

Consumer Panel minutes

12-4pm Thursday 2 November 2017

Attendees

Consumer Panel

Keith Richards (KR) Panel Chair

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

Harriet Gamper (HG, Panel secretariat)

Invited guests

Tim Johnson (TJ)	CAA (CSP)
Beth Corbould (BC)	CAA (CMG)
Stephen Gifford (SG)	CAA (CMG)
Richard Stephenson (RS)	CAA (Communications)
David Bourne (DB)	CAA (CMG)
Matt Buffey (MB)	CAA (CMG)
Harry Farmer (HF)	CAA (CSP)
Rebecca Roberts-Hughes (RRH)	CAA (CSP)

Apologies

None

1. Update on CAA Strategic Developments

TJ briefed the Panel on main CAA strategic developments and priorities since the last meeting, in particular:

- Monarch repatriation – TJ recognised the immense effort made by CAA staff to complete this exercise. He also noted the many ways of working that existed during this exercise, particularly the pace of the work, cross functionality, and the sense of empowerment staff had throughout. Recognising that although this was a rare event, there may well be opportunities to apply some learning, for example to inspection regimes or to bring in mystery shopping or other depth learning, in particular with relation to the experiences of people with disabilities at airports.
- Successful CAA consumer enforcement action against Ryanair (rerouting customers), and Emirates (outcome at the Court of Appeal in the joined cases of

Gahan and Buckley v Emirates, regarding compensation for long delays resulting from missed connections – CAA position upheld). The Panel noted there would be an in-depth update on this work later on the agenda.

- TJ updated the Panel on the status of current work on safety assurance review.
- Heathrow, with the next price control and new runway, will clearly continue to be an important area. The Panel noted an in depth session on H7 later on the agenda.
- Drones, where TJ noted that it is not currently mandatory for leisure users to be insured or to be electronically identifiable. As well as the CAA's high profile safety education campaign, it was also currently supporting DfT on the development of new primary and secondary legislation that will strengthen the safety and enforcement regimes.

TJ then briefed the Panel on forwards look to 2018-19. Focus here was on:

- Change of CEO in 2018
- Brexit is still clearly a very important issue. The main focus is currently on contingency planning.
- The CAA is developing a cyber-security oversight regime to meet existing EASA and forthcoming Network and Information Systems Directive responsibilities.
- The Aviation Strategy, where TJ said the Government would consult in tranches, starting with consumer issues including network resilience and ADR in early 2019.

TJ briefly updated the Panel on the CAA's business planning process, which would start in November with the target budget being agreed. Each area would then conclude bottom up business planning, with the final plan being signed off by the CAA Board in April.

TJ noted that both Ann Frye and Adam Scorer would be stepping down in December, and thanked them both for their work with the Panel.

Key comments/responses/questions

Monarch

- SC praised the CAA for going the extra mile for consumers.
- CW said the activity was useful in allowing staff who are usually not consumer-facing to experience issues face to face and bring that learning back into the CAA.

Drones

- The Panel noted the subject with interest and asked that thought was given to bringing the issue back to a future meeting.

Brexit

- The Panel noted the importance of the discussions on Brexit and the impact for consumers, and welcomed the current focus on contingency planning.
- The Panel flagged the possibility of divergence in key consumer legislation between the EU and the UK after Brexit, which could impact on consumer willingness to buy outside the UK, since protections could end up differing. TJ said that he hadn't heard to date any suggestions that this would occur.

Aviation Strategy

- The CAA will engage with the Panel before finalising its response to the consultation on consumer issues.

CAA business planning

- It was agreed the Panel would have an opportunity to comment on CAA's proposed business plan. In particular the panel were interested in the work on scheme of charges, which is currently the subject of public consultation.

Actions

- If there is a consumer dimension, add drones policy to future agenda and explore further (HG).
- CAA to engage with Panel before finalising response to Aviation Strategy consultation on consumer issues (TJ).
- Separate discussion on business planning to be added to the February agenda (HG).

2. HAL's Q6 price control

Beth Corbould and Stephen Gifford (Consumers and Markets Group) gave a summary of:

- Stakeholder responses to the CAP1541 consultation on core elements of the regulatory framework to support capacity expansion at Heathrow. There was a good response to the consultation, with 16 responses received, covering all major stakeholders.
- A brief update on CAA's thinking on affordability – the CAA is still considering next steps after FTI concluded its work. The initial focus is on making sure consumer views have been reflected.
- Stakeholder views on the further extension of the Q6 price control; and
- Options being considered on the further extension of HAL's Q6 price control. BC and SG set out the different options for calibrating the price control extension and the impact on airport charges, along with the timetable required for making this policy decision. The policy challenge is that the CAA needs to reconcile an inherently uncertain R3 timetable with providing a reasonable degree of certainty to stakeholders.

