

Consumer Panel minutes

12-4pm Thursday 27 July 2017

Attendees

Consumer Panel

Keith Richards (KR) Chair
Sarah Chambers (SC)
Ann Frye (AF)
Steven Gould (SG)

Robert Laslett (RL)
Trisha McAuley (TM)
Adam Scorer (ASc)
Anthony Smith (AS)

Invited guests

Tim Johnson (TJ)	CAA (CSP)	Stuart Holder (SH)	CAA (CMG)
Harry Farmer (HF)	CAA (CSP)	David Elbourne (DE)	CAA (AvSec)
Beth Corbould (BC)	CAA (CMG)	Michael Lee (ML)	CAA (AvSec)

Apologies

Claire Whyley, Rebecca Roberts-Hughes

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

1. Update on CAA Strategic Developments

TJ briefed the Panel on three main strategic developments: the Department for Transport's call for evidence on an Aviation Strategy, regulation of emerging technology and the impact of Brexit on aviation.

In terms of the Aviation Strategy, TJ welcomed the focus on consumers and noted the challenge of Government being able to prioritise from within what will be a wide ranging strategy for aviation. He did feel that it would provide a framework to support longer term decisions that will be needed for the aviation system.

With regard to emerging technology, TJ briefed the Panel on the CAA's work to develop a regulatory package to support drone registration and the draft Spaceflight Bill going through Parliament. He noted that enabling new technology was a key part of CAA's strategy, recognising that innovation can bring benefits to consumer. The CAA was currently looking at whether it could do more to support the innovation of new technology in a safe manner.

On Brexit, TJ noted that the CAA was focusing on contingency planning. There was a recognition that aviation organisations will need time to prepare for Brexit but that it is for the Government to negotiate any agreements.

Key comments/responses/questions

Aviation Strategy

- RL noted that the DfT's call for evidence questioned the extent to which regulation serves consumer and whether this had any implications for the CAA. The Panel considered that the consultation was an opportunity to consider

whether the deregulatory agenda had been taken too far and the extent to which enforcement should be given greater prominence. TJ highlighted that the CAA has been more proactive in recent years in taking effective enforcement action, particularly on the consumer protection agenda. It was important to note however, the nature of enforcement could vary across the different parts of the CAA's duties, for example, in safety, where taking account of 'just culture'¹ is important to support open flows of information.

- RL also noted the questions in the consultation around acceptable levels of safety. TJ considered that a fundamental element of the new aviation strategy would be safety and so it was appropriate for the consultation to be testing thinking in this area, particularly in light of the Grenfell tragedy. AS also highlighted that it was right to be giving priority to safety considerations given that the aviation system was under strain (in terms of capacity).

Brexit

- In response from a question from SC, TJ noted that the Government was aware of the need, and importance of maintaining consumer protection as well as an open market for aviation. It was felt that there would be no dilution of consumer protection as a result of Brexit. The Panel recognised the complexity of the networks, agreements, issues and inter-relationships with other European bodies that would need to be resolved for aviation. TJ noted that Government was also aware of these and the CAA was actively influencing in respect of retaining EASA membership as being in the consumer interest.

Resilience

- RL highlighted the Panel's interest in the work that had been initiated on network resilience by the CAA, in particular the Voluntary Industry Resilience Group (VIRG) and questioned whether it would be helpful for the Panel to engage with the VIRG. TJ agreed to discuss this further with the CAA's network resilience team.

Air Quality

- AS noted the increasing prominence of the air quality agenda and questioned how this was impacting aviation. TJ noted that this would ultimately impact aviation (and that research had been carried out into hybrid technology and biofuels) but that aviation environmental concern was more focussed on noise. KR also noted that the increasing levels of surface traffic to airports, rather than the aircraft themselves, were a high contributor to air quality issues.

Actions

- TJ to discuss how best for the Panel to engage with the network resilience work and feedback to the Panel on next steps.

