

Consumer Panel minutes

12-2:15pm Thursday 23 April 2020

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

Dame Deidre Hutton (DDH)	CAA Chair
Paul Smith (PS)	Group Director, Consumers & Markets
Matt Buffey (MB)	CAA CMG
Graham French (GF)	CAA CSP (Item 7)
Karolina Wicher (KW)	CMG (Observer)

Declaration of interests

None.
The meeting was held remotely.

Chair's Update

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

JW had a meeting with the CAA Chair and CEO to discuss the Panel's move within CAA from the CAA Strategy and Policy Group (CSP) to the Consumer and Markets Group (CMG), and to outline Panel work plan proposals. Regular meetings have also been held with Paul Smith, Tim Johnson and Matt Buffey.

JW met Jeff Halliwell, Chair of the Heathrow Consumer Challenge Board (CCB) to discuss the CCB report on Heathrow Airport Limited's interim business plan. The Consumer Panel later provided feedback on the CCB's report. A meeting was also held with Antony Smith, CEO of Transport Focus where potential joint areas of work for the future were discussed. A meeting with Airlines UK was planned but was postponed due the corona virus pandemic.

JW welcomed Tom Willis to the meeting. Tom will be now be assisting with Panel secretariat work. JW thanked Carol Cairns for her work with the Panel secretariat.

Members Updates

CW attended the Aviation Consumer Survey Working Group which raised new questions on the environment that could be included in the next wave of the consumer tracker. A Panel view is needed along with some pre-research to formulate questions. HG pointed out that the tracker survey is currently on hold with the next wave now not expected to take place until Autumn.

CB suggested a cautious approach to explore consumer preferences in relation to carbon considerations when booking a flight to obtain a better understanding of consumer sentiment in this area.

HD attended the CAA Accessibility Group meeting in April. There is concern among the group that accessibility will be neglected due to the current corona virus crisis. The CAA have assured the group that this will not be the case and that they are still collecting data when it is available. There is also the worry that when flights start up again services may not be available for people who need them.

WM asked how the rest of the meeting would be structured considering the lack of aviation activity. He raised concerns about issues consumers were facing regarding being offered vouchers rather than refunds for cancelled travel and asked what the CAA's position was on this.

JW replied that PS would be addressing this issue during his CAA update (item 3 on the agenda.)

CAA Update -Strategic and Consumer Work

PS provided an overview on wider CAA activities with a focus on the impact of the corona virus pandemic on aviation.

Corona Virus and Aviation

The impact of the corona virus on aviation has been and continues to be a major focus of time and effort for the CAA. Despite this all business as usual activity is also being maintained. There have been very few flights (flights are down 90% compared to this time last year) with most of these being repatriation or cargo flights. The industry is now starting to turn its attention to restarting operations and ensuring that the necessary health and safety measures are in place.

Refunds

The law on refunds is set out in EU Regulation 261/2004 Air Passenger Rights and the Package Travel Regulations.

PS said that the CAA's role is not to change the law but to monitor and apply the law as it exists. There is no enthusiasm at either national or EU level to change regulations despite lobbying from stakeholders. The ability for consumers to access refunds is important and the CAA issued additional guidance on this very early on in the crisis. There is no problem in offering airline/package travel vouchers as a choice for consumers, but this must be consistent with the regulations that a refund

must be issued if the customer seeks this. One issue that has been reported is difficulty obtaining a refund/making it easier to get a voucher or make a re-booking. The CAA has been monitoring current practice . Enforcement tools are cumbersome, and the CAA's first step is to get airlines to change their behaviour voluntarily.

Regarding the timeliness of refunds the CAA is taking a proportionate approach to this. Call centres set up by some airlines are not fully staffed due to social distancing rules and there are security and data issues for maintaining these processes in an out of office setting. Changing time periods is something only the Government can do. The CAA is aware of proposals made by 'Which' and PS and MB will be meeting with 'Which' in the next few days to discuss.

Questions

CB asked if refund payments could not be processed by credit card companies while the country is in lockdown. PS replied that the issue is around authorisation and not processing the payment but that he would take this idea away.