Key comments/responses/questions

- The Panel asked about lessons learned from other airports around the world. FTI Consulting had recently completed a piece of work for the CAA which included a review of how other countries tried to quantify passenger impact as part of their investment decisions. While the results of these studies are not easily transferrable to Heathrow, the methodologies used are. The CAA expects HAL to undertake this type of research as part of delivering a high quality business plan for H7.
- The issue of scarcity rents was discussed. The Panel noted the findings of the previous work in this area carried out by the Airports Commission, and suggested the CAA could carry out further research to ensure the conclusions are robust. BC responded that the CAA has already taken a position that expansion in the South East is in the interest of consumers, and is focussed on increasing capacity, which the Airport Commission outlined would reduce the scarcity rents earned by airlines. AS and TM underlined the importance of the CAA taking a view on this issue. BC confirmed the CAA has not yet taken an internal view and the Panel was keen to support this if helpful.
- SG outlined that our next H7/R3 consultation will be in December and will set out options for the Q6 extension, namely whether to extend the price control by a further 1 or 2 years. It is key the CAA's regulatory timetable is able remain as flexible as possible in the context of other issues which have their own timetable such as planning permission for new capacity.
- BC restated CAA policy that Heathrow is expected to present a quality business plan that is based on robust consumer research and engagement. There has been some concern over lack of engagement between airlines and HAL. BC confirmed CAA had met recently with airline representatives and encouraged them to engage with the Heathrow CCB, as well as HAL itself. The CAA does expect HAL to engage directly with consumers, with the CCB having oversight of the research.

- KR stressed the importance of using the sub group as a sounding board.

To note

RL had circulated a brief summary of the H7 sub group discussion to the Panel, which the Panel noted.

Actions

- BC to bring issue of scarcity rents to next H7 sub group meeting.

3. Update on recent CAA consumer action

The Panel received two presentations for information/to note: an overview of how the CAA prepared to repatriate 110,000 passengers following the failure of Monarch, including communicating with large numbers of passengers, and an update on the CAA's recent action to ensure Ryanair informs passengers of their rights under EU Regulation 261.

Monarch:

Richard Stephenson, Director of Communications, spoke about the communications effort around the Monarch repatriation, and how this challenge was faced. The CAA set up a toolkit for airports and others to use to prepare and disseminate information, a standalone website for consumers to check, a 24/7 call centre, and daily press releases to ensure all key stakeholders were kept informed throughout the two week period. There was particular emphasis on the needs of passengers with disabilities, with a separate escalations team staffed by CAA personnel to ensure these passengers were identified and their needs were met.

David Bourne, Head of Policy and Governance in the Consumers and Markets Group, focused on the logistics of the operation. This included lessons learned from previous large repatriation planning and delivery exercises, and contingency planning that the CAA had undertaken. DB highlighted how the CAA had undertaken capability building, including pre-securing more than 30 aircraft, making advance arrangements for a call centre, ground handling (UK and abroad) and coaching. The CAA's key objective was to return passengers back on same date as originally booked and 98% of passengers arrived home on the day originally planned.

Ryanair:

Matt Buffey, Head of Consumer Protection, then updated the Panel on the recent action the CAA had taken against Ryanair. Focus here was on the information Ryanair was putting into the public domain following the cancellation of large numbers of flights. The CAA position was that Ryanair had mislead passengers with inaccurate information regarding their rights when flights are cancelled. A particular area of focus was rerouting, the CAA expectation being that where there was no alternative Ryanair flight within a suitable timeframe passengers should be rerouted on other airlines. The CAA also focused on care and assistance entitlements, including expenses. Following the CAA intervention, Ryanair amended the information it was giving to passengers, including putting out a press release with correct information and emailing all affected consumers outlining their rights.

Key comments/responses/questions

Monarch

- The Panel were very supportive of the work done on Monarch and the positive outcomes achieved for consumers.
- The Panel wanted to know who would fund the non-ATOL costs of the Monarch repatriation. The costs of repatriating Monarch's ATOL protected customers will be met by the ATOL scheme, while the costs of repatriating all other passengers will be

met by the Government. The Government is also seeking to recover costs through credit card companies and travel providers.

- The Panel underlined the importance of a lessons learned exercise being undertaken. TJ assured the Panel this was already underway. This includes the question of whether or not the framework for airline insolvency in the UK should be updated.
- KR stated that the Panel supports a review of ATOL and the implementation of the revised Package Travel Directive (PTD), but that is also important to ensure that consumers who have flight only benefit from equal protection. The Panel were keen to discuss the revised Directive and its implementation at a future meeting.
- KR mentioned that the CAA could use its powers to publish more information and make sure it is put into the public domain, and that based on recent successful actions the CAA should act with more confidence in doing this. RS and RRH asked for examples of where the CAA could feel more confident in influencing stakeholders.

Ryanair

- The Panel noted their support for the action and considered it would bring benefits to consumers.
- TM asked if the culture at Ryanair is changing following engagement with the regulator on various issues. The Panel was concerned that poor internal culture at Ryanair potentially came from the top of the organisation.
- CW highlighted how hard it can be to change consumer behaviour, in particular as most people do not fly very often and therefore may forget, this can lessen the effects of reputational regulation.