2. Review of CAA Consumer Panel

AMH briefed the Panel on the feedback from the CAA Board to the findings and recommendations of the recent Review of the CAA Consumer Panel. The Board had supported the proposed approach, in particular with regard to increasing the visibility of the Panel, but requested the vision be amended and greater clarity given regarding the independence of the Panel. The work to address this feedback was also presented to the Panel.

¹ Definition of 'just culture', taken from Regulation (EU) No 376/2014 on the reporting, analysis and follow up of occurrences in civil aviation is: *'just culture' means a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated;*

Key comments/responses/questions

- TM welcomed the clarity around the Panel's independence but felt that the Review and / or Panel's Terms of Reference did not reflect the role for the Panel in steering the CAA's strategic priorities. KR highlighted the role that the Panel had played in developing the CAA's Strategic Plan and felt that this role should be formalised going forward. It was agreed that the Terms of Reference would be further reviewed.
- SG recognised the difficulties of defining independence given that the Panel could operate in different roles, e.g. providing specialist advice to the CAA, generating an independent Panel annual report etc.
- In response from a proposal from KR, it was agreed that the CAA Board should be briefed on all Panel activity (e.g. sub group and external meetings) and not just limited to main Panel meetings.
- TJ briefed the Panel that an advert would shortly be issued for a new Chair of the Consumer Panel.

Actions

- AMH to circulate the CAA Board Paper template to Panel members.
- AMH to ensure briefings to the CAA Board include the full extent of Panel activity.

3. Draft Consumer Panel Annual Report

The draft Consumer Panel Annual Report had been developed in correspondence and KR thanked Members for their contributions.

Key comments/responses/questions

- The Panel agreed, given its significance, that the Report should make reference to the DfT's call for evidence on Aviation Strategy even though this fell outside of the reporting period of the report.
- TJ requested that the Panel review the wording of the section on Alternative Dispute Resolution (ADR) to reflect the role of the Government, rather than the CAA, in mandating access to ADR.
- AF highlighted the importance of making the report accessible to all and questioned whether the CAA met existing web accessibility standards. TJ agreed that the report should be accessible to all, noting that the CAA was planning to undertake an audit to establish its compliance with accessibility standards and there would be an action plan to address any issues.

Actions

- KR to amend the Annual Report in light of comments made at the meeting, and those previously provided in writing, and circulate it to Panel Members for approval.

4. H7 – New Runway Capacity

SH briefed the Panel on the recent consultation document on the core elements of the regulatory framework to support capacity expansion at Heathrow. It was noted that the consultation signals CAA's intention to maintain the Regulatory Asset Base / Single Till approach and gives a view on the overall economic incentives within the regulatory framework. BC briefed the Panel on some early thinking on the CAA's approach to affordability.

Key comments/responses/questions

Consultation document

- The potential to include a licence condition relating to Heathrow's capital expenditure programme was further discussed. It was noted that this would provide an additional regulatory tool to ensure that capital projects were delivered and that Heathrow would have the ability to challenge the licence condition. The Panel questioned whether the condition would put off potential investors but it was noted that similar conditions have been applied in other sectors so should not cause concern.
- The Panel discussed the CAA's decision to treat capital and operational expenses separately. It was noted that the CAA had not ruled out considering a 'total expenditure' approach in future but that H7 would not be the right time to introduce such a change. It was also noted that the CAA were looking to see whether the incentives around capital expenditure could be strengthened and that the CAA would return to cost of capital later in the year after commissioning work to review the methodology used in Q6 in light of changes to market conditions and an initial view of the impact of the risks associated with a large infrastructure project. It was accepted that airlines and airports are likely to have differing views on this issue.
- It was highlighted that the H7 timetable had already been extended by a year but the consultation document indicated a further extension of at least 12 months to take into account the delays that had already been experienced regarding the National Policy Statement and Heathrow's consultation on its proposals. The Panel raised concerns with a further extension on the basis of the original price control. SH highlighted that CAA would be reviewing different options for extending the price control, including for example rebasing for actual traffic levels (as suggested by IAG).

