

Consumer Panel minutes

12-4pm Thursday 27 April 2017

Attendees

Consumer Panel

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

Invited guests

Tim Johnson (TJ)	CAA (CSP)	Beth Corbould (BC)	CAA (CMG)
Rebecca Roberts-Hughes (RRH)	CAA (CSP)	Graham French (GF)	CAA (CSP)
Harry Farmer (HF)	CAA (CSP)	Jonathan Sharratt (JS)	CAA (CSP)
James Fremantle (JF)	CAA (CMG)	David Bourne (DB)	CAA (CMG)
Will Webster (WW)	CAA (CMG)		

Apologies

None

Minutes by Anne-Marie Hopcroft (AMH), Panel Secretary

1. Consumer Vulnerability

KR thanked CAA and Panel members for their advance contributions to support the discussion of this important topic. He highlighted the Panel's concern that the CAA's current thinking around consumer vulnerability was restricted to CMG's work in the area of Persons of Reduced Mobility (PRM). The significant progress of the CMG work was noted but it was felt that this needed to be broadened out to other CAA areas. KR also noted that a meeting had been arranged with CAA Aviation Security and Cabin Safety teams to discuss this further.

RRH briefed the Panel on the approach taken by the CAA Strategy & Policy (CSP) team to policy development and how this might be used to take forward the consumer vulnerability work. The approach involves defining and evidencing the issue to understand the situation, before developing options to address it. These options would be assessed in order to decide which were best to progress and a final review process would establish whether the issue has been successfully addressed. In order to inform the discussion, RRH shared the evidence that had been gathered through expert view, the tracker survey and a separate PRM survey, and the activities that the CAA has carried out, or has planned, in this area.

Key comments/responses/questions

- Discussion around how best to define consumer vulnerability established that this relates both to the nature of the person and circumstance. There are some

consumers who are inherently vulnerable through, for example disability, but some consumers become vulnerable when placed in certain circumstances, particularly disruption. It was highlighted that a person could become vulnerable by their ability to manage and bear risk, which is particularly relevant during disruption. The Panel agreed that, during disruption, the majority of consumers become vulnerable if they do not have the right information, at the right time and place, and in the right form. TM highlighted that disruption of any kind tends to impact vulnerable consumers first and then if not quickly addressed, impacts on the wider consumer population. It could therefore be argued that proactively addressing consumer vulnerability often made business sense as it mitigates against having to resolve issues on a much larger scale.

- KR highlighted that issues for PRMs going through airport security appeared to be a common theme. He recognised that the CAA did not have a statutory role in this area but suggested that there was potential for the CAA to take a leadership role to help resolve the problem. More broadly, the Panel recognised that different organisations had responsibility for specific parts of the passenger journey but highlighted that a passenger's expectation was for a seamless experience. CW noted the work undertaken in the financial services sector to identify vulnerability risks where there is a supply chain involving more than one supplier.
- ASc suggested that the CAA explore what opportunities there might be for regulated entities to use contractual relationships with service providers to improve the situation for vulnerable consumers, which has been done in other sectors such as energy. RL reflected that it would be important to consider consumer vulnerability as part of the R3 investment work.
- The discussion turned to whether the CAA had given the issue of consumer vulnerability sufficient importance. The Panel felt that although the CAA had made progress in prioritising consumers in its work, the issue of vulnerability did not appear to be prominent. SG suggested that the CAA tended to feel restricted by its legislative framework and therefore not open to exploring other avenues to create change. RRH highlighted the role of CSP in working across the CAA and promoting a shift in regulatory thinking but that this could be resource intensive. The Panel were keen to support CMG and CSP in embedding understanding and response to consumer vulnerability. CW noted the more visible role being taken by other regulators to drive progress in this area and felt that the CAA was notably absent.
- It was noted that there were levers such as the Consumers Right Act and Public Sector Equality Duties to help embed thinking around consumer vulnerability within the CAA and seek better outcomes for affected consumers. It was felt that seeking CAA Board support for increasing the profile of vulnerable consumers within the CAA would be key
- KR felt that the CAA should look at what has been done in other sectors. It was questioned whether the focus should be on other transport sectors but generally felt that looking more broadly would bring in greater learning.
- The Panel questioned whether there was data available to show what percentage of PRMs seek assistance. JF highlighted that the CAA's airport surveys should contain this data but it was noted that not all PRMs might classify themselves as such.
- It was noted that some of the case studies from the PRM survey had highlighted that training may be an issue. AF highlighted that airports had a legal obligation in respect of training and the enforcement of this may need to be reviewed.
- Overall the Panel felt that the market was failing vulnerable consumers and considered strongly that the CAA should be doing more in this area and ensure that vulnerability underpinned all of the CAA's activities.

