

Consumer Panel minutes

1-4pm Thursday 3 September 2015

Attendees

Consumer Panel

Keith Richards (KR)	Chair	Robert Laslett (RL)
Philip Cullum (PC)		Alastair Keir (AK)
Ann Frye (AF)		Anthony Smith (AS)
Steven Gould (SG)		

Invited guests

James Tallack (JT)	CAA (PPT)	Tim Johnson (TJ)	CAA (PPT)
Nick Boud	Helios	Stuart Lindsey	CAA (SARG)
Beth Corbold (BC)	CAA (MCG)	Rebecca Roberts-Hughes (RRH)	CAA (PPT)
Dan Edwards (DE)	CAA (PPT)		

Apologies

Crispin Beale

Minutes by James Tallack, Panel Secretary

1. Developing the framework for the next Heathrow price control review (H7)

RT and BC set out the CAA's emerging thinking on the design for the next Heathrow price control review. The presentation reflected on a number of issues raised by KR, RL, PC and SC in an earlier meeting, specifically: strong support for outcomes focused regulation; the need for a process to put consumer interests at the heart of the price control review to ensure that the outcomes the CAA pursues are the ones that matter to passengers; the establishment of (or requirement to establish) a consumer challenge group; the importance of being clear who the beneficiaries of regulation are; the need to decisively rebut the 'rebuttable presumption' of a natural alignment between airline and passenger interests; and the importance of clear evidence about consumer needs and preferences.

Key comments/responses/questions

- Sensible to converge the CAA's price control review and its capacity expansion funding workstreams, but these currently seem far apart in terms of the centrality of the consumer interest. In the Panel's experience, they have felt like very different pieces of work and the Panel's objective should be to get the capacity expansion funding work to the same place culturally that the price control review work appears to be starting off from.

- In terms of the objective for the price control review, it was felt it could be related more clearly back to the choice, value and fair treatment (CVFT) objective in the strategic plan. It was suggested that CVFT should be the overriding goal and the CAA should then set out how it intended to deliver CVFT through this work. It was also felt that there should be a reference to better regulation as a 'catch all' for regulatory good practice. It may be necessary to sub-divide 'air transport users' into passengers and freight users as their interests may be different. Finally, the objective should not be written in a way that excludes the industry as its constructive engagement is key to the outcomes the CAA wishes to achieve.
- Supportive of a purposefully constructed consumer challenge group (CCG) to provide ongoing and sustained detailed scrutiny of process and proposals and boost the consumer voice in the debate, but important to maintain a link with the Panel possibly by having Panel members on the CCG. At this stage the most important thing for the Panel is a CCG as a central policy idea – the detail of how the CCG works (methodology/role/membership) can be fleshed out at a later date. However, the Panel was generally seen as distinct to the CCG, with its role more focused on getting the overall framework for the review right and the CCG focusing on detailed scrutiny of proposals and business plans. It was seen as important that roles and responsibilities were clearly delineated by the CAA and there was no desire to have two challenge groups in the same space.
- Key questions to think about at this stage with regard to the CCG include whether the process should be more focused on the regulator or the regulated entity. There may be more chance of getting consumer outcomes genuinely embedded within Heathrow if more responsibility is delegated to the airport. However, there will be a need to put safeguards in place to ensure that the CCG isn't comprised of people naturally sympathetic to Heathrow's objectives. Possible mitigations include the CAA carrying out 'shadow interviews' of CCG membership candidates and having power of veto – an approach used by the FCA for senior appointments in financial services firms, or the Panel Chair being on the appointments panel for the CCG.
- The 'rebuttable presumption' should be rebutted on the basis that it is a conceptual issue and not borne out by reality. One of the best examples is that some major airlines do not support capacity expansion at Heathrow, which could lead to more competition and therefore better outcomes for consumers.
- There was a feeling that 'business plan competition' doesn't work as a concept in a market where there is only one regulated entity. The questions for the CAA should rather be how it can encourage high quality plans that are adhered to, and what can be done to penalise Heathrow for not sticking to its plan. The key may be to try and move control of the plan away from the regulatory team and move ownership up a tier to the Board where questions of personal integrity may weigh more heavily when being asked to publicly endorse a plan. This approach could be enhanced through two other measures: requiring plans to be stress tested against a range of core exogenous variables, such as oil prices, global tension etc. to expose internal logic (an approach the CAA has used with NATS); and fast-tracking good quality plans (which shouldn't be a zero sum game).
- The CAA's proposal to carry out benchmarking at an earlier stage in the price control review process to when it was carried out for Q6 shouldn't be an issue as long as the

ability to go back and revalidate observations periodically is built into the design of studies. This should help avoid final decisions being based on old, potentially irrelevant data.

