

Empowering consumers and furthering their interests – seminar note

Wednesday 27 April 2016: 9:30-11:30am

CAA House, Kingsway, London

CAA	HAL	Airlines
Stephen Gifford	Richard Hepburn	Mark Gardiner (LACC)
Rob Toal	Matt Greenfield	David Hart (BA)
James Tallack	Kathryn Greenhalgh	David Milford (BA)
Beth Corbould	Sam Burnell	David Joseph (VA)
Abigail Grenfell		Andrew Cunningham (AOC)
Stuart Holder		Simon Arthur (AOC)
Freya Whiteman		Cesar Raffo (IATA)
Emanuela Michetti		Emi Spanakis (oneworld)
		Peter Roberts (IAG cargo)
		Bette Wiley (AA)

Welcome and introductions

1. The CAA welcomed attendees and explained the purpose of the meeting was to discuss and receive views on the CAA's proposed approach to the H7 strategic theme related to empowering consumers. The CAA had circulated a paper on its proposed approach to introducing independent, consumer-focused challenge and scrutiny into the H7 process through the establishment of a Consumer Challenge Forum. The discussion through the seminar would be considered alongside feedback on the strategic themes discussion document.

2. To begin, the CAA outlined that for H7 a lot of emphasis is being put on finding ways to ensure that HAL compiles a challenging and high quality business plan at the outset of the price review process. Considering the CAA's primary duty to consumers, as well as important recent trends in economic regulation, the CAA is shifting towards a more explicit focus on consumer outcomes in the business plan and the attachment of appropriate incentives to these outcomes. The CAA needs to ensure that the outcomes that the business plan seeks to achieve are the right ones, and that they reflect the consumer interest.
3. The CAA explained that in Q6 the CAA essentially took responsibility itself for determining what consumers' value and then specified outputs, performance standards and incentives on the basis of this consumer engagement together with input from constructive engagement.
4. For H7, the CAA is looking to move away from this top down approach and challenge HAL, as the regulated firm, to carry out effective engagement with consumers and propose outcomes. The CAA sees this as a more effective and efficient arrangement – making best use of the consumer insight generated by the industry, joining up business planning and consumer insight functions and supporting the internalisation of consumer focused thinking within HAL.
5. The CAA sees the establishment of the CCF within HAL's business planning process as the way to assure themselves and other stakeholders that the consumer engagement carried out by HAL is done to a high standard and that the outcomes and incentives proposed are the right ones. In practice, this assurance will be provided in reports to the CAA on the various iterations of HAL's business plan, which will help to inform the CAA's view on the regulatory settlement.
6. The CAA is clear that this is not an audit of HAL that could be run by the CAA. The CAA wants to introduce a dynamic and iterative process of consumer challenge within the business planning cycle, which requires the CCF to work closely with HAL, while also maintaining its own independence.

7. In order for this to happen, the CCF needs to be rigorously independent, credible in terms of its expertise, highly transparent and with the ability to make its views heard and listened to. If these things aren't put into practice then it is going to be far less likely the CAA will take account of the CCF's views.
8. The CAA said they were alive to airline concerns about 'capture' or corruption of the CCF and that they believed this risk would be mitigated through the governance of the CCF: clear rules on past and future relationships between the CCF and the industry; taking remuneration out of HAL's hands; requiring the CCF to take account of the evidence and consumer insight held by all stakeholders, and not just what HAL puts in front of it; a clear escalation route to the CAA where issues can't be resolved; and full transparency of the CCF's meeting minutes. However, the CAA said they felt the best safeguard of all against capture is the integrity of the individuals who will be appointed to the CCF – and therefore invited airlines to play an equal role with HAL and the CAA in the appointment of the CCF in order that they can have confidence in the CCF.
9. The CAA said their preferred approach to securing a CCF that provides useful input to CAA decision making is would be through the publication of guidance on minimum standards, which will be codified in the CCF's corporate documents in order that it can be effectively held to account by all stakeholders. The CAA said they wanted to use the seminar to scrutinise and challenge the draft minimum standards that we have developed.

