make decisions which then influence a given market.

BPS said it had been suggested last year that advertisements for holidays should come with some kind of warning or mini impact assessment to show that holidays do have a carbon impact.

TM thought this was an excellent piece of work. She urged the team to think about segmenting consumers as they are not one homogeneous group. The Covid lens is also interesting: from her work in energy TM reported that consumers are now willing to make some trade-offs – for example they do not necessarily expect lower bills post-Covid but instead expect some of their payment will be used to offset carbon impacts in future. TM also highlighted that self-regulation is unlikely to work so a trusted body is needed to oversee any provision of information. BPS said she would consider these points and revert to the Panel.

WM stated that trying to make consumers feel guilty is not a beneficial approach and it would be better if consumers see a partnership approach with airlines and others. It is neither fair nor realistic to expect consumers to change the world on their own.

BPS would like to return to CP next year to present phase 2.

JW said that this issue is at the heart of the CP work plan. The CP would like to contribute whenever/how it can.

Actions

Action – BPS to revert to Panel with request for input on phase 2.

Action – BPS to consider ways other than paying more to help with decarbonisation.

Action – BPS to include the Panel's feedback on Brexit.

Action – BPS to consider segmenting consumers in next phase of research, and to consider the Covid-lens and changing consumer expectations.

8. Alternative Dispute Resolution

HS introduced the final agenda item. She thanked the CP for their useful comments on the Verita report and is hopeful this will be published shortly.

The CAA recently consulted on aspects of Alternative Dispute Resolution (ADR). The Panel had responded to the consultation along with *Which?* and the Consumer Council for Northern Ireland.

Unfortunately, other interested parties had not received the CAA email highlighting the consultation and so the consultation period has now been extended to allow those organisations to respond.

A particular concern of the Panel lay in transparency and the presentation of the consultation. The team acknowledged that concern and the reissued consultation now includes a clearer explanation of the planned changes and consideration of some of the impacts.

TM stated that it is not acceptable to say recourse to the courts is a realistic potential way for individual consumers to obtain redress. On awareness of ADR provision, the CAA said there was no evidence of lack of awareness although it has not carried out research. TM recommended the CAA do research with consumers and ask for their views. MB responded that awareness is via airlines signposting complainants to ADR and so the CAA carrying out general awareness raising of ADR is unlikely to be effective.

TM said that consumers need an advocate, someone to ask the right questions, who knows how to use the system, and who will obtain information on behalf of the consumer. MB questioned what another person in the discussion would add. Will a further party have the level of knowledge and technical expertise that will really help inform the process?

CB stated that there was evidence of poor complaint handling at the first tier. This is an extremely important issue and ought to be analysed. Once this has been done it would be good practice to share the findings with ADR bodies and industry to help improve how complaints are handled before they reach the ADR stage. This could potentially be done at a roundtable next year.

WM stated that it is not fair to expect consumers who are plucked out as an example on a flight to argue their case, the outcome of which will then have implications for all of the passengers on that flight. They should have a lawyer to argue on their behalf. MB replied that consumers can go to court and get their own lawyer if they want to. The CAA can also go to court, but this would take a long period of time (in the past it has taken around two years to get an enforcement order due to the process that has to be followed). Neither outcome is optimal and so the CAA have proposed a middle way in this consultation. Disputes will be on technical aspects and interpretation of the law. However, MB does agree that the CAA needs to communicate properly with consumers but remained unsure what an additional legal representative would add. WM said he was content for the CAA to take away and consider further.

WM also asked if one of the two ADR organisations authorised by the CAA could be seen to be at risk of bias as it currently has only one airline signed up. MB agreed there were two points of concern here: a perception risk and an actual risk. In terms of perceived risk, consumers whose complaint is not upheld might see bias in the process. However, Verita saw no issues with quality of the ADR body's decisions in its recent evaluation. In addition, the CAA can monitor the data coming in from ADR bodies and see if there is a big change in uphold rates. MB did not see any actual risks manifesting and pointed out that there can be multiple providers under the ADR regulations across all sectors, so this is something that can happen. However, he took comfort in Verita's recent findings and agreed to monitor the CAA data.

WM then asked the CAA to give a feel for how the CAA's own complaints handling team (PACT) is coping since taking over complaints made about Ryanair last year. The Panel has not had an update on how PACT is coping since the team moved to Gatwick around two years ago. PS replied that the team have made good progress in last few months and colleagues from across CAA have been assigned to support PACT. PS took an action to pass information on PACT to HG so she can update the Panel.

WM asked if the CAA is confident that the ADR schemes will adopt the revised scheme rules. PS said he was cautiously optimistic, based on discussions with the ADR schemes and with industry.

Actions

Action – MB to continue to monitor the performance of the ADR schemes and to keep under review the risk of potential bias in decision making.

Action – MB to consider further whether consumer representation could improve the proposed process.

Action - PS to pass information on PACT to HG so she can update the Panel.

Any other business

Secretariat: HG will be spending 50% of her time from now until January working on the Airspace Modernisation Strategy. She will continue to provide secretariat support to the Panel but on some work CAA colleagues will be asked to liaise directly with the Panel over the next few months, with support from TW.

Meeting dates for 2021 have now been booked:

- 4 February 2021
- 22 April 2021
- 22 July 2021
- 28 October 2021

HG took an action to look at a possible in-person meeting next year when regulations permit, and for future virtual meetings to begin the meeting earlier and add time for a lunchbreak.