

# Minutes of 6<sup>th</sup> CAA Consumer Panel Meeting Monday 9<sup>th</sup> September 2013 12-4pm

Present:

Keith Richards Chair

Crispin Beale Panel Member Sarah Chambers Panel Member

Philip Cullum Panel Member (para 3-4)

Ann Frye Panel Member
Steven Gould Panel Member
Alastair Keir Panel Member
Robert Laslett Panel Member
Anthony Smith Panel Member

**Invited guests:** 

James Tallack Senior Consumer Policy Adviser, CAA

Philip Clarke Senior Policy Adviser, Better Regulation, CAA (para 1)

Sandra Webber Director of Consumer Support, CAA (para 2-3)

Judith Corbyn Head of Economic and Statistical Research, CAA (para 3)

Iain Osborne Group Director, Regulatory Policy, CAA (para 5-7)
Richard Moriarty Director of Economic Regulation, CAA (para 5-7)

Peter John Interim Head of Price Control for Heathrow Airport, CAA (para 5-7)

Maggie Kwok Regulatory Policy Adviser, CAA (para 5-7)

**Apologies:** 

None

Meeting minuted by James Tallack

## **CAA and Better Regulation**

- 1. The Panel received a short presentation from Philip Clarke on how CAA is currently delivering the Better Regulation agenda and where it aspires to be. Members made the following points:
  - The strategy feels inwards looking and there is very little mention of the consumer dimension – CAA needs to be careful it doesn't put the cart before the horse and ensure it sets out clearly what it is trying to achieve in terms of consumer outcomes.
  - Is there really a trade-off between safety and growth, as the industry can only grow if consumers are confident about safety?



- Agreed that CAA should be an influencer and first choice for consultation by central Government (rather than an afterthought) and that it has enormous "shadow power".
- Is CAA looking at burdens on consumers and therefore better regulation initiatives that would benefit consumers? For example, why do passengers have to show boarding cards at airport shops?
- CAA's work on publication of information and its desire to improve its consumer research programme (i.e. regulatory interventions are strongly evidence based) both potentially have a clear better regulation angle and these should be emphasised
- CAA is already an active member of the Joint Regulators Group and JRG consumer
  working group. The panel might want to suggest items for the consumer working
  group as future agenda likely to concentrate on reputational regulation and also
  models for engaging consumer interests in regulatory decision-making.

### Update on complaints handling

- 2. The Panel received an overview from Sandra Webber of recent enforcement activity on price transparency and progress made by CAA on changes to its complaints handling function since the last Panel meeting. Members made the following points:
  - When it carries out enforcement action CAA should seek greater publicity, possibly with the use of case studies. This would help reinforce the public's view of CAA as a consumer-focused regulator.
  - CAA should routinely check pricing practices during key flight and holiday booking periods and use publicity to ensure consumers are informed of the risks at times when they are actually searching the market.
  - Is there a risk that consumers might incorrectly understand the ATOL license (providing protection from financial failure) and logo as an endorsement from CAA of a firm's other practices, including price transparency?
  - That the CAA's proposed 12 month cut-off for accepting complaints was reasonable but CAA needed to ensure that incentives for airlines to drag the complaint's handling process out (and therefore deny consumers the opportunity to refer their complaint to CAA) did not exist.
  - The onus should be on an airline to clearly demonstrate to a consumer claiming compensation why it shouldn't have to pay.
  - It would be concerning if as a result of CAA's proposed accreditation and audit scheme
    for airlines consumers were effectively waiving their right to a second opinion from CAA

     there must be no expectation that this could be the case as this could reduce
     consumers' incentives to enforce their rights in the first place. Could airline accreditation
     therefore be conditional upon signing up to some kind of ADR scheme?



- Any changes made to address apparent short-term problems (such as the backlog of compensation claims being made under EC261/2004) should not compromise the development of an efficient and effective redress system in the longer term.
- The current EC261/2004 regulations are problematic in many ways and this
  demonstrates the importance of CAA becoming an effective influencer at UK
  Government and European level.

