

Regulatory Policy Group

Consumers and Markets

18 January 2012

Dear Colleague,

Formation of a CAA Consumer Panel

The CAA has decided to proceed with its proposals to set up a Consumer Panel, which will strengthen the voice of the consumer in the CAA's work, and support us in achieving our Strategic Objectives, in particular to "improve choice and value for aviation consumers now and in the future by promoting competitive markets, contributing to consumers' ability to make informed decisions and protecting them where appropriate."

The Panel's role will be to support the CAA to protect consumers, by acting as a "critical friend" to the CAA and by providing a consumer perspective on all aspects of the CAA's work. The Panel will have 'internal independence' from the CAA and focus its work on improving how the CAA regulates the sector, rather than being a campaigning organisation or advocate for individual passengers.

The Panel will supplement – but not replace – the existing ways in which the CAA gathers information about the aviation sector, and identifies issues that adversely affect consumers. The CAA will continue to draw evidence from a wide range of sources, including: passenger complaints; information from consumer advocacy bodies and other regulators; airports, airlines and other industry participants; and primary research undertaken by the CAA. The CAA will also continue to consult widely with all stakeholders, to ensure that it takes balanced and evidence-based decisions. The Panel will enhance this process by challenging and holding the CAA to account to ensure that adequate attention has been given to identifying consumer issues and that the voice of consumers is not lost amongst that of other stakeholders.

To be successful the Panel will need to ensure that its contributions are well-grounded in evidence and the realities of the aviation sector. With this in mind, the CAA has committed to supporting the Panel by providing data and analysis, and also expects the Panel to develop appropriate links with industry. The need for the Panel to develop a focus on evidence and links with industry suggested to the CAA that the Panel needed to be supported by a part-time, paid Chair. Our impact analysis suggests that the overall costs of the new Panel will be lower than the advocacy cost of the Air Transport Users Council.

Overall, the Consumer Panel will build on the CAA's existing relationships with industry, and other stakeholder groups, and ensure that there is a sufficiently diverse representation of the interests of all of those involved in the sector. Ultimately, this should support better regulation, through the targeting of the CAA's work to what

matters to consumers, and reaffirming the CAA's commitment to being a consumerfocussed organisation.

Way Forward

The CAA will now be recruiting for the position of the Chair of the Consumer Panel. As the first Chair of a new organisation, he or she will play a significant part in shaping the role of the Panel and will be critical to its overall success. To support the recruitment process, the CAA has placed an information pack for prospective candidates on its website. It is available to download from the <u>air passenger representation</u> section of the CAA's website. The post will also be advertised in due course.

I have also attached to this letter a short summary of the consultation responses and of the reasons for the CAA's decision.

If you have any questions about the CAA Consumer Panel, in the first instance please contact James Fremantle (james.fremantle@caa.co.uk, 020 7453 6731).

Yours sincerely

Iain Osborne

Group Director, Regulatory Policy Group

Annex: CAA Consumer Panel – summary of responses and CAA decision

Background

In March, the CAA announced changes to the system of passenger representation for air travellers, integrating the Air Transport Users Council into the Regulatory Policy Group. Shortly after the announcement, we published a consultation paper on consumer representation and complaints handling, including a proposal to establish a consumer panel. It received responses from a broad range of stakeholders, with most respondents generally supportive of our plans for this panel. However, a number of stakeholders asked for more information about the possible structure of a consumer panel and the associated costs and benefits.

In August we published a further consultation on our emerging thinking, accompanied by an impact assessment, which set out four broad options for a consumer panel. In the paper, we stated the CAA's preference for a model where the Panel would be a 'critical friend' to the CAA but with 'internal independence' from it. Such a panel would be primarily inward-facing offering expert advice to the CAA but able to set its own agenda. We argued that this option best balanced the need to manage the CAA's costs (the cost of the Panel would be significantly lower than that for the Air Transport Users Council) whilst also ensuring that the Panel has sufficient credibility to add value to existing CAA decision making. This was "Option 3" in the consultation paper.

The options

Below is a summary of the key features of the four options identified in the August consultation, together with the estimated annual cost of each option.

Option 1 (No additional cost)

This option would result in the CAA not setting up a consumer panel. This would reduce the level of passenger representation relative to that provided by the Air Transport Users Council, but would avoid the costs of a replacement organisation.

Option 2 (£10,700 p.a.)

This option would be for a small panel to provide expert advice on consumer issues in relation to some of the key responsibilities of the regulator – notably the price control process. It would be tasked with providing a consumer perspective to inform the CAA's regulatory activities. Its agenda would be set by the CAA. Its size and organisational structure would imply that the Panel would be part of the CAA rather than being particularly independent, and that it would take the form of a sounding board or standing focus group for the CAA to use to provide a valuable perspective on evolving thinking.

Option 3 (£44,000 p.a.)

Under this option, the Panel would act as a "critical friend" to the CAA. It would provide expert advice to the CAA board but would have "internal independence" from it, supported by a part-time, paid Chair. It would be able to provide a consumer perspective on all aspects of the CAA's work, helping CAA the set its priorities in relation to its strategic focus on all areas of the CAA's remit that affect commercial air passengers.

The Panel would not be a campaigning organisation with a substantial public profile and would not have a research budget; instead it would draw upon existing available data, including CAA data on consumer complaints, punctuality statistics and surveys, using intelligence to identify thematic issues. It could also draw upon expertise from industry and other consumer organisations, and encourage the CAA to undertake research.

