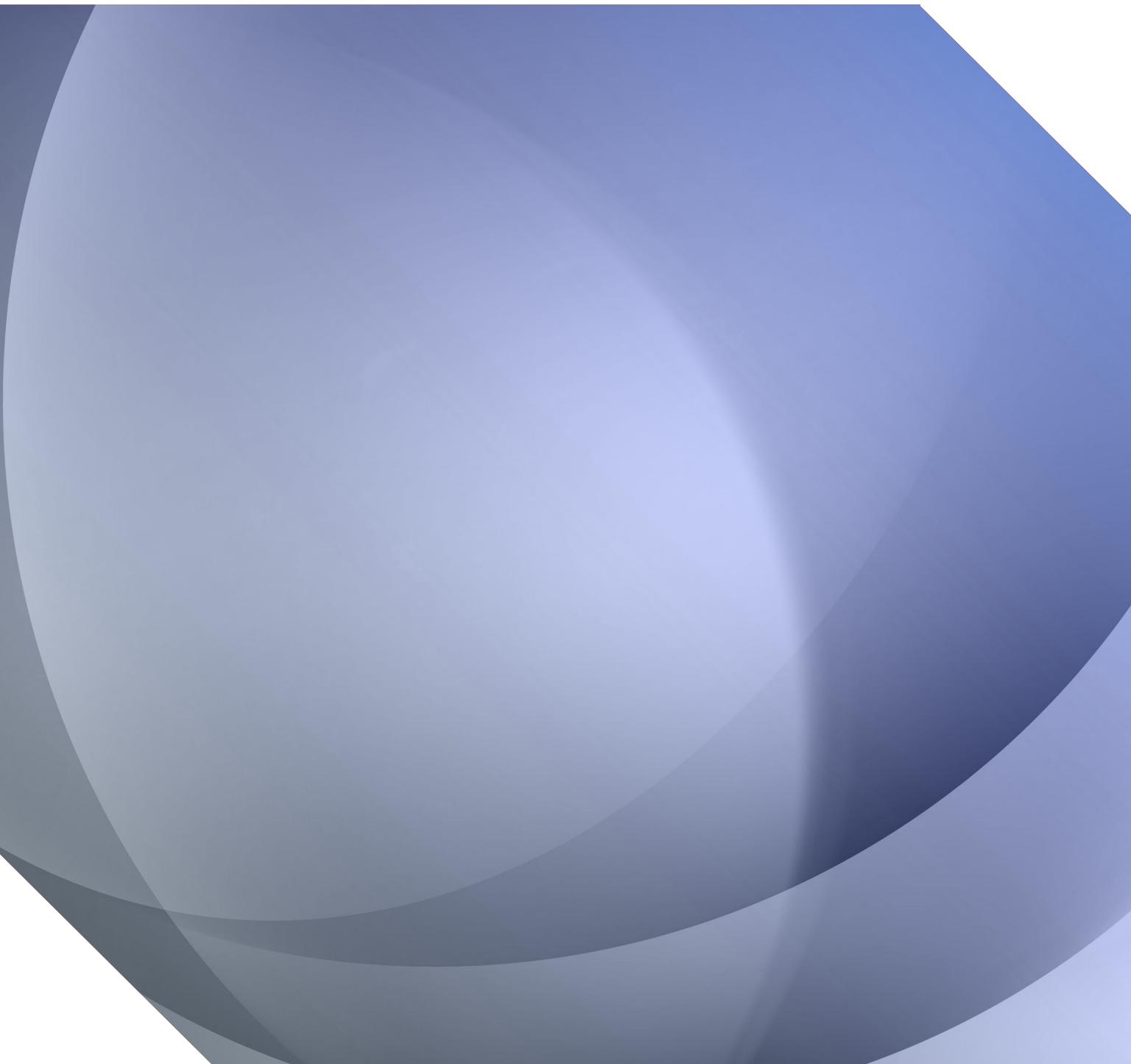


# Prioritisation Principles for the CAA's Consumer Protection, Competition Law and Economic Regulation Work

**CAP 1233**



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# **Prioritisation Principles for the CAA's Consumer Protection, Competition Law and Economic Regulation work**