Actions

- KR to raise the issue of consumer vulnerability at his next meeting with the CAA Chair and Chief Executive
- RRH to make CSP staff resource available to develop a paper defining consumer vulnerability, including evidencing the issue, scoping solutions, and prioritising recommendations for the CAA to take forward. This will reflect the discussion at the Panel, the evidence gathered and discussions with regulators and organisations in other sectors. Staff resource will be available later in 2017, dependent on the timelines for the new joiner (interviews currently taking place).
- RRH to find out whether the airport survey can provide an indication of how many passengers could ask for assistance and review the tracker survey questions to get a better understanding of the confidence that passengers have that they will receive assistance in periods of disruption.

2. Update on CAA strategic developments

TJ provided the Panel with an update on key strategic developments impacting the CAA. He highlighted the impact of the General Election on a number of aviation related legislative programmes. It was noted that airspace change was a priority area for the CAA and the strong position that had been submitted to the Transport Select Committee's inquiry into airspace management and modernisation. TJ briefed the Panel on the Government's work to develop a new Aviation Strategy and its focus on consumers, which was a positive development.

Key comments/responses/questions

- The Panel asked if there had been any further developments on the CAA's response to Brexit. TJ highlighted the work that the CAA had been carrying out on contingency planning. In response to a question on the potential for downgrading consumer protection, TJ noted that there was no evidence to suggest this and that the focus was on creating a seamless transition for the aviation system.
- The Panel asked what the CAA had done in response to the Air Accident Investigation Branch's report into the fatal accident at Shoreham in August 2015. TJ highlighted that the CAA had taken the findings of the report very seriously, were clear about the standards that should apply and that these standards should be upheld. It was noted that an independent contractor had been appointed to carry out a post implementation review. The Panel wanted to give credit to how the CAA had handled the situation from a consumer perspective.

3. H7 – Business Plan and Outcomes

WW and BC provided an update to the Panel on the guidance that has been published for Heathrow Airport Ltd (HAL) in preparing its business plans for the H7 price control. A key part of the guidance is the CAA's expectations for consumer engagement and the functions of the Heathrow Consumer Challenge Board (HCCB), and moving to an outcome-based approach to service quality regulation. BC highlighted that outcome based regulation (OBR) would broaden the information available on service quality to both CAA and consumers and allow the use of reputational incentives.

KR highlighted that two members of the CAA Consumer Panel had been appointed to the HCCB – Claire Whyley and Trisha McAuley. He also congratulated CAA for the work that it had done to establish best practice from other sectors and apply it to H7.

Key comments/responses/questions

- KR highlighted the issue of capacity constraint, even in light of the third runway, and linked to the Panel's earlier discussion of the impact of disruption on consumer vulnerability. BC noted that a key part of outcome based regulation is resilience and

how the CAA would expect this to be built into relevant business plans. In response to a question on the cost of extra resilience, BC noted that this is an area being further explored. TJ highlighted that resilience was being considered more widely across the sector in terms of how schedules are derived and this would be discussed further under the Network Resilience agenda item. AS noted the link to a lack of Aviation Master Plan and TJ agreed with the need to think of airspace and airports as an integrated system in terms of determining scarce resource and the trade offs that need to be made.

- BC highlighted that airlines have had concerns about OBR but that the CAA has made significant progress in addressing their concerns. AS shared his experiences of the service based quality regime in the train industry and emphasised the need for any regime to focus more on outcomes than outputs. TM noted that having real measures and outcomes would also be a key area of focus for the CCB.
- The use of reputation incentives was further discussed. It was noted that the measures that could be developed through OBR could cover all aspects of airport operation. The CAA considers that OBR may give scope to wider reporting of passenger experience at HAL, including in areas where HAL is not in control of service. Before considering incentives, HAL is working to understand the areas that are of most importance to consumers, and accompanying measures, and then consider the type of incentive (financial or reputational) at a later stage. TJ highlighted the wealth of data available to the CAA through the airport surveys that may be of benefit to both the Consumer Panel and the HCCB. The importance was noted of seeking data relating to all airlines at Heathrow and recognising how best to balance the contribution that British Airways makes, given it is significantly larger than other airlines.
- In response to a question about how H7 would factor in capacity expansion, it was noted that HAL would be expected to develop its business plan on a three runway basis. There were timetabling issues relating to aligning the H7 and R3 process but that these would be explored further via consultation. WW and BC emphasised that the HAL business plan needed to be very much driven by business needs and how to serve consumers rather than the regulatory regime.
- AS questioned how the voice of the freight community would be factored in given that the CCB is passenger focussed. BC noted that although steps had been made to engage the freight sector, this would be further revisited. The Panel encouraged the CAA team to engage with freight trade bodies but recognised that this might be more useful at a later stage in the process rather than at the policy development phase.
- WW reported that the next update to the Panel would reflect on the timetable for H7, the regulatory framework for new capacity and questions around affordability and financing.