Discussion

10. After the introduction by the CAA, several points were raised by airline representatives:
 - Airlines and airports already collect a huge amount of consumer research, and undertake significant consumer engagement and that there was already an effective process for this intelligence to be fed into business planning,

- The introduction of the CCF therefore risked over engineering a process that currently works well, and
- It was unclear what the 'gap' the CCF was intended to address was, and what its purpose was. The CAA therefore needed to be clear where they saw gaps or deficiencies in the current process before claiming that the CCF could add value to it.

11. The CAA said it intended for the CCF to make use of a wide range of engagement. The CAA said it considered that the CCF could add value by providing expert assurance that Heathrow's business plan was reflecting the interests of consumers, and thus that the CAA was having adequate regard to its primary duty. The CAA responded that the robustness of the research by airlines was not being questioned, but that they wanted assurances that consumer interests were being captured by the regulatory regime.

12. Airline attendees raised further concerns that:

- The introduction of the CCF may change Constructive Engagement (CE), which was viewed as working well already. It was unclear what the CCF's role would be in CE, including what their output of such involvement may be, and how any outputs would be used by the CAA,
- It was not obvious how the CCF would operate, and what the potential outputs may be. It was also unclear how the CAA would utilise the information provided by the CCF, and that this uncertainty may be unhelpful for the regulatory process,
- While the CCF has been described by the CAA as being high-level, it seemed that some of the outputs being discussed would require significant effort, and
- A better understanding of the "Incentivising the right outcomes" work-stream would be needed to put the CCF's proposed activities in context.
- The airline community agreed that it was vital that the CCF was independent, and was seen as such. They did not agree that the

current proposal, where HAL had latitude in how the CCF was to be run, the appointment of members, its ToR and review, how the CCF interacted with airlines, and provided the secretariat and accommodation, was appropriate to deliver an independent CCF.

- Airlines stated if the purpose of the CCF was to ensure that the interests of consumers were reflected in HAL's BP, it was unclear why the CCF's relationship with HAL needed to be as close as the CAA suggest, as it is airlines who are the only bodies with a direct and contractual relationship with the passenger, and who are the only people with a commercial imperative to deliver what the passenger wants.

13. In response to the questions of what the CCF will actually be doing and how it would interact with CE, the CAA said they will be asking it to focus on the things where it can add most value in H7 – this means not poring over the full range of traffic projections, opex, capex and other assumptions that will continue to be assessed by the CAA and the CE process (which provides an opportunity for stakeholders to not only scrutinise the business plan but also the CCF's views on it), but looking primarily at the 'bigger picture' of consumer engagement and how it informs outcomes and incentives. However, in line with its proposed primary objective to act solely in the interests of consumers, the CCF should be free to challenge any aspect of HAL's business plan and make the case as to why its views in other areas should be considered.

14. The CAA outlined that it intended the main output of the CCF being a report on HAL's engagement with consumers, and how engagement has been translated into HAL's business plan. The CAA said it intended to use the views of the CCF as one input into its decision making, in addition to the views of airlines and HAL. The CAA also said that they do not see how outcomes are achieved as being part of the role of the CCF, and that there remained a very significant role for the airlines and CAA in shaping delivery and costs. The CAA said the lessons from the CAA's Consumer Panel may be a good comparison to the CCF; the Consumer Panel's role is to hold the CAA to account in addressing consumer issues.

15. Attendees from HAL suggested that:
- It may be a helpful part of the regulatory process to have the views of a body that does not have a commercial interest in Heathrow, and
 - On the basis of the current H7 timetable, for the CCF to play the role that the CAA envisages it would need to be established by early summer 2016.
 - Finally, an attendee asked how the CAA defines cargo owners, and how the CAA intended to involve cargo views in H7. The CAA said they recognised they needed to do more work to understand the needs of cargo owners, and that the definition implied by the Civil Aviation Act 2012 was very wide.

Next steps

16. The CAA closed the meeting by saying they would do further work to address stakeholders' concerns, including meeting again with airline representatives, but stressed the need for focused and timely engagement in order to keep to the proposed H7 timetable.