

Consumer Panel minutes

1-4pm Thursday 27 October 2016

Attendees

Consumer Panel

Keith Richards (KR)	Chair	Robert Laslett (RL)
Sarah Chambers (SC)		Trisha McAuley (TM)
Ann Frye (AF)		Claire Whyley (CW)
Steven Gould (SG)		

Invited guests

James Tallack (JT)	CAA (PPT)	Emanuela Michetti (EM)	CAA (CMG)
Beth Corbould (BC)	CAA (CMG)	Phil Roberts (PR)	CAA (SARG)
Stuart Holder (SH)	CAA (CMG)	Rob Toal (RT)	CAA (CMG)

Apologies

Adam Scorer	Panel Member	Anthony Smith	Panel Member
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Minutes by James Tallack, Panel Secretary

1. Economic review of Heathrow Airport Limited (H7)

The CAA introduced the item by providing an update on the two H7 strategic themes with the greatest relevance to the CP's interests: empowering consumers (including the Heathrow Consumer Challenge Board) and outcomes-based regulation. KR requested that some time be set aside at the end of the item for the CP to present its views on approaches to the financing of capacity expansion at Heathrow. KR also complimented the CAA on the clarity and quality of the material that had been submitted to the CP before the meeting and said it was an improvement on what had been submitted in previous meetings.

Key comments/responses/questions

Consumer empowerment

- KR said that the CP should take significant credit for the progress made by the CAA towards ensuring that independent consumer challenge and scrutiny, in the form of the CCB, is embedded in the H7 review. KR also repeated the CP's view that the CAA should formally dispense with the rebuttable presumption of an alignment between airline and passenger interests that originated during Q6 in its next set of H7 documents.
- TM repeated her concern about the lack of time for the CCB to establish itself and understand the airport and the regulatory relationships before the 'real' work of scrutinising the business plan begins.

- TM asked the CAA to consider whether the Consumer Challenge Board (CCB) should have a budget for its own research in the event that it is unable to obtain the insight it needs. She said that this ability should be 'institutionalised' in the governance of the CCB.
- CW said the relationship between the CP and the CCB was important and an MoU between the two parties should be considered. SC said that an MoU should clearly distinguish between the roles of the CP and CCB to avoid any overlap and ensure there is transparency. It would not be enough to rely on goodwill and personalities.
- KR suggested that CP members should be able to be members of the CCB and that the Chair of the CCB should attend quarterly CP meetings to update the CP on the CCB's work.
- CW said she thought airlines' suspicion of the CCB was misplaced and that the CCB could help support the positions of genuinely consumer focused airlines. However, this would need the CCB to be pragmatic and taking time to understand the stakeholder relationships.

Outcome-based regulation

- The CP agreed that the CAA should not be exclusively interested in HAL's regulatory performance and that publishing information on the performance of other parties who provide services to passengers at Heathrow would not distort competition and would generally be a good thing.
- The CP added that publication of such data need not be specific to Heathrow and the CAA could consider this issue more broadly under its consumer information duty in the 2012 Civil Aviation Act. KR said that the CAA shouldn't avoid doing things that benefit consumers for fear of being challenged.

Capacity expansion

- SC set out the CP's opposition to consumers being required to pay for the expansion of capacity at Heathrow before it becomes operational, citing cases from the water and telecommunications industries where the regulator had taken different approaches, although acknowledging that neither analogy was perfect for Heathrow
- On planning costs, RL said it didn't feel fair that when other airports were competing for the opportunity to build a new runway, HAL would be allowed to recover 85% of planning costs whether or not the capacity was ever built. RL asked whether there was any scope to get below this threshold to incentivise better risk management by HAL. RL also asked why – as an alternative funding model – pension funds were not interested in the prospect of a 5% return on £15bn of assets
- KR requested that the CAA keep the CP informed as it develops its policy on the financing of capacity expansion.

Action

No actions.

2. Consumer complaint handling reform and ADR

JT updated the CP on the CAA's progress towards its objective of improving the consumer experience when things go wrong by encouraging the voluntary uptake of ADR by airlines.

Key comments/responses/questions

- SG said that significant progress had been made on ADR and it was encouraging to see airlines starting to accept an ADR solution as a source of competitive advantage. However, the trade-offs the CAA had made, such as allowing consumers to be charged to use ADR and allowing multiple ADR providers (which risked a race to the bottom) raised the question of whether the CAA was only prepared to make policy from law. SG said that, having got large swathes of the industry 'comfortable' with ADR, it was now time for the CAA to develop a policy based on what is best for consumers rather than what is possible within the constraints of the current legal framework. This may mean seeking changes to the law in order that the CAA is able to do what it wants to do.
- KR said that the CAA's forthcoming review of ADR provided an opportunity for the CAA to revise its policy if the review found that consumers were not being well served. The CP would want to be consulted on the terms of reference for this review. In the meantime, the CAA should continue to encourage uptake of ADR, in particular by using its information powers to ensure airlines disclose ADR membership (or otherwise) at the point of sale

Actions

No actions

3. Airspace change update

PR provided a brief update on the development of the CAA's airspace change policy. KR reminded the CAA that the CP's primary interest in this work was to ensure that the needs of consumers and residents remain appropriately balanced.

Key comments/responses/questions

- SC said that the CAA's unitary governance process was impressively comprehensive but its size and complexity may put off some stakeholders, particularly less well-resourced individuals, from engaging with it.
- RL asked how the CAA intended to evaluate the success of the process the CAA had developed. TM said that the key to evaluating success was to be able to distinguish between satisfaction with the process and satisfaction with the outcome that the process led to. TM suggested that deliberative techniques used in consumer research could be used to inform the evaluation.

Actions

No actions

4. Economic review of Heathrow Airport Limited ('H7')

RT provided a short verbal update on the key strategic themes for H7.

Key comments/responses/questions

- AS asked what the consumer case for the proposed extension of the current Q6 price cap. RT said it would capture falling prices without needing to reopen the building blocks of the price control. Fundamentally the argument is that consumers pay the airline fare not the airport charge.
- TM said it was a shame to pull back from HAL ownership of the Consumer Challenge Forum (CCF) but understood the challenging stakeholder environment. TM added that a line of communication between CCF and the CP was important to avoid duplication of work as happened between the Consumer Council for Water (CCW) and the water company Consumer Challenge Groups (CCGs).