CB pointed to the poor communications between airlines and consumers and suggested that there must be a better solution.

CW agreed voluntary compliance is best and asked what the CAA can do to ensure a balance between what is proportionate for the industry and what is also proportionate for consumers? PS said that the CAA are doing this by being clear that refunds must be an option. He pointed out that compared to other countries the UK were taking a strong position in relation to consumers. He added that some airlines have added incentives around accepting vouchers instead of refunds, but he agreed that consumers did need to understand that they could be taking a risk if they accept vouchers.

TM asked if the current crisis has increased the risk of insolvency. PS replied that the CAA is working actively with the DfT and pointed to the Government support that has been put in place for airlines including the availability of business loans.

JM asked what a reasonable deadline would be for refunds. PS said he was reluctant to put a blanket timeline on this as it will differ from airline to airline.

HG said that emails asking about refunds have been coming into the Consumer Panel inbox. She asked if there could be a Panel line to take on these requests.

Action:

- The Consumer Panel to agree a line to take on the issue of refunds. JW will discuss wording and circulate. HG to confirm final wording with Richard Stephenson.

Consumer Vulnerability Toolkit

At the January Panel meeting members asked for an update on work that has been done on a vulnerability toolkit. MB took the Panel through several slides illustrating progress that has been made.

- In 2018 the Panel proposed a definition of consumer vulnerability and gave examples of how aviation consumers could be affected. The CAA is now taking this work forward providing timescales for the work and Panel input. Under s149 of the Equality Act 2010 (the Public

Sector Equality Duty PSED) the CAA has a duty when exercising its functions to promote equality treatment and foster good relations.

- Consumer vulnerability is often focused on passengers with disabilities, but consumer vulnerability is wider than that. As some examples, the CAA have also provided guidance to tour operators offering Hajj pilgrim trips and have prioritised hardship cases when dealing with Thomas Cook consumer claims. AVSEC have provided guidance at airports for security staff interacting with transgender people.
- A definition of consumer vulnerability will be recommended to ExCo using the Public Sector Equality Duty (PSED) as a driver. A model will be proposed to ExCo for embedding consumer vulnerability. This model will include: embedding consumer vulnerability in decision making; raising awareness in colleagues via training and workshops; reporting on progress to ExCo and the Board and via Group Director reports and reviewing and agreeing priority areas of work on vulnerability.
- An Exco paper outlining this work is being drafted and Consumer Panel input will be requested before it is finalised.

Questions

DT asked if the corona virus crisis has created another group of vulnerable consumers and if so does that change any approach we might take to vulnerability?

CW said the PSED looks at protected characteristics, a broader definition would include situational factors that create vulnerability and so there is scope to go beyond the duty.

MB said that vulnerability training will drill down into details about the sort of market features that can cause vulnerability and so prioritising future work. The corona virus will affect consumers differently and the framework could be used to examine this.

CW said that the CAA should look at the work Heathrow Airport Ltd (HAL) are doing on vulnerability as it is one of the best pieces of research about vulnerability that she had seen and their training materials are excellent. MB said that he would contact HAL to obtain a copy.

JW pointed out that it is not just the characteristics of an individual that creates vulnerability it could also be the circumstances they find themselves in.

CB suggested future work with stakeholders on this subject e.g. Which, FCA, HAL.

TM suggested a wider definition of vulnerability should emphasise the role of the market in causing vulnerability.

WM said that as the market begins to reopen there may be implications for those who may be vulnerable to corona virus but do not fit easily into the current framework.

Actions:

- Panel to be consulted on draft ExCo paper.
- MB to contact HAL for training materials.

CAA Chair

JW welcomed DDH to the meeting and thanked her for her regular attendance at Consumer Panel meetings over the years.

DDH said that the CAA should look at the vulnerability research carried out by HAL (mentioned by CW earlier in the meeting) to see what could be learned from it. DDH said that as she was leaving the CAA at the end of July a search for her successor was underway and she anticipated that they would be in place before she leaves so that a handover could take place.

DDH reflected on the role of a consumer panel during her term as CAA Chair and suggested there were three phases:

The first phase: Why have a consumer panel? DDH said that when she first became Chair of the CAA all risks on the risk register looked at the reputation of the CAA and not risks to the consumer.

