

Consumer Panel minutes

1-4pm Thursday 18 February 2016

Attendees

Consumer Panel

Keith Richards (KR)	Chair	Trisha McAuley (TM)
Sarah Chambers (SC)		Adam Scorer (ASc)
Ann Frye (AF)		Anthony Smith (AS)
Robert Laslett (RL)		Claire Whyley (CW)

Invited guests

James Tallack (JT)	CAA (PPT)	Richard Moriarty (RM)	CAA (CMG)
Beth Corbould (BC)	CAA (CMG)	Emanuela Michetti (EM)	CAA (CMG)
Stuart Holder (SH)	CAA (CMG)	Rob Toal (RT)	CAA (CMG)

Apologies

Steven Gould	Panel Member
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Minutes by James Tallack, Panel Secretary

1. Open discussion with Richard Moriarty

KR welcomed RM back to the CAA in his new role as Group Director for Consumers and Markets, and Deputy Chief Executive. RM said he was pleased to have the opportunity to speak to the CP so soon after his return and stressed his desire for the teams he oversaw to engage regularly with the CP across their portfolio of work, and not just on airport regulation. A discussion followed, which considered financial protection and the ATOL scheme, but mainly focused on the issue of runway financing.

Key comments/responses/questions

- On ATOL KR stressed that the CP had not always found it easy to engage with this area of the CAA's work and felt that ATOL teams should be actively consulting the CP more as the CAA continues to engage with DfT on the implementation of the new Package Travel Directive (PTD2).
- RM agreed that a meeting between ATOL leads and the CP was probably overdue, but explained that ATOL functions are held to account through their own external governance structures, specifically ATIPAC, and suggested that it may be useful for the CP to understand these arrangements.
- On runways, RL set out the CP's concerns that prefunding a third runway at Heathrow through airport charges (and therefore airfares) could be the worst of all worlds for consumers, who would not only potentially be paying for infrastructure that they wouldn't benefit from, but would also bear the costs of disruption and inconvenience during the construction phase.

- RM stressed the unprecedented nature of the regulatory problem in the event of a decision for a new, privately-financed runway at either Heathrow or Gatwick. This is due to the cost of the project relative to the regulatory asset base, which would be over 100%. Without an element of prefunding, financing such a project without state support seems highly unlikely.
- The CP recognised that the decision of where a third runway ends up being built in SE England would ultimately be a political one, and agreed that the time for trying to influence on this matter by adding to the evidence already produced by the Airports Commission had now passed. As such, the key consumer question would be how the project – wherever it is built – is paid for.
- TM said that all private financing options needed to be explored, including ways of breaking the link between the size of the asset base and prices to recover costs in a more proportionate way. However, if ‘conventional’ prefunding is the only option then there will need to be some way of demonstrating value to those who are being asked to pay upfront for benefits that they themselves may not realise. At a minimum this needs to be seen in terms of no degradation in airport service quality levels during the construction phase.
- SC asked why, given that runway development in SE England was known to be politically toxic, the Airport Commission didn’t look at options outside the London area. RM said that the Commission’s terms of reference were constrained by one of its objectives being to protect/enhance the UK’s status as an aviation hub. SC felt that this was probably the wrong question to ask and may have led to the wrong conclusions.

Action

JT to invite ATOL colleagues to a Panel meeting in early 2016, probably April.

2. Consumer engagement in the H7 review

KR introduced the item by saying that he welcomed the extent to which the CAA had chosen to involve the CP in its early thinking on the next Heathrow price review (H7) and said that the development of the CAA’s thinking on the Consumer Challenge Forum (CCF) concept, as set out in the discussion paper circulated to the CP, was very positive. RT updated the CP on how the CAA’s thinking had developed since the last discussion with the CP in December, and thanked the CP for their invaluable comments on the draft scene setting documents. JT introduced the paper and identified the need to manage the expectations and demands of airlines as an element that set the approach being taken by the CAA apart from approaches that had been taken in other sectors, notably the water industry.

Key comments/responses/questions

- TM felt that the emphasis in the CAA’s public discussion document on the need for new runway capacity in the South East detracted from the more fundamental issue of making H7 (and subsequent price reviews) more consumer focused.
- TM said the CAA needed to be clearer about the power that the CCF would have, with the idea that it will be listened to by the CAA built into its constitution. The CAA needed to be clear that it was not delegating a regulatory function. Transparency

throughout the process would also be very important, with the need for dialogue between the CAA and the CCF as important to document as that between the CCF and HAL and airlines.

