

Economic regulation of Heathrow Airport Limited: response to its request for a covid-19 related RAB adjustment

CAP1966

The Consumer Panel welcomes the opportunity to comment on the above CAA consultation.

In summary we agree with the CAA's conclusions: that there are a number of important issues in relation to the operation of the regulatory framework for Heathrow Airport Limited (HAL) in the circumstances of covid-19 and that HAL has not yet provided sufficient information to justify urgent regulatory intervention, nor that it has provided evidence that demonstrates that its proposed remedy is proportionate or supported by an assessment of different options for dealing with the difficulties it has identified.

We are concerned that, while the consultation document refers to the CAA's, HAL's and the airlines' focus on the consumer interest, there is no clear articulation of how the consumer interest is to be measured in determining how any of the proposed potential remedies might impact the consumer.

For instance, we would expect there to be a consideration of:

Price – to what extent, if at all, would any increase in airport charges as a result of a rise in the Regulatory Asset Base (RAB) be expected to be passed on by the airlines to consumers. We would expect to see an assessment of how the level of competition between airlines at Heathrow might influence the amount of such charge increases being absorbed by the airlines.

Availability – if some or all of the increase in airport charges were to be absorbed by the airlines, would this have an impact on the medium to longer term capacity of the airport? At the margin we might expect, depending on the size of the increase in charges, some airlines to reduce capacity. Once the aviation sector returns to some form of post-covid normality, this is not likely to be in the consumer interest.

Choice – If the airport charge increases force one or more airlines to stop using Heathrow, this would be likely to reduce choice and therefore also not be in the consumer interest.

Inter-generational issues – we would expect some consideration to be given as to how to assess what the impacts would be on consumers in the near-term and those further into the future.

This issue is an example of where the consumer interest and the interests of the airlines are not necessarily aligned. Therefore, a debate that focuses on the views of HAL and the airlines without formal input from consumers, is likely to result in an outcome that is sub-optimal for consumers.

The Panel's view is that a combination of theoretical economic analysis and empirical evidence and research will be required to provide the basis on which the consumer interest can be assessed for this issue. We also consider that such an approach should be adopted more widely in assessing future proposed changes to the regulatory framework for HAL.

The Panel considers that there may be important precedent for this issue in how covid-related costs are treated in the UK airports not subject to price regulation. The CAA will have the benefit of being able to see real-time developments in airports other than Heathrow as to how the 'market' determines that these costs are borne. The current indications, as set out in the CAA's summary of the airlines' views, are that these airports are not seeking to pass on covid-related costs. We recommend that the CAA monitor these developments closely to inform its decision-making.