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## CHAPTER 1: INTRODUCTION

### About the Civil Aviation Authority

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- 1.1 The Civil Aviation Authority (CAA) is the UK's independent specialist aviation regulator. Our activities include:
- ensuring that the aviation industry meets the highest technical and operational safety standards;
  - improving choice and value for consumers;<sup>1</sup> and
  - planning and regulating UK airspace.
- 1.2 We are also the economic regulator for airport operators and air traffic services and provide advice on aviation policy.
- 1.3 We have a range of powers spanning consumer protection, competition law and economic regulation. Our principal economic regulatory functions are set out the Transport Act 2000 (TA00) and the Civil Aviation Act 2012 (CAA12) and instruments made under them. We also have concurrent competition law powers under CAA12, the Enterprise Act 2002 (EA02) and the Competition Act 1998 (CA98).

### Overview of this document

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- 1.4 This document sets out the Prioritisation Principles we intend to apply when choosing which pieces of work to pursue in the areas of consumer protection, competition law and economic regulation.<sup>2</sup> The principles do not apply to other work we carry out such as Air Travel Organisers' Licensing (ATOL) or Safety and Airspace regulation.<sup>3</sup>

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<sup>1</sup> The CAA's Regulatory Enforcement Policy defines consumer as "an end-user of an aviation service who does not himself provide an aviation service, such as a passenger, a freight customer, a student pilot or buyer of flying lessons." For more information see: [http://www.caa.co.uk/docs/2516/Regulatory\\_Enforcement\\_Policy.pdf](http://www.caa.co.uk/docs/2516/Regulatory_Enforcement_Policy.pdf)

<sup>2</sup> See chapter 2 for more information. We have also consulted on guidance in relation to each of these areas of work. See <http://www.caa.co.uk/default.aspx?catid=2516&pagetype=90>

<sup>3</sup> These areas of work have their own respective enforcement guidance. For more information see <http://www.caa.co.uk/default.aspx?catid=2516&pagetype=90>

- 1.5 In developing our Prioritisation Principles, we have considered our statutory duties, the Regulatory Enforcement Policy,<sup>4</sup> the existing principles set out in our Consumer Enforcement Guidance,<sup>5</sup> as well as the approaches and best practice of the Competition and Markets Authority (CMA) and other sector regulators. In addition, we have had regard to the Better Regulation Principles to ensure transparent, accountable, proportionate, consistent and targeted decision making.

## Definition of user

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- 1.6 In this guidance, we refer to the term 'user' to reflect the different definitions under our consumer protection, competition law and economic regulation powers.
- 1.7 We consider that this overarching term more clearly reflects the groups whose interests our various powers are designed to protect. For example, user can mean passengers, freight customers, student pilots, buyers of flying lessons and other consumers and is therefore consistent with the CAA's Regulatory Enforcement Policy. It is also broad enough to cover specific definitions used in the relevant legislation. For further information, see chapter 2.

## Structure of this document

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- 1.8 The remainder of this document is divided into the following chapters:
- **Chapter 2: Scope of powers and purpose of the Prioritisation Principles** - This chapter sets out the general scope of our consumer protection, competition law and economic regulation powers and explains why we need to apply Prioritisation Principles when choosing pieces of work to pursue in these areas; and
  - **Chapter 3: The CAA's Prioritisation Principles** - This chapter sets out the Prioritisation Principles and explains how we will apply them.

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<sup>4</sup> This sets out our overall approach to enforcement. See [http://www.caa.co.uk/docs/2516/Regulatory\\_Enforcement\\_Policy.pdf](http://www.caa.co.uk/docs/2516/Regulatory_Enforcement_Policy.pdf)

<sup>5</sup> See <http://www.caa.co.uk/default.aspx?catid=2516&pagetype=90>

## CHAPTER 2: SCOPE OF POWERS AND PURPOSE OF THE PRIORITISATION PRINCIPLES

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### Scope of powers

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- 2.1 Our consumer protection, competition law and economic regulation powers are set out below. Specific statutory duties<sup>6</sup> and definitions of users are referred to where relevant.
- 2.2 We will also have regard to the Better Regulation Principles as required under specific statutory duties<sup>7</sup> and as a matter of policy and best practice.

### Consumer protection powers<sup>8</sup>

#### *European legislation providing rights to air passengers*

- 2.3 We have powers to enforce a range of passenger rights legislation that apply specifically to the aviation sector including rights during flight disruption, access to air travel for passengers with mobility problems and price transparency.