#### **Developing a consumer research strategy**

- 3. Judith Corbyn and James Tallack presented the CAA's outline plans for consumer research over the coming 12 months, including how these related to the development of CAA's consumer strategy and details of three specific projects to establish a tracker survey and gain a greater understanding of the experiences of disrupted passengers and consumers who don't fly at all (or do so very infrequently). Members made the following general points:
  - Happy to finally see a future research plan and very pleased to see that earlier engagement with the Panel has helped to shape it.
  - CAA shouldn't be too prescriptive in setting its consumer strategy upfront and that it is fine to allow this to evolve from the research.
  - CAA should carefully consider what other consumer research is available from its stakeholders and not duplicate efforts. It should also consider partnership research, such as with other European NRAs, perhaps involving organisations like the Centre for Competition Policy or think tanks.
  - Would like to know the level of budget the CAA has in mind.
  - Strongly support the proposal for a tracker survey and this should be relatively simple to put in place.
  - Strongly support the proposal to do research with disrupted passengers although recognise the logistical and methodological challenges of identifying disrupted passengers and interviewing them at an appropriate time.
  - More qualified support for understanding the issues faced by infrequent or nonflyers and CAA needs to clarify whether it will be focusing on the full range of barriers and risks or just those that are within its scope as the regulator.
  - The projects on disrupted passengers and infrequent or non-flyers could be merged as a household survey to increase bandwidth and lower costs.

#### Future planning – working practices and discussion of Annual Report

4. Due to time constraints the Panel agreed to defer discussion of working practices and its work plan until a later date. The brief discussion therefore focused on the draft Annual Report where Members gave broad approval for the document and made some comments concerning the design and layout and the importance of meeting document accessibility standards.



#### **Review of Q6 proposals**

- 5. Iain Osborne and Richard Moriarty provided an overview of the proposals for the economic regulation of Heathrow, Gatwick and Stansted that would be presented to the CAA Board later in the month. Members made the following points:
  - Agreed that Heathrow would continue to require price regulation in the form of a RAB-based price cap.
  - Agreed that, on the basis of the evidence presented, a monitoring process (without
    a licence) may be appropriate for the passenger market at Stansted, but said that
    Stansted was likely to have substantial market power in the cargo market and some
    form of licensing may be required here.
  - On Gatwick, Members agreed with CAA that on balance the commitments made by Gatwick backed with a licence and monitoring regime was the right approach.
     However, Members said that the commitments (as based on the commitments draft of 20<sup>th</sup> August 2013) were not ideal for a number of reasons, including the weakness of the service quality provisions and the greater flexibility on capex. Members asked CAA to specifically bear the following questions in mind:
    - i. Is CAA prepared to accept an outcome (in terms of the total package of commitments and licensing regime) that may be only slightly less desirable from a regulator/consumer viewpoint than would be achieved under a RABbased licence?
    - ii. Although CAA identified that the better environment for long-term contracts are a material advantage of the commitments approach, how significant or concerned is CAA that bilateral contracts between Gatwick and airlines could, in principle, have emerged under existing RAB regulation but in practice did not?
    - iii. Regarding bilateral contracts, has CAA considered adding a deadline to Gatwick's licence to ensure that bilateral agreements are reached between airlines and GAL within a reasonable timescale? And if they are not, will CAA look to amend the licence to include direct price regulation?
    - iv. Does CAA consider that the proposed level of the WACC is consistent with those used in other regulated sectors?
    - v. Does CAA consider that, given the potential advantages cited by CAA of the commitments, a RAB-based alternative would be on tougher terms?
- 6. The Panel undertook to provide a summary of its views on the Gatwick proposals to CAA and also requested that the final paper submitted to the Board included a separate section based on the content of that email so the Board would be clear on the Panel's views.
- 7. The Panel also discussed whether in the case of an appeal and referral to the Competition Commission the Panel would be regarded as part of CAA or as a third party and agreed that it would be important to establish this.



# **End of minutes**