

# Consumer Panel minutes

## 12-4pm Thursday 19 April 2018

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### Attendees

#### Consumer Panel

Jenny Willott (JW) Panel Chair

Sarah Chambers (SC)  
Helen Dolphin (HD)  
Robert Laslett (RL)  
Trisha McAuley (TM)  
Walter Merricks (WM)  
Anthony Smith (AS)  
Claire Whyley (CW)

Harriet Gamper (HG) Panel secretariat

#### Invited guests

Marcus Clements (MC)	Office of Rail and Road (Item 4)
Harry Farmer (HF)	CAA, CSP (Item 3)
Andrew Haines (AH)	CAA Chief Executive (Item 5)
Anne-Marie Hopcroft (AMH)	CAA, CSP (Items 3 and 4)
Dame Deirdre Hutton (DDH)	CAA Chair (Item5)
Tim Johnson (TJ)	CAA, CSP
Rebecca Roberts-Hughes (RRH)	CAA, CSP

#### Apologies

None

The meeting was quorate.

#### Declaration of interests

None.

### 1. Chair's Update

JW welcomed HD and WM to their first Panel meeting.

JW briefed the Panel on activities since the last meeting. External introductory meetings have been held with: Jeff Halliwell (Chair of the Heathrow Consumer Challenge Board), Airlines UK, the Airline Operators Association, Thomas Cook, and Dianne Hayter (Shadow Deputy Leader of the House of Lords and Shadow Minister, DExEU).

RRH mentioned the Communications Directors Forum as another potential useful avenue to explore.

In March there was a meeting of independent Consumer Panel Chairs where common themes and shared good practices were discussed.

We have now recruited 5 new Panel members. HD and WM have taken up their positions already, and 3 further members will start in October 2018.

## 2. Update on CAA Strategic Developments

TJ briefed the Panel on the main CAA strategic developments and priorities since the last meeting, with particular focus on Brexit.

TJ underlined the CAA's four key Brexit principles:

- UK must continue to punch above its weight in the aviation sector;
- UK must continue to influence beyond its borders to ensure the safety/security of UK citizens;
- There should be fewer, not more barriers to competition;
- UK customers and communities should continue to benefit from current level of protections.

The CAA continues to contingency plan but has been clear that the preference is to remain a member of the European Aviation Safety Agency (EASA) once the UK withdraws from the European Union.

The main contingency challenge currently is aircraft certification – EASA is European centre of expertise.

Consumer protections will be maintained. TJ mentioned this is underlined in the BEIS green paper on modernising consumer markets, as well as forming part of the EU Withdrawal Bill currently going through Parliament.

### Key comments/responses/questions

- The *Which?* Brexit Consumer Charter was briefly discussed and the Panel asked for it to be circulated.

### Actions

- HG to circulate *Which?* Brexit briefing.

## 3. CAA Consumer Tracker Survey

HF gave an update on the CAA's Consumer Tracker Survey.

The CAA has appointed a new provider to carry out the next four waves of the tracker. The recurring component will remain constant to allow tracking of trends over time. There are a few changes:

- Adding some additional questions, such as on respondents' distance to nearest airport;
- Streamlining the questionnaire, reducing the average survey time by several minutes to improve the quality of results; and
- Asking some questions every other wave, rather than twice a year (where data doesn't change significantly every six months).

To build on the tracker and make it more useful to other teams within the CAA, an internal working group has been established. This group will meet four times a year.

RRH updated that the CAA will no longer run a stand-alone work programme on information duties. Instead, the information duty will be used as one of a number of regulatory tools and will be used to raise the profile of issues/projects and effect change where necessary.

## Key comments/responses/questions

- The Panel welcomed the update and expressed their continued support for the Consumer Tracker Survey.
- The Panel asked for the results of the current wave of the Tracker to form part of the discussion at the June Panel away day.
- The Panel noted the update on the information duty.

## Actions

- Wave 5 results to be presented at Panel away day.

## 4. Complaints and redress

Marcus Clements, Head of Consumer Policy at the Office of Rail and Road gave a presentation on setting up a rail Ombudsman, and some of the policy associated challenges.

MC highlighted the original voluntary approach was expected to be faster than a mandatory scheme, but ultimately the scheme evolved and the ORR, industry and consumer advocates supported making the scheme mandatory via train operating licences.

MC underlined the potential for a race to the bottom between ADR providers in sectors where more than one provider is authorised. One example is publication of data, and MC said that schemes may not agree to publish data as they fear that firms will then move to the other scheme, which doesn't publish, leaving the schemes unable to plan and maintain their caseloads. MC also pointed out that the consumer doesn't choose the ADR scheme, the firm does. The ORR preference is for one scheme, with high standards that will be set through the Competent Authority (CTSI).