Actions

- Panel to engage with DB and give input on implementation of the revised PTD (DB).

4. Consumer tracker survey refresh

Harry Farmer (CAA Strategy and Policy team) presented on the Consumer Tracker Survey, which has been running since January 2016 and will shortly be re-tendered. This provides an opportunity to consider how the survey has been approached to date, whether it is playing the role we intended it to play and whether there might be scope for improvements moving forward.

The main virtue of running a tracker is that it is longitudinal, tracking changes over time. For this reason it is important that approximately 80% of the questions remain the same. The tracker is used to shine a light on issues, which can then allow for more in-depth analysis where necessary.

RRH said that currently there are opportunities to change how the budget is spent – for example the Tracker could be restricted to one wave per year, with remaining budget used to do a piece of depth research instead.

Key comments/responses/questions

- The Panel fully support the Tracker and think it is an excellent tool.
- Two waves are needed each year to pick up seasonal trends.
- The 80/20 split of fixed and variable questions was the right balance.
- TM asked if some of the fixed questions could be removed if the results are not showing changes over time (for example these questions could remain once per year, but with more room for variable questions in the other wave).

- The satisfaction questions are very important. AS added that HF could speak to Transport Focus about adding emotional response questions, which can add further rich data to questions around satisfaction.
- One suggestion was that every second year the sample size could be boosted geographically, allowing a deep look at regional differences.
- The narrative provided by the current market research company does not always reflect the story being told in the statistics. CAA should be providing the narrative itself.
- The Panel were keen that the data is used to look at the experience of vulnerable consumers in the widest sense, ensuring the analysis is not restricted to PRMs.
- RRH mentioned that some of the headline results have been presented to industry directors, who are interested. AS underlined the importance of considering the issues firms see as important.
- The Panel would like to see the Tracker results on a dedicated page on the CAA website, linked through from the home page.
- The CAA will shortly plan and prioritise consumer issues over the next two years. Research plays an important part in this.

Actions

- The Panel was supportive of re-tendering and asked for feedback once this had been done (HF).
- HF to feed back drop out rates and whether this is linked to the current length of the survey.
- HF to discuss emotional response questions with Transport Focus colleagues.

5. Information duties – update

Rebecca Roberts-Hughes (Head of Policy Development, CAA Strategy and Policy team), introduced the CAA information duty, noting that in the Civil Aviation Act 2012 the CAA was given a duty to provide information. One part of the duty concerns information that will assist consumers in comparing air traffic services, and the other concerns providing information to the public about the environmental impacts of aviation and potential mitigations of those impacts. This area has been identified as a high priority for the Panel in their current work programme.

RRH set out that the current policy is silent on how the CAA should make information available, and the CAA can only require data that already exists – an entity cannot be compelled to create new data.

Key comments/responses/questions

- The Panel recognised there was likely to be limited utility in putting information on the CAA's own website as few consumers are likely to view it.
- RRH mentioned that the CAA is currently looking into whether a poll could be done in partnership with a consumer facing organisation or website (with large consumer reach) on how information could best be disseminated to consumers. A Comms plan is currently being developed.
- ASc recommended approaching the issue by first establishing what the consumer harm is, and what the extent of it is. Then asking what is within the CAA's powers to do, and asking whether the information duty can solve the problem.
- KR stated that the regulator should be bold and push to conclusively establish where the boundaries lie.
- CW noted that even where consumers do not see or react to information, firms may react to the reputational impact of the information being published.

Actions

- The Panel will explore this further via a sub group on information (KR).

6. Allocated seats

Harriet Gamper (CAA Strategy and Policy team) introduced a paper on the practice of some airlines charging passengers to guarantee they will sit with their group/companion. The issue could be approached as one of drip pricing. Information remedies could also be considered as part of a potential remedy. HG had circulated an initial paper prior to the meeting. The CAA saw the issue as important and was keen to build on momentum achieved from other consumer enforcement cases it had recently taken.

Key comments/responses/questions

- The Panel were supportive of the paper and saw the issue as key for various different groups of consumers.
- SC, TM and AF particularly highlighted the needs of vulnerable consumers, and that these groups could be at risk of greater detriment from the practice.
- SC saw the issue as definitely one of drip pricing. She recommended talking to the CMA who have recently carried out work in this area.
- AS recommended talking to colleagues in rail to see if there are comparable issues.
- RL and TM recommended seeking further information on whether the costs charged to allocate a specific seat are reflective of the costs incurred by airlines.
- Overall the Panel thought the issue was a priority and agreed with the approach of seeking further information as a first stage.

Actions

- HG to circulate updated paper to Panel for further comments via email (HG and Panel).
- HG to speak to CMA and rail counterparts.

7. Any Other Business

KR highlighted that this was both AF and ASc's last meeting as Panel Members. He thanked them for their invaluable input to the Panel.