#### *General consumer law under Part 8 of the Enterprise Act 2002*

- 2.4 We are a designated enforcer under Part 8 of the EA02 and have powers to act in the collective interest of consumers in respect of a range of consumer law. This includes legislation regarding unfair trading and contract terms.

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<sup>6</sup> For example, under CAA12 and TA00.

<sup>7</sup> For example, under section 1(4) CAA12.

<sup>8</sup> Further information on our consumer protection powers can be found in our Consumer Enforcement Guidance. See <http://www.caa.co.uk/default.aspx?catid=2516&pagetype=90> We also have consumer protection powers relating to the sale of flights and air holidays and airline operating licences. The Prioritisation Principles set out in this document do not apply to those powers. See the ATOL and Airline Licensing Enforcement Guidance for further information: <http://www.caa.co.uk/default.aspx?catid=2516>

We are also a competent authority under the Consumer Protection Cooperation Regulation (CPC).<sup>9</sup> This provides powers to refer cross-border issues affecting UK consumers for action by the EU enforcer where the business is based.

### **Information publication duties under the Civil Aviation Act 2012<sup>10</sup>**

2.5 We have a duty to publish, or arrange for the publication of information about services and facilities to users<sup>11</sup> and information about the environmental effects of civil aviation in the UK.<sup>12</sup>

## **Competition powers<sup>13</sup>**

### **Application and enforcement of competition law**

2.6 We have concurrent competition powers with the CMA to apply and enforce the UK competition prohibitions in Chapter I and Chapter II of CA98 and the equivalent EU prohibitions in Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) in relation to airport operation services (AOS)<sup>14</sup> and air traffic services (ATS).<sup>15</sup>

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<sup>9</sup> Regulation (2006/2004).

<sup>10</sup> Our general statutory duty is set out under section 1 CAA12.

<sup>11</sup> Under section 69 CAA12, a user of an air transport service is a person who is a passenger carried by the service or has a right in property carried by the service.

<sup>12</sup> Further information can be found in our policy statement for carrying out our information duties under CAA12. See

<http://www.caa.co.uk/application.aspx?catid=33&pagetype=65&appid=11&mode=detail&id=6006>

<sup>13</sup> Further information can be found in our guidance on the application of our competition powers. See <http://www.caa.co.uk/default.aspx?catid=2516&pagetype=90>

<sup>14</sup> See section 68 CAA12.

<sup>15</sup> See section 98 TA00.

**Sector reviews<sup>16</sup>**

- 2.7 We have duties to keep under review the provision of AOS and ATS so that we can maintain oversight of the sectors for which we are responsible.<sup>17</sup>

**Market studies**

- 2.8 We have concurrent powers with the CMA to undertake market studies<sup>18</sup> in relation to AOS and ATS. A market study will inform our decision on whether to make a Market Investigation Reference (MIR) to the CMA under EA02.

**Market Investigation References to CMA**

- 2.9 We may make a MIR to the CMA<sup>19</sup> where we have reasonable grounds to suspect that a feature or combination of features of a market in the UK prevents, restricts or distorts competition.

**Super complaints from designated consumer bodies**

- 2.10 We have concurrent competition powers with the CMA to investigate super complaints made under EA02 by designated consumer bodies about AOS and ATS. Super complaints will be given fast-track consideration and we have a duty to make a reasoned response within 90 calendar days from the day after a complaint is received.

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<sup>16</sup> Our general statutory duties are set out in section 1 CAA12 and section 2 TA00. Under section 69 CAA12, a user of an air transport service is a person who is a passenger carried by the service or has a right in property carried by the service. Under section 2(2) TA00, we must further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them.

<sup>17</sup> See section 64 CAA12 and section 91 TA00. Under section 69 CAA12, a user of an air transport service is a person who is a passenger carried by the service or has a right in property carried by the service.

<sup>18</sup> See Part 4 of EA02.

<sup>19</sup> Our power to make a MIR under Part 4 of EA02 is a concurrent function with the CMA.

