



**Minutes of 11th CAA Consumer Panel Meeting
Wednesday 13th August 2014 1-4pm**

Present:

Keith Richards (KR)	Chair
Sarah Chambers (SC)	Panel Member
Crispin Beale (CB)	Panel Member
Ann Frye (AF)	Panel Member
Steven Gould (SG)	Panel Member
Alastair Keir (AK)	Panel Member
Anthony Smith (AS)	Panel Member

Invited guests:

James Tallack (JT)	Principal (PPT), CAA
Adrian Brett (AB)	Programme Head (PPT), CAA
Philip Clarke (PC)	Programme Head (PPT), CAA
Stephen Hand (SH)	Head of European Airspace Branch, DfT (seconded from CAA)
Tim Johnson (TJ)	Head of Policy (PPT), CAA

Apologies:

Philip Cullum	Panel Member
Robert Laslett	Panel Member

Meeting minuted by James Tallack

Development of the Single European Sky

1. The Panel was asked by SH to consider the issues set out in a paper concerning the development of the Single European Sky (SES) initiative and whether there are any particular passenger issues that have not been taken into account. SH said that any advice on the need for any additional passenger consultation and how this might be carried out would be particularly welcome. Members made the following comments:
 - 1.1. Fundamentally, SES is a good thing for consumers to the extent that it seeks to eliminate barriers to free movement of goods and people and therefore competition. The railways have failed to achieve this. However, to deliver the initiative in the most consumer-focused way you need to understand at a fundamental level what passengers' priorities for improvement are – that way you will be able to determine if the proposed measures have any hope of meeting that.
 - 1.2. Consumer research needs to be focused on the consumer benefits and disbenefits. The impacts on society (e.g. national sovereignty, employment) must of course be taken into account in the final analysis, but including these aspects in consumer research is unlikely to

result in a balanced view of what is desirable from the consumer perspective. It is also essential that DfT is satisfied with the evidence base that underpins the claimed benefits and disbenefits (e.g. how has the projected 6-8% reduction in costs been calculated; how strong are the causal links) before they are presented to consumers as 'given'.

- 1.3. Consumers would not tolerate any negative impact on safety standards as a result of the changes being considered. Therefore any consumer research commissioned by DfT should focus on the trade-offs. The obvious benefits appear to be lower costs and reduced delays – if there are trade-offs between these things depending on the approach taken then can these things be articulated and put to consumers? For example, the interests of airlines and consumers may not be aligned here: consumers may value a reduction in delays over a small cut in the price of their ticket, but research would be needed to confirm this.
- 1.4. Even if there is no negative impact on safety standards, DfT should consider the risk of a perception among consumers and the public that safety could be negatively affected by the proposed changes and will need to ensure that this is dealt with.

Development of the CAA's 2016-21 Strategic Plan

2. The CAA had asked the Panel to review a slide pack setting out the CAA's proposed approach to developing its 2016-21 Strategic Plan and complete a PEST-based exercise, which asked for views on the likely direction of key trends and the consumer risks that could materialise as a result and their impact. KR welcomed the CAA's intention to involve the Panel at the very beginning of the Plan's development. However, he said that at this stage the Panel was primarily concerned with the process by which the strategy would be developed and whether this would allow the CAA to take sufficient account of the consumer interest. This view was reflected in Members comments:
 - 2.1. The CAA needs to focus on opportunities as well as risks, as CAA's role is surely to maximise opportunities for consumers (eg SES, space travel) as well as to protect them from risks. This may stem from a safety-driven regulatory culture, which may not be appropriate for market and competition issues. If the CAA gets the language right at the beginning, it will ensure the Plan goes in the right direction. 'Upside' and 'downside' risks or 'outcomes focused regulation' (where a risk is simply a threat to an outcome) might be better terms.
 - 2.2. The CAA needs to clarify the relationship between legislation and policy – when looking at an issue, does the CAA start with policy or does it start with legislation? If the role of a regulator is to implement government policy (which is set out in the legislation that provides the regulator with certain duties and/or powers) then the regulator has to make the most of the opportunity to influence government policy so it can address the problems in the market it regulates. The Civil Aviation Act 2012 was a missed opportunity where complaints handling is concerned: if the CAA had considered this core element of its consumer protection policy at the time it could have obtained legislative powers to ensure that UK consumers have the same access to alternative dispute resolution for aviation complaints as they do in other markets and that CAA resources are not being diverted away from things it has to do and into things that it does because the market is not meeting consumers' needs (e.g. second tier complaint handling).