The Panel discussed the international dimension and the possibility that Eurostar may join the Ombudsman. Eurostar currently uses a mediation scheme which is authorised by the Competent Authority in France.

JW thanked MC for taking the time to come in and give insights into the rail sector, many of which had helpful read across to aviation.

The Panel then moved on to discuss the complaints and redress landscape in the aviation sector. Key areas of discussion were:

- How important are issues to silent sufferers, and what evidence do we have of this – it would be helpful to develop an evidence base, including how much complaints might be worth and how vulnerable consumers access first tier complaints.
- Does ADR improve complaints handling? The Panel asked for more evidence (if available) of this to help frame further discussion.
- ATOL holders raised quite different issues, and the Panel discussed briefly the ABTA Arbitration Scheme. The view was that these issues may be of a lower order of magnitude than complaints about airlines and airports.
- The role of third party intermediaries (such as claims management companies) was briefly discussed and the Panel agreed to look at this issue in more detail later in the year.

## Key comments/responses/questions

- Voluntary versus mandatory scheme in aviation: The Panel agreed that a mandatory scheme would be preferable, while recognising this may not be straightforward to achieve. The Panel noted the amount of work already done by the CAA and its success in making the case to airlines to sign up to ADR.
- Single versus multiple ADR providers: This was more finely balanced. The Panel recognised the benefits of a single provider, including simplicity, clarity to consumers,

and ease of access. The Panel recognised that multiple ADR providers may compete and provide innovative changes, but thought this could be managed by having clear criteria for authorisation and by periodic re-tendering of the scheme, as well as annual consultation on charges. The Panel noted that different schemes could come to different decisions on similar cases and there could be a lack of consistency for consumers. Before making a final decision the Panel asked for more evidence of how multiple schemes are working in other sectors.

- Charging consumers a fee to access ADR: The Panel was unanimous that charging a fee could affect access to ADR, and that the consumer fee was not well evidenced. The Panel recommended that charging consumers a fee should not be allowed in any circumstances.

## Actions

- MC to send an update on whether Eurostar will join the rail Ombudsman after the ORR consultation is concluded.
- Panel agreed to return to the issue of complaints and redress, in particular to discuss single versus multiple provers, the role of third parties, mapping of gaps in coverage, and areas where further research might be needed.
- RRH asked for practical recommendations from the Panel on how policy could be drafted to help the DfT overcome issues such as mandating ADR.
- Panel to develop a clear articulation of its position and share with CAA colleagues by end May. This will then be shared with DfT and used to inform the CAA's response to the Aviation Strategy and the BEIS green paper on modernising consumer markets.

## 5. Open discussion with CAA Chair and Chief Executive

Following the review of the Consumer Panel, one of the recommendations was more two-way constructive engagement at all levels within the CAA. As part of this the CAA Chair and Chief executive offered to attend two Panel meetings each year.

DDH and AH began by welcoming HD and WM to the Panel.

They underlined the importance of the Panel in keeping the consumer interest front and centre to the regulator's work. It is important that the Panel focuses on a small number of defined issues to make the most of its scarce resource.

They then talked about changes at the CAA, with a change of Chief Executive, and turnover of Board members. The focus will be on maintaining trust and openness whilst these changes take place.

DDH and AH then spoke about some of the key areas of focus and challenges for the CAA, including:

- A third runway at Heathrow, and balancing the views of shareholders, airlines and residents, while keeping the consumer interest at the forefront.
- The challenges of modernising airspace to accommodate further runway capacity in the South East. It would be helpful if the Panel could articulate the consumer interest here.
- The opportunities afforded by the Aviation Strategy and the BEIS green paper on *Modernising Consumer Markets*, including the focus on ADR and the potential for legislation in some areas.
- The airline insolvency review being led by Peter Bucks, including the lessons the CAA had learned following the Monarch repatriation exercise last year, and the fundamental importance of being able to help people return home if they are stranded abroad.

- Finally AH spoke about Brexit, the challenges and opportunities it affords for the CAA, and current uncertainty for industry. The Panel noted this was not translating to uncertainty for consumers, and that propensity to book has so far not been affected, although this could change.

JW thanked DDH and AH for the updates and noted that the themes highlighted would be discussed further at the Panel away day in June.

## **6. Any other business**

HG reminded the Panel of upcoming meetings: May meeting with the airline insolvency review team, June away day, and July meeting with Airlines UK.