### **Market Power Determinations under Civil Aviation Act 2012<sup>20</sup>**

- 2.11 We have powers to make a market power determination where we find that the market power test is met and when it is not met<sup>21</sup> in relation to the relevant operator of an airport area.<sup>22</sup> We can make a market power determination on our own initiative. However, in certain circumstances, we must make a determination if we are asked to do so by specified persons.<sup>23</sup>

### **Economic regulation powers<sup>24</sup>**

#### **Enforcement of licence conditions under the Civil Aviation Act 2012<sup>25</sup>**

- 2.12 We have powers to enforce licence conditions against holders of airport licences<sup>26</sup> by giving contravention notices, enforcement orders, urgent enforcement orders and by imposing penalties.

#### **Enforcement of licence conditions and duties conferred on the licence holder under the Transport Act 2000<sup>27</sup>**

- 2.13 We have powers to enforce licence conditions against holders of ATS licences<sup>28</sup> and duties conferred on the licence holder under section 8 TA00 by making provisional and/or final orders.

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<sup>20</sup> Our general statutory duty is set out in section 1 CAA12. Under section 69 CAA12, a user of an air transport service is a person who is a passenger carried by the service or has a right in property carried by the service.

<sup>21</sup> Section 6 CAA12.

<sup>22</sup> Section 7 CAA12. See <http://www.caa.co.uk/default.aspx?catid=78&pagetype=90&pageid=12275>

<sup>23</sup> Section 7(2) - (5) CAA12.

<sup>24</sup> Further information on licence enforcement can be found in our economic licensing enforcement guidance. See <http://www.caa.co.uk/default.aspx?catid=2516&pagetype=90>

<sup>25</sup> Our general statutory duty is set out in section 1 CAA12. Under section 69 CAA12, a user of an air transport service is a person who is a passenger carried by the service or has a right in property carried by the service.

<sup>26</sup> Licences are granted by the CAA under section 15 CAA12.

<sup>27</sup> Our general statutory duty is set out under section 2 TA00. Under section 2(2) TA00, we must further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them.

<sup>28</sup> Licences are granted by the Secretary of State under section 6 TA00.

***Enforcement of Airport Charges Regulations 2011<sup>29</sup>***

- 2.14 The Airport Charges Regulations 2011 (ACRs) provide airlines and airport operators with a number of protections. In some circumstances, we must commence an investigation under the ACRs for an apparent breach of its requirements. In other circumstances, we can exercise our discretion as to whether to commence an investigation and, in such cases, we will apply the Prioritisation Principles in deciding whether to carry out any work. Further information can be found on our website.<sup>30</sup>

***Enforcement of Airports (Groundhandling) Regulations 1997<sup>31</sup>***

- 2.15 Groundhandling covers a multitude of activities including check-in, handling baggage, cargo and mail, re-fuelling aircraft, and transporting passengers and crew to aircraft. The Airports (Groundhandling) Regulations 1997 (AGRs) prohibit the operators of airports above certain passenger thresholds from limiting the number of groundhandlers operating at that airport without the express consent of the CAA. Where handlers use aircraft facilities such as check-in desks, baggage belts and fuel hydrant systems, the AGRs require the airport operator to allow access to facilities and set its access charges according to relevant, objective, transparent and non-discriminatory criteria.

In some circumstances, we must investigate alleged breaches of the AGRs. In other circumstances, we can exercise our discretion as to whether to commence an investigation and in such cases, we will apply the Prioritisation Principles in deciding whether to carry out any work.<sup>32</sup>

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<sup>29</sup> Under regulation 3, an airport user means, in relation to any airport, a person responsible for the carriage of passengers, mail or freight by air to or from the airport.

<sup>30</sup> See <http://www.caa.co.uk/default.aspx?catid=5&pagetype=90&pageid=14467>. We will also be consulting on separate guidance in 2015.

<sup>31</sup> Under regulation 2, an airport user means any person responsible for the carriage of passengers, mail or freight by air from or to the airport in question.

