

Consumer Panel minutes

12-4pm Thursday 9 May 2019

Attendees

Consumer Panel

Jenny Willott (JW) Panel Chair

Trisha McAuley (TM)
David Thomas (DT)
Walter Merricks (WM)
Jacqueline Minor (JM)
Claire Whyley (CW)

Helen Swanbury (HS) Panel secretariat

Invited guests

Tim Johnson (TJ)	CAA, CSP
Nic Stevenson (NS)	CAA, CSP
Rebecca Roberts-Hughes (RRH)	CAA, CSP (Item 1)
Matt Buffey (MB)	CAA, CMG (Item 3)
Frederic Laugere (FL)	CAA, CSP (Item 4)

Apologies

Carol Brennan (CB)
Helen Dolphin (HD)

Declaration of interests

None.

1. Chair's Update

JW opened and welcomed RRH, NS and TJ. RRH advised the panel that NS was taking over responsibility for consumer policy as she will be concentrating on Airspace Modernisation programme. NS introduced himself, explaining his position in the CAA as the lead for the Corporate strategy work, including the upcoming strategy refresh, and that his portfolio includes oversight of the consumer policy team. Before taking up this post NS has most recently been working on secondment at the DfT on the Airline Insolvency Review which has now been published.

JW gave an overview of the work of the Panel since the previous panel meeting in February. This included the Consumer Panel's Complaint Workshop at which the panel and key stakeholders gave

presentations and took part in a useful debate about the need to improve the quality of complaints management in aviation.

JW also met with the CAA Chair and CEO on 30 April. They discussed the upcoming consumer strategy refresh and shared ideas about future challenges for aviation consumers and for the CAA. JW also met with AirlinesUK to discuss the proposed Passenger Charter, and Panel members attended a CAA workshop along with DfT to discuss the consumer outcomes that the Charter should be seeking to achieve.

The Consumer Panel Chairs meeting took place on 28th February at which JW discussed data, ethics and information powers with other regulators' consumer panel chairs. Panel member HD and secretariat HS had the opportunity to consider similar issues with other regulators at the UKRN Annual Conference "Data, Innovation and Improving Outcomes for Vulnerable Consumer" which took place on 24th April.

2. CAA Update

TJ provided an overview of the preparatory work that the CAA undertook in anticipation of a no deal Brexit at the end of March. Although the UK remains in the EU for the time being, the activity undertaken means that the CAA is prepared for a no-deal Brexit should this occur later in the year. A large part of this work involved helping pilots and engineers transfer their licenses to another Member State to ensure that they can continue working in the EU and the UK after the exit date. There are still likely to be issues arising from a no-deal Brexit that the CAA will have to address, but there is no further activity required at this time.

In response to a question from the panel, TJ confirmed that the CAA had been working with airlines to establish what action industry is expected to take to prepare and the consequences this would have on whether EC261 claims for compensation would be payable in the event that Brexit resulted in flights being disrupted.

TJ explained that the CAA are embarking on a refresh of its strategic plan. The plan was last reviewed in 2016. Some aspects of the current plan remain relevant, but others need a deep dive. This includes a desire to embrace technology to improve ways of working and a need to carefully consider the CAA's people agenda, focussing on skills and recruitment.

NS set out some context for the refreshed strategic plan, which will cover the period 2020 – 2023. As well as responding to whatever policy decisions are made by the DfT in the Aviation Strategy, the CAA will need to decide what capacity there is for discretionary activities in areas such as environmental and consumer policy, and what the priorities should be in these areas.

Panel engagement was requested and will be built into the timetable. It was agreed that a session at the July panel meeting would be valuable to the process, and appropriately timed following the June Board awayday.

Moving on to the CAA Business Plan, TJ explained that the significant outputs for the CAA in the near future include airspace modernisation, the CAA's role in the planning process for Heathrow, NATS price control work and the inquest into the Shoreham air show crash.

A discussion was held on the role of the panel in the CAA's economic functions with panel members who also serve on the Heathrow Consumer Challenge Board (CCB) explaining that items had been brought to the CCB that could more usefully have been considered by the panel. It was agreed that this would be considered further outside the panel meeting.

On the subject of economic regulation and the panel's role in ensuring that the consumer perspective was considered in key CAA policy areas, it was agreed that CAA colleagues in the Consumer and Markets Group would be invited to provide some high-level training (a 'teach-in') to panel members on the current issues in aviation, trade-offs that the CAA has to consider and what challenges need to be managed in the context of Heathrow and Gatwick price regulation. A similar event may also be useful on the subject of the environmental impact of aviation so that the panel can effectively help the CAA respond to the challenges contained in the recently published Committee on Climate Change report.

- HS to arrange training session for the Panel on the key economic principles and challenges facing the aviation market and how these are reflected in the CAA's role as regulator.
- HS to seek out and provide an update on the CAA's work on vulnerability and take forward the proposal for the CAA to gather complaints data from industry as agreed at the February panel meeting

3. CAA Consumer Protection Team Update

MB presented the panel with details of the Consumer Protection Team's (CPT) work on Unfair Contract Terms, explaining that the project began with specifically commissioned research to consider what issues consumers find most unfair and where airlines charges or policies were unclear or unexpected. MB detailed the specific issues that the team focussed on, looking at transparency, prominence and fairness in turn, and using standardised analysis to consider which of the 14 airlines in the review were meeting the CAA's expectations and where improvements were needed.

MB detailed the areas where the CAA's investigation prompted the airlines to change policies and reconsider their practices, with some introducing key terms documents and/or revising their terms and conditions to address concerns over prominence and transparency.