The second phase: The CAA thought about consumers but without enthusiasm.

The third phase: There was a move beyond acceptance to see the value of a consumer panel and putting a panel in place. The Panel has moved the culture of the CAA toward a better understanding of its central role in protecting consumers.

DDH pointed to the external recognition of the Panel and JW's meetings with Ministers and external bodies. She said that the Panel now provides evidence to help the CAA and cited examples where this has happened including in the areas of ADR and vulnerability. She pointed to the Panel's focused work programme and disciplined approach that had served the Panel well. On the move of the Panel from CSP to CMG, DDH said that this should not impinge on the independence of the Panel.

Looking at the work programme of the Panel up to 2022 DDH pointed out that the corona virus crisis changes everything and suggested looking at what is the focus for the rest of this year; for the next 2-3 years; and further out on the horizon.

DDH pointed to several areas to engage the Panel, pollution levels are down due to the virus and sustainability and the environment are in focus. New business models may emerge e.g. state airlines – what would this mean for the CAA? The business models of airlines themselves may also change as they try to recoup losses, and this may have an impact on consumers. In terms of technology and innovation, the CAA Innovation Hub is busier than ever looking at issues like new uses for drones to help in the current crisis. This will all have an impact on consumers and create challenges for the CAA and will mean that the Consumer Panel work programme will need to be fluid.

Questions

JW agreed that the Panel would need to be flexible and that the current work programme had already been amended to take into account the corona virus crisis and its impact on aviation.

CB pointed to ADR progress and said that the Panel believes that there is scope to strengthen this and that there was a case for a single ADR provider perhaps an ombudsman and mandatory ADR.

DDH agreed that the voluntary ADR approach has been taken to its limit and that ADR would become more important in the years ahead. In terms of consumers she said it would be better to have a single ombudsman and that she was not in favour of ombudsman arbitration.

PS said he supported making ADR mandatory, but government would be required to do this. The CAA view was that a single provider has not been ruled out, but multiple providers have not been in place very long and there has not been enough time to see if this has worked or not.

JM asked if awareness of the value of an improved environment put together with a heightened focus on technology use have an impact on the use of air travel? The virus has also knocked Brexit off the headlines but clearly there are a number of implications there.

DDH said that some internal work thinking about what might happen in light of the virus is taking place along with external research. Undoubtedly corona virus is speeding up technological change. The Secretary of State has made clear that the date to work towards is 1 January 2021 and the CAA continues to this. The CAA is working on a bilateral air safety agreement with EASA.

WM said If industry is going to shrink this will mean the CAA will also be expected to shrink. How much of CAA functions will be asked to carry on and what will be the likely outcome? DDH replied that the Government is clear that CAA retains its capacity and will support the CAA to do that. There is no expectation that functions will diminish.

DDH asked what lay behind the anxiety of the Panel's move to CMG. WM replied that he believed it was the position of the secretariat and independence of the function. The Consumer Panel acts as a critical friend to the CAA and may be critical of the CAA. DDH hoped that if the secretariat had any issues about expressing views they would be able to freely share these to the Panel Chair and through her to the CAA Chair and CEO.

PS pointed out that there were inherent protections built into the structure and said that there was not a perfect place in the CAA to place the Panel. There were also opportunities for wider engagement where work touches on the consumer e.g. in AVSEC. PS agreed to consider if there are other things the CAA could do to ensure the Panel's independence is protected.

JW thanked DDH and DDH thanked the Panel and recognised how much of an impact it has made.

Action:

- PS to further consider Panel's independence and discuss with JW.

Industry Resilience Group

GF presented slides and a paper to the Panel on the work of the Industry Resilience Group (IRG).

This group was formed three years ago at the CAA's instigation, but is industry led and was initially set up to find ways of managing congestion in the network. The IRG has concentrated on areas of work where collaboration and data sharing can be used to benefit the whole of the industry. The IRG has 6 overarching priorities:

- Collaborative decision making
- Common data set
- Levelling the knowledge base
- Playbooks and charters
- Scheduling a known future

The IRG has progressed several initiatives which by reducing instances of, or the severity of, disruption should have improved the experience of consumers. It has also been used by Government as a readymade cross-industry body for preparing operational responses to emerging threats.