- 2.3. The Plan therefore needs to ensure that the CAA can take a more holistic approach to consumer issues and ensure that it is well placed to identify regulatory gaps or flaws in extant legislation and make government aware of these so that, where appropriate, changes to the legislative framework can be made.
 - 2.4. The terminology around ‘consumer’ and ‘public’ (societal) risks needs to be clearly defined. Sometimes a risk to the public might be an opportunity for consumers. The Plan needs to address general lack of clarity common to all regulators about how to balance business/consumer/societal interests – the direction of risk-based regulation depends on where the line is drawn and by whom.
 - 2.5. There is potentially a mismatch between dimensions suggested and strategy under consideration – how to reconcile very broad, long-term global trends (e.g. economic growth, political tension) with a strategy for 2016-21? Instead, the CAA should look at factors closer to aviation, e.g.:
 - UK politics (e.g. obstacles to capacity expansion, support for regulators, balance of environment/security/consumer protection concerns)
 - UK economy (e.g. will current recovery end in a new financial crisis?)
 - UK sector-specific issues (e.g. effect of capacity constraints on entry of new low-cost airlines, contagious disease risks leading to health-related restrictions on flying)
 - 2.6. It is essential to build a good deal of ‘white space’ into the Plan to ensure that new risks and opportunities are not ignored. There needs to be flexibility to keep coming back and changing things even though it is difficult to justify this to funders who want certainty.
3. In the subsequent discussion on consumer risks and opportunities resulting from changes in the macro environment (PEST), Members made the following comments:
- 3.1. What is the fundamental economic assumption? Is it that the market is going to grow? If you adopt a different economic analysis (e.g. a stagnant or shrinking market) then you will get a different set of answers.
 - 3.2. Can the CAA safely make an assumption that market participants will respond adequately to market signals. If so, should CAA be concerned about how route networks develop (e.g. less direct connectivity as UK’s global influence declines) or is its role is to ensure that people make the best of the choices they have. This would help narrow the range of possible future risks that are actually ‘regulatory issues’. There are clearly going to be structural issues - monopolies etc - but also detriment that flows from people making bad choices because they don't have the right info on price/quality etc or have rights that are not respected or difficult to enforce.
 - 3.3. The ‘technology’ category in the PEST analysis is too broad: the direction of manufacturing technology is generally easy to predict but consumer technology, particularly software, is not – there are many things you wouldn’t have even considered five years ago. Such innovations can dramatically change the way you book flights, obtain information and the CAA needs to ensure it keeps abreast of this.
 - 3.4. KR said there is a strong feeling that issues around societal changes like demographics and shifting ethical values are not easily captured by the CAA process. For example, an ageing

population with more people with some kind of disability may find it harder to access services, particularly with the trend towards greater online delivery of retail. While this is likely to be a generational problem that will eventually work its way out, how the transition is managed is very important. Also, changes in people's values and beliefs, particularly on environmental issues, may result in demands for more information that the industry is unwilling to disclose.

- 3.5. Will consumers have a greater expectation of government/regulatory involvement in safety decisions following MH17 and the Ebola outbreak? Might we see the development of 'trustmark schemes' that show that airlines and airports follow government guidance and don't take unreasonable risks – and if so who might police such schemes?
- 3.6. If no new capacity is built in the UK (possibly because of a weak government) then unregulated regional airports could become more significant. Such airports are much more susceptible to the economic power of individual airlines that use them and this could result in a race to the bottom on service quality, particularly during disruption, which is infrequent but highly detrimental to the consumer. So competition might be acting against the interests of consumers and when things do go wrong there's a reputational risk to the CAA if passengers think airports are regulated by the CAA on such matters.
- 3.7. Market is polarising into 'high end' and 'low end' and this is bound to increase because barriers to entry are so low. For example, Norwegian have come from nowhere – that's a success of liberalisation as it provides greater competition. However, the flipside is that when things go wrong there's nobody to help you and the market doesn't self-correct because these events are isolated and purchases are infrequent. Do people really accept that a low/poor level of service is the price of a cheap ticket or do they have certain expectations and should it be made clearer to them what they can and can't expect from airlines and airports?
- 3.8. Problems caused by airlines' inability to get information out during disruption will be exacerbated as passengers' ability to communicate with each other over social media causes confusion. How will the CAA ensure that the industry manages this problem?
- 3.9. Security is likely to be a growing issue, especially new regulations and changes to regulations, and particularly when people don't understand the rationale. Changes can cause confusion, anxiety, and disruption to established processes. Despite technological changes, compared to 20 years ago it takes longer to get somewhere by air due largely to security checks. Why do you have to show up so early and is there a limit to what consumers will tolerate? Will it put people off flying?
- 3.10. How will CAA cope with the growing expectation that it is the duty of regulators to publish all of the data they hold, enabling third parties to identify and analyse market problems?
- 3.11. As concerns about safety increase in light of recent events, there is a risk to the CAA if it doesn't provide information to counter people's (probably false) perceptions. Does the CAA have a role to explain these things proactively or just in the event of something going wrong? Who else is going to do that? This is arguably not inherent to regulation but it nonetheless affects the fabric of the regulated industry and confidence in the regulator.

End of minutes