<sup>32</sup> See <http://www.caa.co.uk/default.aspx??catid=78&pagetype=90&pageid=69>

## Legal duty to act

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- 2.16 In certain circumstances we have a legal duty to act: where this is the case, we will not apply the Prioritisation Principles. Examples include:
- where a duty arises to take action when a cross-border infringement is referred to us by another EU enforcer regarding CPC Regulations;<sup>33</sup>
  - where a duty arises to make available information about services and facilities to users or information about the environmental effects of civil aviation in the UK;<sup>34</sup>
  - where we apply and enforce national competition law we are obliged to apply Articles 101 and 102 of TFEU as appropriate and applicable;<sup>35</sup>
  - where a duty arises to keep under review the provision of AOS and ATS in the UK or elsewhere;<sup>36</sup>
  - once we have received a super complaint from a designated consumer body we have a duty to provide a reasoned response in 90 calendar days from the day after a complaint is received;<sup>37</sup>
  - where a duty arises to make a market power determination;<sup>38</sup>
  - where a duty to take action arises under the ACRs;<sup>39</sup> and
  - where a duty to take action arises under the AGRs.<sup>40</sup>

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<sup>33</sup> See paragraph 2.4 above for more information. EU enforcers can request the CAA take action against UK businesses for infringements of Regulation 261/2004 or Regulation 2005/29, the CAA may refuse to take action if after an investigation it does not consider an infringement has taken place.

<sup>34</sup> See paragraph 2.5 above for more information.

<sup>35</sup> See paragraph 2.6 above for more information.

<sup>36</sup> See paragraph 2.7 above for more information.

<sup>37</sup> See paragraph 2.10 above for more information.

<sup>38</sup> See paragraph 2.11 above for more information.

<sup>39</sup> See paragraph 2.14 above for more information.

<sup>40</sup> See paragraph 2.15 above for more information.

## Discretion to take action

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- 2.17 In other instances, we can exercise our discretion in deciding whether to take any action and, if so, what action we might take. In such cases, we will apply the Prioritisation Principles set out in this document.

## Purpose

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### Why we need to prioritise

- 2.18 We consider that competition is the best way to make markets function well so as to produce positive outcomes for users by driving price, variety, service quality, innovation and choice. However, we also recognise that even apparently competitive markets will sometimes require the need for regulatory intervention to further protect users' interests.
- 2.19 We also recognise that regulatory intervention may be required in markets that do not function well.<sup>41</sup> In such cases, our statutory duties and the Better Regulation Principles require that we will have regard to taking a proportionate and targeted approach.<sup>42</sup>
- 2.20 With this in mind, the selection of the most appropriate form of action<sup>43</sup> against a fair and transparent prioritisation criteria will help us better to channel our efforts and focus, and to allocate our finite resources for maximum efficiency so as to ensure compliance, make markets more competitive and achieve the best possible outcomes for users.
- 2.21 We also have a responsibility to those we regulate and monitor, and to those who are likely to be affected by our decisions, to be clear about when, why and how we will take action so that they are informed

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<sup>41</sup> For example, CAA12 prohibits an operator of a dominant airport area at a dominant airport from charging for airport operation services unless it has a licence granted by us for that airport area. An airport area is dominant if we make a market power determination that the market power test is met in relation to the relevant operator of an airport area and we publish a notice to that effect. See section 6 CAA12.

<sup>42</sup> We are required to consider whether using competition law, to deal with particular issues, is more appropriate than using economic licensing enforcement powers when considering individual cases.

<sup>43</sup> Whether under consumer protection, competition law and/or economic regulation or a combination of them.

about what to expect and on the possible consequences of non-compliance.

- 2.22 Moreover, we consider that targeting our resources and enforcement strategy to deter behaviour that harms users and encourages businesses to compete and trade fairly will help deliver consumer benefits without imposing a disproportionate burden on the aviation industry.
- 2.23 In seeking to act in this way, we will weigh a range of factors including the likely impact on users, strategic and regulatory importance, the likelihood of a successful outcome, and resources.<sup>44</sup>
- 2.24 In addition, we will take into account the work, capacity and strategy of our partners. We are part of the UK Competition Network which enables us to cooperate with and work more closely with our competition partners with the objective of promoting competition for the benefit of consumers. Under arrangements between the CMA and the UK sector regulators regarding the concurrent application and enforcement of competition law, we have agreed to take into account a range of considerations,<sup>45</sup> to determine which body is better or best placed take responsibility for a case. The CMA and CAA have also set out in detail how we will work together in practice on competition law matters.<sup>46</sup>
- 2.25 If appropriate, we might also refer an issue to a government department or another regulatory body where we consider that to be in the best interests of users and will notify affected parties of the transfer in any given case.

## How we use the Principles

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- 2.26 Across our portfolio of consumer protection, competition law and economic regulation work, the Prioritisation Principles will act as a prompt in assessing the resources required to take on new projects and those required to finalise existing work programmes. There may

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<sup>44</sup> See chapter 3 for more information.