When considering the fairness of a contract term, MB explained the challenges with using the existing legislation and how the CAA approached the subject in such a way that real changes have been made for the benefit of consumers. Some airlines have dropped charges for correcting spelling errors, some have extended the ability to transfer a ticket to another individual in certain circumstances and some have changed their policy on refunds of taxes, fees and charges if the consumer cancels their booking.

The panel welcomed the improvements made as a result of the work of the CAA and commented on the effectiveness of the approach taken where the improvements detailed have been made in anticipation of the compliance report being published. It was noted that such an approach suggests the possibility of culture change amongst the airlines, who may now be more proactive when responding to compliance issues and quicker to respond to CAA interventions in the future. A discussion was had on how certain contract terms impact vulnerable consumers, and on the limitations of the Consumer Rights Act and unfair contract terms legislation and whether this points to the need for the CAA to have bespoke powers.

MB detailed the ongoing and upcoming projects being undertaken by the CPT. On the subject of ADR, a discussion was held on how to ensure consistency in decision making and MB explained the requirement on ADR providers to appoint an independent assessor. MB also detailed the CPT's plans for improving accessibility on aircraft in line with activity undertaken with airports, policy issues regarding the package travel regulations that have come to light following the failure of Monarch in 2017 and work on the extraordinary circumstances derogation in EC261.

When asked what, if any, additional powers the CPT would like to achieve better outcomes for consumers, MB emphasised the importance of the additional enforcement measures proposed in the DfT's aviation strategy to apply civil sanctions to breaches of the ATOL Regulations and to set fines for breaches of air passenger rights concerning accessibility (EC1107) and compensation rights (EC261). As an ambition, the CPT would like the same powers for all consumer focussed legislation within the CAA's remit. Wider information powers would also be of great benefit, especially for the enforcement of the proposed Passenger Charter.

- MB to provide an update on the work of the CPT in 2020 or sooner if required

4. Innovation Hub

The Panel were joined by CAA's Innovation Services Lead, FL, who provided the Panel with an overview of the new CAA innovation function.

FL explained that the team was assembled following a successful bid for 1 year's funding from BEIS and contains a range of skills to work with innovators who approach the CAA for regulatory guidance on how to develop new technology within the existing legal landscape. He also explained that the setting up of the function allows the CAA to consider how regulation may need to change to enable innovation.

The design of the function reflects feedback from stakeholders who have previously found it difficult to establish who within the CAA to contact, or who did not realise the need to involve the CAA or consider the regulatory landscape early in the development of their ideas.

FL described the design of the function. This consists of:

- the Gateway which aims to make it easier for aviation innovators to work with the CAA;
- the Sandbox, where concepts can safely be explored and tested to maximise regulatory readiness and;
- the Regulatory Lab where participants can anticipate and respond to complex emerging aviation challenges to shape the future regulatory landscape.

The innovation hub is based in the CAA's Policy and Strategy division but works across groups wherever innovation is occurring. The design allows for the best use of CAA resource and stakeholders understand that the cost of participation is a need to be transparent and make findings available to the wider industry.

JW asked how the function manages the speed of innovation when regulatory change cannot be delivered quickly. FL explained that involvement in the sandbox and regulatory lab provided a reality check to innovators and allows the innovators and CAA to work together to break down projects into steps so that the speed of progress can be managed, and regulatory challenges can be considered one at a time.

The Panel asked if there was scope for the Innovation Hub to direct innovation to meet CAA policy objective and TJ explained that the timeframe (i.e. 1 year's funding) means that the function is focussing on technological advances that are already in development but that there was, in theory, the potential to prioritise innovation where the benefits align with CAA priorities. TJ also explained that the public appetite for innovation and for the trade-offs between innovation and other factors were being considered through the CAA's Aviation Consumer Survey.

It was agreed that FL would return to provide an update to the Panel in 6 months and that the Panel would be consulted on issues of the CAA's regulatory role if and when appropriate.

- FL to provide an update on the Innovation Hub to the Panel's meeting in October

5. Aviation Strategy Green Paper

JW and HS provided an update on developments with the DfT's Aviation Strategy green paper including a summary of recent conversations with the DfT and an insight into the key messages to be set down in the CAA's response to the green paper.

JW and HS also provided an overview of a recent meeting with Transport Focus, held to discuss the proposal in the aviation strategy green paper for Transport Focus to take on a role in aviation.

Panel members provided feedback on a draft of the response that the Panel will be making to the green paper. It was agreed that the Panel should endorse the proposed consumer charter with a clear message that there must be a distinction between best practice and legal requirements and that the CAA has the appropriate powers to enforce where it is expected to do so.

NS advised that comments on the recommendations set out in the DfT's Airline Insolvency Review should be made in the green paper response and offered to provide a summary of the key recommendations.

Actions:

- NS to provide a summary of the Airline Insolvency Review findings and recommendations
- HS to finalise the Panel's response to the Aviation Strategy Green Paper

6. CAA Consumer Panel Annual Report

Comments were taken on the final draft of the Panel's Annual Report. This will be finalised following the meeting for publication in June, mirroring the timetable for the development of the CAA Annual Report and Accounts.

- HS to finalise the Panel's Annual Report

7. A.O.B

HS provided an update on the CAA's relocation from Kingsway, Holborn to Westferry Circus, Canary Wharf. The first wave of colleagues will be moving over in early July with CSP, including the Consumer Panel's Secretariat relocating from 15 July. The next Panel meeting will take place at the new location, and specific location details will be provided in advance of the meeting. The Panel members will need new security passes and HS will liaise with CAA Security to make the appropriate arrangements.

Potential agenda items for the May Panel meeting are: CAA Consumer Strategy session, economic regulation update covering Gatwick and Heathrow, initial discussion on data innovation work as set out in our 2018-2020 workplan.

Actions:

- HS to provide details of new location and to manage the process of obtaining new security passes