4. Network Resilience

GF updated the Panel on the work that had taken place since he last presented to the Panel in April 2016 relating the evidence gathered through a request for information, consumer research, meeting with industry stakeholders and an independent report into delay at Gatwick Airport.

KR welcomed the CAA's work on network resilience, noting that this was an area where the CAA did not have significant statutory powers but had yet recognised the impact of disruption on consumers and had made a decision to take a leadership role to seek better outcomes.

Key comments/responses/questions

- The Panel were surprised that there had not been stronger responses to the request for information. GF considered that this was primarily due to this being an early

stage in policy development and quite a broad subject to explore. The H7 consumer research had indicated that consumers would not be happy to trade choice and cost for a more resilient system, but might be willing to pay a little more for improved resilience (for example extra resource at airports). It was recognised that this view might be different for those that had been subject to disruption, which had been discussed during focus groups. The Panel felt that, in general, consumers expect resilience and would not therefore see the need to pay extra to secure it. However the Panel also felt, in some circumstances, consumers may be prepared to pay extra for being assured of an on time arrival. GF and TJ noted that both the H7 consumer research and tracker survey had indicated that presenting delay data to consumers during the booking process was not a high priority. Again, the Panel felt that a proportion of travellers, particularly frequent business flyers, might find the information useful as long as it was accessible. RRH highlighted the work underway to improve the presentation of CAA delay and punctuality data.

- In response to a question about severe weather days, it was noted that there was no trend of these increasing each year and that airlines tend to proactively cancel flights in those circumstances to minimise delays.
- Recognising that a key issue is the ability of airports to declare their own runway capacity (within any planning constraints) in consultation with airlines and other stakeholders, RL asked about the use of simulation models by the airports. It was noted that this was used during the capacity declaration process but there were limits to the models used.
- GF highlighted that a Voluntary Industry Resilience Group had been established to consider how to improve resilience and had just held its first meeting on 26 April 2017. GF noted that the CAA would not drive the Group's agenda but had alerted it to the findings of the network resilience work which were due to be published soon
- TJ noted that the Industry Resilience Group would provide the industry with a good mechanism by which to input to the Government's Aviation Strategy. He asked the Panel whether they would be submitting a separate consumer-focussed position to the Aviation Strategy. KR noted that the Panel would typically input to CAA submissions but that there was nothing to prevent the Panel making a separate input. The Panel agreed to consider this further.
- KR emphasised the Panel's interest in this work, particularly recognising the link to vulnerable consumers, and requested to be kept informed of progress.

5. Package Travel Directive

DB briefed the Panel on an aspect of the Package Travel Directive (PTD) 2015, the creation of a new form of protected sale known as Linked Travel Arrangements (LTAs), where the CAA is concerned that there is defective insolvency protection and potential confusion for consumers in knowing what part of the holiday is, or is not, protected.

Key comments/responses/questions

- In light of Brexit, KR questioned the extent to which the UK would have to implement the provisions of PTD 2015 in full. It was noted that the Government's position is to implement in full to minimise any issues during Brexit negotiations, and then, if necessary revisit after Brexit.
- In response to a question about the evidence base of consumer understanding on insolvency protection, it was noted that significant research was undertaken a number of years ago. This has been followed up with a survey since 2012, which shows a generally positive picture of consumer confidence in ATOL. DB highlighted a concern that this confidence would be harder to maintain if LTAs were implemented as proposed in the PTD 2015.

- KR also highlighted that, with LTAs, the consumer would only be protected as long as the facilitator held the consumers money, which may only be a very short timeframe.
- RL asked about the robustness of the wider ATOL framework, in particular relating to mutual recognition of insolvency protection systems in other European countries. DB noted that Member States can interpret what is meant by a 'package' differently to the UK, which has the potential to cause issues but there had been little evidence to suggest that there is consumer detriment being experienced. DB was keen to hear if the Panel had evidence of consumer detriment in this regard.
- Turning to the pre-sale disclosure proposed in PTD 2015, the Panel felt that this did not provide clarity to consumers. It was questioned whether both the CAA's Information Duty and ATOL disclosure powers could be used to help ease confusion but there were concerns this could breach the 'maximum harmonisation' element of the Directive.
- The Panel were very supportive of the CAA's approach to implement more protection than set out in PTD 2015 to ensure that consumers are effectively provided airline insolvency protection in a similar way to ATOL and offered to meet separately with DB and the Department for Transport to further discuss the issue. The Panel also urged the CAA to carry out further research on consumer understanding of their rights on insolvency protection.

6. Review of the CAA Consumer Panel

AMH briefly updated the Panel on the progress that had been made on the review of the Consumer Panel. The CAA had completed a survey of Panel Members and CAA colleagues and was working with an external independent consultant to speak to other regulators and Consumer Panel chairs to learn about best practice in other sectors. AMH offered to speak separately to any Panel Members that had not submitted views through the survey but would still like to contribute to the review.