<sup>45</sup> Such factors include knowledge, experience and expertise. See <https://www.gov.uk/government/publications/guidance-on-concurrent-application-of-competition-law-to-regulated-industries>

<sup>46</sup> See <http://www.caa.co.uk/docs/5/MoJCAAandCMA.pdf>

also be a need to review projects at key stages and decision points, or to consider whether to continue a programme of work, or whether resources could be used more effectively and efficiently on other projects.

- 2.27 Issues that do not initially meet our Prioritisation Principles and are not taken forward might be reassessed at a future date should circumstances change.<sup>47</sup> In these cases, we will take into account a range of factors such as new information or developments as well as other factors that we consider relevant. Where reassessed issues are considered to be a priority and, therefore, taken forward, we will notify affected parties.
- 2.28 Broadly speaking, the principles will be used to inform our decisions on any of the following:
- whether to take on a new piece of work;
  - which power to deploy in a given case;
  - whether to commence informal or formal action and the nature of the action we might take;
  - whether to continue with such action or suspend/stop the action at a later date;
  - whether then to pursue a specific or alternative course of action; and
  - whether to close a case.
- 2.29 The Prioritisation Principles are not exhaustive and where appropriate, we may allow for other relevant factors and considerations which will be balanced in the round. We will apply the principles flexibly and judgments will be made on a case-by-case basis.

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<sup>47</sup> For example, if there are reasonable grounds to investigate recurring conduct or patterns of behaviour that harm users.

## Updating the Prioritisation Principles

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- 2.30 We will periodically assess the outcomes of our prioritisation decisions and consider the lessons learned. This includes possible changes to our internal processes, reviewing timescales for taking forward cases, and taking stock of available resources. We will keep the principles under review in light of our experience and developing best practice.

## CHAPTER 3: THE CAA'S PRIORITISATION PRINCIPLES

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### The CAA's Prioritisation Principles

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3.1 The four Prioritisation Principles that we will consider are:

#### 1. Likely impact on users

*What would be the likely direct or indirect impact of our action for users?*

- The likely impact of any action we take may manifest itself in a number of ways, such as, direct changes to the behaviour of individual businesses or groups of businesses, or indirect changes to the manner in which markets operate and may include benefits for users arising from greater awareness of, and compliance with, the law.
- We will, therefore, consider the degree of harm, or potential harm, to users (both in the short and long term) that is posed by the issue in question and the likely benefits of our action in improving consumer welfare or mitigating any adverse effects. In doing this we will consider any specific impact on individual regions in the UK.
- In assessing the degree of harm, we will consider the harm to users, even where the problem may occur in upstream markets for AOS and ATS (where airlines are the immediate purchasers of the services in question). This is because, for example users may suffer harm in such areas as check-in, arrivals, departures and processing of baggage or freight.
- Similarly, we would expect the benefits of our action not only to favour businesses that are direct recipients of improvements to upstream services, but also downstream users. These benefits may show themselves in better value in terms of price, choice, service quality, or non financial benefits such as the avoidance of physical harm, unfair treatment or emotional distress.

- We will also consider whether a particular course of action may lead to more general benefits to users, both in the short term and long term. These benefits might arise by reducing the likelihood of future breaches or infringements of the consumer protection, competition law or economic regulation provisions.
- We will consider the likely result of changes in behaviour that could be prompted by our action. For instance, we may recommend changes to the law and/or policy or our action may lead to improved consumer awareness resulting in better informed choices and increased consumer confidence. Our action could also have a wider deterrence effect by encouraging other businesses to modify their behaviour to ensure future compliance with the law.
- As part of this assessment, we will also consider what would be the likely impact if we do not take any action.

*What are the wider economic benefits?*

- We will also consider the wider economic benefits of any action. To do this, we will consider whether intervention could be expected to improve the productivity and efficiency of various stakeholders in the aviation industry and, therefore, deliver benefits for users. Actions that increase competition could lead to improved consumer service and choice, and may also drive innovation, productivity and long-term efficiency that may deliver further benefits over time as a result of the improved competitive process.

## **2. Strategic and Regulatory Importance**

*Does the work tie in with our strategy and objectives?*

- We will consider whether the work would further our strategic aims, objectives and statutory duties in accordance with the Better Regulation Principles. We will also take into account any European or other initiatives which may be relevant.