- SC said that the implicit airline concerns that the CCF would tend to back service quality improvements and therefore higher charges was rather unsubtle as consumers would also prefer lower prices. Instead the CCF would be more about finding the right balance between quality and price.
- There was difference of opinion on the issue of whether the CCF should have a role in challenging HAL's proposed charges as well as the quality parameters of the price control. SC and RL members felt that if the CCF was not consulted on price then it would not be fully empowered in relation to the H7 process. AS said that this would be very difficult as consumers do not see the price they pay, with airlines perhaps better placed to comment on the level of charges as it is airlines that have to sell the end product in the market. AS felt that as a general principle consumer and airline interests were well aligned on the issue of the regulated price, as neither would want that price to go up. However, it may be the case that airlines argue for prices that are too low to support the investment that would improve consumer outcomes, or want investment directed at things that may not support those outcomes. In such cases the CCF should be expected to challenge the arguments and evidence put forward by airlines.
- The CP felt that the most important aspect at this stage was securing the CCF's independence and expertise and ensuring that it has the resources and power to do its job. CW said that the CCF would need to operate at full capacity from the very beginning and that professional recruitment might be needed to ensure that people with the right skills and capabilities are attracted to the CCF. The CP felt it was essential that the CCF was properly remunerated.
- KR said that once set up, the CCF should be able to define its focus and way of working, rather than having this stipulated in advance by the CAA. In particular, excluding the CCF from scrutinising the price felt wrong.
- SC clarified that the CAA saw the CCF as having an ongoing role, i.e. monitoring the delivery of HAL's plan against outcomes and preparing for future price reviews.
- SC said it was important to ensure that the views and perspectives of all consumers were taken into account and not just those of the average consumer, which may be the focus of airlines. The CP considered to what extent the views of transfer passengers mattered and whether the CCF should only focus on the interests of UK residents – although it did not come to a view on these issues. CW said that H7 presented a real opportunity to develop more sophisticated thinking about consumer vulnerability – an area where aviation was thought to be lagging behind other regulated sectors.
- The CP strongly supported the CAA's proposals to move towards outcomes-based regulation and felt that drawing outcomes widely could help incentivise better performance by unregulated entities that have an impact on the consumer experience. AS said that the CAA should encourage the definition of H7 outcomes in the language that people actually speak, rather than using econometrics as this would embed a deeper consumer focus within HAL and the CAA.

- SC cautioned against requiring HAL's board to certify its business plan as the best possible deal for consumers. SC felt that this would conflict with fiduciary duties and that the CAA needed to get the language right in order to get support for board ownership.

Actions

No actions

3. Gatwick mid-term review

SH summarised the discussion paper that had been circulated to the CP ahead of the meeting and asked for the CP's views on the proposed scope of the consultation on the mid-term review of the regulatory framework at Gatwick, which the CAA would be carrying out in Q3/4 of 2016. KR clarified that the CP was not a consultee but was concerned with challenging the CAA at the pre-consultation stage, so the CAA had come to the CP at exactly the right time.

Key comments/responses/questions

- The CP generally complimented the CAA on taking a very innovative approach to regulation at Gatwick and said that the CAA's approach was of great interest to the wider regulatory community. The CAA should put more emphasis on the early signs of success – although it was felt that these could have been better developed in the discussion paper – and should also commit to sharing the findings of the review with other regulators and government as an example of how regulators can take a more light touch, 'trust but verify' approach to economic regulation.
- The CP felt that if the question for the review is how well the new regulatory framework is serving the interests of passengers then passengers need to be asked and a robust evidence base created – the review is an excellent opportunity to do this. It is not enough to just ensure that the public consultation goes to consumer groups.
- AS suggested that the forthcoming CAA tracker survey could be used to gain some insight into the passenger experience at Gatwick, or at least identify areas for further investigation. AS also advised the CAA against looking at the passenger experience at Gatwick in isolation and asked if relevant comparators were available. TM said that the CAA should be putting the onus on Gatwick to ensure it understands the experiences of its passengers and the CAA should be prepared to make changes to the monitoring framework if transpires that the framework is not adequate.
- RL suggested that Gatwick may be moving towards a low price / low quality equilibrium and said that while consumer and airline interests were probably aligned in terms of Gatwick reaching its efficiency frontier (i.e. the optimum balance of price and service quality), the CAA should be concerned what happens once that frontier is met, as airlines may seek a further lowering of prices at the expense of service quality. For example, the CAA may need to explain whether Gatwick's charges being 6% below the CAA's 'fair price' has been achieved at the expense of service quality. The CP considered whether the issue of airlines moving voluntarily from piers to

remote stands, possibly incentivised by GAL offering lower charges for such operations, pointed to a misalignment of airline and consumer interests.

- With regard to GAL's commitment to invest £700m over the seven year period, the CP considered whether it was in the interests of consumers to allow GAL to commit itself to delivering an input rather than a consumer outcome. However, it was recognised that GAL's commitments to achieving certain service quality standards would help ensure that the investment was directed towards the right things.

Actions

CAA to circulate draft consultation to the CP and return to the CP once the consultation has closed but before the scope of the review has been confirmed.