- It was felt that the issue of resilience and mitigating disruption was one of the most important issues for the CAA to consider. Restricting capacity over and above planning permissions to ensure greater resilience may be detrimental to competition, so CAA should also consider options such as better welfare for disrupted passengers and restructuring charges to penalise airlines that don't keep to their schedule. The Panel is willing to work closely with the CAA as it develops its thinking in this area. There is also the potential issue of disruption caused by construction of new capacity (e.g. airlines being moved to different terminals at short notice) – the CAA may not have got involved with this in the past but its remit under the Civil Aviation Act would not preclude it from doing so.

Action

- CAA to update the Panel on its thinking at the December 2015 Panel meeting.

2. Strategic plan update

DE brought the Panel up to speed on how the CAA's 2016-21 strategic plan had been developing since the last update in June 2015. The item included a discussion of an early draft of the strategic plan.

Key comments/responses/questions

- The CAA's narrative needs to be clear that it is focused on achieving beneficial outcomes for consumers (e.g. good information, services that meet expectations etc.) but that it is constrained by (government) policy and legislation so the strategy sets out the contribution the CAA intends to make. An area of activity that seemed to be ignored in the choice, value and fair treatment (CVFT) area (in contrast to the safety side perhaps) is the amount of resource the CAA puts into influencing the development of legislation to ensure it is fit for purpose - having a clear strategy for what we want the CAA wants to achieve should support this in future. However, the industry and consumers also have a role to play in making the market work and the CAA's role as a facilitator and the role of partnership and responding to others' views should be emphasised, with the current prescriptive and directive tone moderated.
- The Plan is extremely 'jargony' and inaccessible. Clearer language should be used throughout and this would help the technical reader as well as the novice.
- On the environment, the CAA should be careful about over claiming: the CAA should not find itself in the firing line when the industry/government fails to meet its noise/climate targets, for example.
- The CAA should be much more open about who its stakeholders are and less categorical – there might be stakeholders the CAA has never thought of and it should be open to dialogue with anyone affected by the way the industry operates.
- Areas where the CAA is prepared to push for change where it does not believe current arrangements are delivering for consumers (e.g. if voluntary ADR doesn't work).

- There is lots of room to use information more effectively, particularly in the areas of safety and security. The example of publishing complaints data by airline was cited by one member. Information can be used to help set consumer expectations as well as gauge those expectations and there is a link between the use of information to measure success and that as a policy instrument to achieve a targeted outcome.

Actions

CAA to submit a mature version of the plan to the Panel for discussion at the October 2015 Panel meeting, complete with the safety, security and better regulation sections.

3. Airspace change

NB explained the review of the airspace change process that the CAA has commissioned Helios to carry out. The Panel was specifically asked for its views on whether consumers have a role in the process, how their interests should be considered and whether airspace change proposers should be left to quantify the consumer benefit.

Key comments/responses/questions

- CAA should clarify that consumers are those who fly (both as passengers and as recreational pilots), not those on the ground who are affected by noise and other environmental impacts. Although there will be some overlap – e.g. people who use their local airport and are affected by noise – these cases are the exception rather than the rule.
- There are significant benefits to consumers from airspace change – more flights, fewer delays, better resilience – and significant costs on the horizon if airspace is not modernised. Standing still is not an option as demand remains below its pre-2008 peak and is likely to return within years, not decades.
- There is a clear role for the consumer interest to be given full consideration in airspace change decisions, but this need not mean that individual consumers or even consumer groups should be expected to engage with an abstract, highly technical process. Safety is clearly the key criterion, but there needs to be a way for the other main benefits and disbenefits of airspace change to be assessed and set out in a consistent way for each change proposal. Only when this is done, will it be possible for the aggregate consumer benefits to be meaningfully compared with the impacts on those negatively affected by noise, who have a much clearer incentive to make their problems known, and whose voices can be significantly amplified through social media.
- There is also a question at what level benefits are assessed. There may be some changes with benefits that are small in their own right but contribute to significant overall benefits when taken collectively with other airspace changes. The relationships between different airspace change proposals must therefore be properly understood in order that the CAA can make an informed decision.
- It is clear that better guidance is required from the Government to enable CAA to confront the various trade-offs inherent in airspace change decisions. For example, Government guidance is to reduce the number of people affected by noise, but that



this may be achieved by increasing the magnitude of noise experienced by those affected post-change is not considered.