- Our consumer protection, competition law and economic regulation objectives and themes are set out in our Strategic Plan<sup>48</sup> and Consumer Programme.<sup>49</sup> We will pay particular attention to work which would fall within these published objectives and themes.

*What is the severity of the issue?*

- We will consider the current, expected or potential levels of detriment to users and whether any misconduct is deliberate or negligent in nature. In appropriate cases, the assessment of severity may be adjusted to take account of the characteristics of the users concerned, especially those that are disadvantaged or vulnerable or subject to information asymmetries.
- We will also consider whether the issue is a repeated, on-going or widespread problem and whether there have been a series of similar concerns raised over time. Where there is existing industry guidance or where we have worked with industry informally to promote compliance, we will place more weight on the continued failure to comply.
- Where we have received a complaint or other request to act that we consider to be frivolous or vexatious, in the sense of unmeritorious complaints or issues which lack any genuine or sensible purpose or value, we will take this into account in assessing the severity of the issues.

*Are we best placed to act?*

- We will examine whether we are best placed to act on a particular issue having regard to whether there are alternative ways of achieving the desired or a similar result.
- Relevant considerations include:
  - the possible range of actions available to us;
  - whether CAA action would reduce or stop the detriment being caused to users; and

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<sup>48</sup> See <http://www.caa.co.uk/default.aspx?pageid=11995>

<sup>49</sup> See <http://www.caa.co.uk/docs/33/CAP%201161%20Consumer%20Plan%20-%20consultation.pdf>

- whether the problem could be better tackled by referring or transferring the matter to another body.
- We will consider which would be the most appropriate tool to deal with the matter. We are required to consider whether using competition law, to deal with particular issues, is more appropriate than using economic licence enforcement powers when considering individual cases
- We will also consider whether another authority is better placed to consider the issue. We have concurrent competition law powers only in relation to AOS and ATS and it might be that the matter relates to the aviation sector but does not fall within the definition of these services. In such cases, it would fall within the remit of the CMA. Similarly, we will have regard to whether action has already been taken under EU competition law, in which case we may not be able to take further action.

*Are there any opportunities for private action?*

- We note that users can take private action in respect of alleged competition or consumer law infringements but that this is a separate process from any action we might take under our powers. However, we do consider that there might be circumstances where a party's decision to take private action in respect of a potential competition or consumer law infringement might be relevant to our prioritisation assessment (for example, whether to open an investigation where the complainant has brought a private action and the case is already being dealt with in the courts).

*How would the balance of our portfolio be affected?*

- Prioritisation will not take place in isolation: it will be a relative question which requires considerations of our overall portfolio of consumer protection, competition law and economic regulation work and resources available at any particular point in time.
- At particular stages in a project, we may consider whether it warrants the continued commitment of resources or whether such resources could be used more effectively and efficiently on other projects.

### 3. Likelihood of a successful outcome

- We will consider the overall balance of risk across our consumer protection, competition law and economic regulation work portfolio.
- We will consider whether there is evidence of a consumer protection, competition law or economic regulation issue and the likelihood of achieving the desired outcome.
- We will consider the risk of adverse precedents, particularly in cases where the facts are very specific or unusual and may not apply more widely to other stakeholders.
- Other risks that will be considered include the possible costs and complexity associated with any legal action and the risks of failing to take effective action. This does not mean that we will focus solely on cases where we consider that a successful outcome is likely. There may be instances where the adverse impact on users is so great that even where the likelihood of success appears low, it will be important to take action to seek to address the problem and/or where taking action might clarify the law.

### 4. Resources

*Are the resource implications of doing the work proportionate?*

- As the required resources will differ depending on the issue and type of intervention, we will consider:
  - how best to allocate our resources in the most efficient way;
  - the resources required for the project compared to the expected benefits of taking action;
  - the amount and type of resource required;<sup>50</sup>
  - the expected period over which the resource will be required;
  - the possible informal and formal tools that we could use and the relative resource implications for each; and

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<sup>50</sup> We will consider not only our internal resource requirements, but also what external resources we may need (such as legal or consultancy advice or access to resources under the concurrency arrangements).

- the alternative uses to which resources could be put and the possible impact of taking resources away from other projects.