Option 4 (£270,300 p.a.)

This option would be for a public-facing, campaigning panel providing consumer input into the CAA's work to help inform the regulator's decision-making by raising specific issues of consumer interest.

It would share many of the features of Option 3, but would also be able to commission research and surveys to help inform its work and have a sizeable research budget. It would be available to provide comment to the media on all aspects of air travel. It would have its own website and publish an annual report.

Summary of responses

We received responses from twenty-one organisations including those representing airlines, airports, tour operators and consumers and one response from an individual. The table below lists the preferences of each respondent. We have not attempted to capture all the detail in this summary, but instead have outlined the main themes arising from the responses. The non-confidential, written responses are available on the <u>air passenger representation</u> section of the CAA's website.

Respondent	Preferred option
Aberdeen Airport Consultative Committee	4
Consumer Council for Northern Ireland	4
Stansted Airport Consultative Committee	4
TravelWatch Northwest	4
Which?	4
BAA	3
East Midlands Airport Consultative Committee	3
Edinburgh Airport Consultative Committee	3
Gatwick Airport Consultative Committee	3
Glasgow Prestwick Airport Consultative Committee	3
Heathrow Airport Consultative Committee	3
John Cox	3
London City Airport Consultative Committee	3
London Luton Airport Consultative Committee	3
Manchester Airport Consultative Committee	3
Newcastle Airport Consultative Committee	3
Association of British Travel Agents	2
Thomas Cook	2
Virgin Atlantic	2
Belfast Intl Airport Consultative Forum	1
Board of Airlines Representatives UK	1
British Air Transport Association	1

Three respondents argued that the CAA should not set up a panel: BATA, BARUK and Belfast International Airport Consultative Forum. But of these, BATA said that if the CAA was to set up a panel it would prefer it to be along the lines of option 2. All other respondents agreed that the CAA should set up a consumer panel in some form.

Three respondents – ABTA, Thomas Cook and Virgin Atlantic preferred Option 2, but considered that Option 3 did not provide sufficient additional benefits to justify the increase in cost. However other respondents disagreed and argued that option 2 would not give the Panel a sufficiently credible independent voice to add value to existing CAA decision making.

Five respondents, including Which?, the Consumer Council for Northern Ireland and a number of the airport consultative committees preferred Option 4 but there was general acceptance that the costs might ultimately be prohibitive. Some respondents suggested that the additional benefits in terms of consumer advocacy by the Panel having a research budget, public campaigning profile and ability to respond to consultations would justify the additional costs. Further they suggested that the costs set out in the Impact Assessment could be moderated, through amendments such as using the existing CAA resources such as its website and public relations function.

However the majority of respondents considered that the costs of option 4 would not provide sufficient additional benefit to the objective of the CAA in setting up a panel which is primarily to understand what passengers want from the aviation sector.

Nine respondents preferred option 3. These respondents broadly agreed that the extra cost of Option 4 could not be justified for the additional benefit to the Authority's decision-making. They agreed that option 3 would strike the right balance between the Panel's ability to set its own agenda and retain sufficient independence from the CAA whilst also keeping costs at a reasonable level. However a number of respondents considered that further assurances needed to be put in place to embed the independence of the Panel to ensure it has an ability to speak with authority and challenge the CAA if appropriate. A number of respondents suggested this could be achieved by requiring the CAA to address issues raised by the Panel or, if not, to explain why.

A number of respondents agreed that the success of this type of model would depend highly on the calibre of members and the Chair. However, there were differing views on whether the Chair and members should be paid. There were also differing views on representation on the Panel. A number of respondents from industry argued that industry representatives should be included on the Panel, whilst consumer groups and airport consultative committees considered that their representatives should also be included on the Panel. But there was broad agreement that it was essential for there to be good communication flows between the Panel, the industry, consumer groups and airport consultative committees.

CAA decision

Having reviewed the responses to this consultation, we have decided to set up a consumer panel under Option 3. We consider that there is a need for a panel to support the CAA in ensuring that its regulation takes proper account of consumers' interests.

We are mindful of the need to keep the CAA's costs to a reasonable level and were not convinced that the higher costs required for Option 4 were justified by the added benefits of a panel that would be able to commission its own research and to engage more actively with the media and the public.

However, for the Panel to add real value to the CAA's decision making processes, it is essential that it has sufficient resources to form a genuinely independent view and for it to develop effective relationships with industry and other consumer organisations. We

think that this implies that the Panel needs a part-time, paid Chair to support its work and that the associated additional costs are justified.

We agree with the respondents that argued that there needs to be sufficient protection for the Panel's independence. Based on our research of practices in other sectors, and the views of respondents, we propose a number of measures to support the Panel's 'internal independence'. First, the Panel will report directly to the CAA Board, and will be able to issue written notices to the Board highlighting views and advice, which would require a written response from the Board. Second, the Panel would be able to issue written requests for data and for additional research, which the CAA will either provide or give a written explanation of why it cannot be provided. Finally, the Panel would have its own area of the CAA's website, and would publish an annual report, allowing it to publicise its views and the response of the CAA to its requests.

We consider that this approach will provide an effective consumer panel, with sufficient credibility to hold the CAA to account on consumer issues, whilst also keeping costs to a reasonable level.