IRG initiatives include:

- **A cross border weather trial** where air traffic control weather centres coordinate weather forecasts and mitigation activity making the overall journey simpler and likely to be delayed less.

- **A coordinated agreement between airports** whereby, in circumstances such as when a runway is closed suddenly and temporarily, a limited number of diversions will be taken automatically by each airport.
- **DvC protocol** – this process is used at Heathrow to proactively cancel flights when it is clear the following day's programme will not be fulfilled (e.g. due to bad weather or strikes). For passengers, this means they do not travel unnecessarily to the airport or are less likely to be delayed.
- **Network / Airport community app** – initially developed for Gatwick Airport, the community app allows any approved user with a smartphone to access real time information about the status of the airport, the causes and effects of any disruption taking place and other relevant information and news.

Questions

JW pointed out how practical a lot of this work is and said that there were a number of areas that the Panel could explore or perhaps suggest other bodies that could become members of the IRG. The IRG may also benefit from Panel input as what consumers see as disruption is not always the same as how industry views it.

TW said that there was not much consumer representation on the IRG nor work being driven from a consumer point of view/consumer focus.

HD said that in relation to accessibility the airlines often know about the needs of passengers, but the full details of these needs are not always communicated to the airport. GF recognised this was a good point and said he would pursue it.

GF said that the IRG are looking at network congestion and what it means to industry not necessarily passengers. PS said it was a good challenge from JW regarding the IRG's consumer focus. Consumer input could be welcome in the group outside any commercial sensitivities and PS would be happy to support this on the CAA side. GF said he would feed-back comments and suggestions and offers of input from the Panel to the IRG.

Actions:

- GF to feed-back comments and suggestions and offers of input from the Panel to the IRG and report back.

Draft Annual Report

HG thanked the Panel for the comments they had provided on the draft annual report ahead of the meeting, and said that she would collate the responses, produce a second draft and circulate to the Panel. The annual report will be presented to the CAA Board in June.

Questions

TM said that the annual report includes a summary of the Panel's 2020-22 work plan and asked if the Panel would have to revisit this? JW said that the wording of the plan and criteria included is strong enough to suggest that work may need to be re-prioritised. HG said that the work plan was due to be published shortly. It mentions corona virus and the need to remain flexible. HG would re-circulate the work programme for information.

CW said that the work plan may have to be reviewed regarding Consumer Challenge Board (CCB) work and that she was not sure that there was enough flexibility in the plan to do this.

TM referred to a letter sent to PS regarding the winding up of the CCB and said that it was not in the consumer interest. H7 regulations and consumer process will still go on and the CCB would still be needed.

CW pointed out that it would be a huge piece of work for the panel to take over the work of the CCB.

Actions:

- A second draft of the annual report will be circulated to panel members for further comment prior to sign off (HG)
- Amended work programme will be circulated to view but not for review/amendment. (HG)

A.O.B

CW and TM highlighted the Heathrow Consumer Challenge Board (CCB) is to be wound up. The CCB scrutinises how well HAL has researched, understood and taken into account the consumer interest in its business planning. There was concern over how the consumer interest will be taken into account in the price control in the absence of the CCB. There was also concern that the issue had not been communicated to the Panel earlier, nor had the Panel been consulted or made aware of the decision despite it being a key supporter of the CCB being set up in the first place.

CW said that the Panel's work plan may have to be reviewed regarding Consumer Challenge Board (CCB) work and that she was not sure that there was enough flexibility in the plan to do this.

TM referred to a letter sent to PS regarding the winding up of the CCB and said that it was not in the consumer interest.

CW pointed out that it would be a huge piece of work for the Panel to take over the work of the CCB.

Actions:

- A separate meeting will be organised to discuss the issue of the CCB and the independence of the Consumer Panel.
- A 'handover' meeting between Consumer Panel member sand CCB members to be set up.

Next Meetings

23rd July

22nd October