Affordability

- KR questioned whether "affordability" was the correct term to use from a consumer perspective. The Panel discussed this further and concluded that this was a financial term applicable to airlines and airports, proposing that it should be considered as "value for money of the range, quality of services provided to consumers".
- The Panel reflected on Heathrow's proposal to amend its infrastructure programme to ensure that it can provide flat landing fees. It was noted that this had been done in response to airline concerns about affordability and the impact on consumers needed to be understood by all parties. BC highlighted the role of the Consumer Challenge Board in providing a steer to Heathrow on this issue and that strong representation had already been made. She also noted that the CAA would be commissioning advice to consider the work of the Airports Commission on affordability and provide case studies of where consumer views have been used to design investment decisions. AS suggested the CAA look at similar research carried out in the rail sector.

Other issues

- The Panel discussed compensation costs and it was noted that HAL would be held to account to ensure these costs were assigned appropriately. SH briefed the Panel on the different types of compensation available and highlighted that Heathrow has proposed a voluntary purchase process for house owners beyond the area identified as requiring compulsory purchase.
- In response to a question from RL regarding the parameters of prefunding, it was noted that the CAA has moved away from the term 'prefunding' and is looking to balance the profile of prices over time to minimise the risk of a step change in airport charges. The Panel considered that consumers would want to see value for money prior to new runway capacity being available and that there should be transparency around any decisions to keep a flat pricing structure. The Panel encouraged the CAA to give this issue further thought, in particular around how it would be communicated to consumers.

- KR thanked SH and BC for their presentation and encouraged them to engage with a sub group of the Panel in between main Panel meetings. Details of the sub group would be circulated.

Actions

- KR to establish sub group of the Panel to consider H7 issues.

5. Wave 3 Tracker Survey

HF briefed the Panel on the results of the third wave of the CAA's consumer tracker survey, particularly focussing on complaint handling, disruption, the experience, and awareness, of disabled passengers and those with reduced mobility of the use of special assistance at airports, and consumer response to punctuality and cancellation. HF noted that the full report of the survey findings would be published in early August.

Key comments/responses/questions

- TM noted that it would be helpful to better understand why passengers were not escalating their complaints to an ADR provider, in particular whether it was difficult to do so or whether there was a lack of awareness of such escalation processes. It was noted that airports and airlines should signpost ADR provision but not clear whether this was happening in practice. It was also suggested that separating the data by those that are frequent and infrequent flyers would be helpful.
- SG and ASc suggested engaging with other sectors and UKRN to learn about their understanding of why consumers do not use complaint mechanisms when they are entitled to do so.
- TJ highlighted that the root cause of delay is very often not recorded in airport and airline systems, which then means it cannot be communicated to passengers. The Panel recognised that while consumers may expect an airport to communicate the root cause of a delay, it may not have access to this information and not want to be perceived as the cause of the delay.
- KR noted that delay, and lack of knowledge of the reason for the delay, can also exaggerate a consumer's vulnerability.
- The Panel found the survey findings around use and awareness of special assistance interesting but were keen to know how disabled passengers and those with reduced mobility had responded to the wider survey questions.
- RL questioned whether the survey had asked about passenger views on the length of time they needed to be at the airport prior to boarding. HF confirmed this question had not been posed.

Actions

- HF to provide the data breakdowns requested by the Panel

6. Consumer Information Duty

HF gave the Panel an overview of the CAA's information duties and the work that is underway by the CAA to fulfil this duty, specifically around punctuality information published by the CAA and identifying (and addressing) areas where consumers lack comparable information about aviation. The punctuality work would draw on the insights gained from the recent wave of the consumer tracker survey and a consultation document would be published in September. HF noted an options paper was available in respect of the work to identify and address areas lacking in comparable information and offered it to Panel Members on request

Key comments/responses/questions

General

- The Panel were keen to understand the extent to which the CAA was unable to compel businesses to publish information in a helpful manner. It was felt that the organisation had pushed the boundaries in certain areas, e.g. for disabled passengers and those with reduced mobility and therefore questioned why this could not be done more broadly. It was noted that a legal opinion had been sought and this provided the basis for the CAA's position. KR suggested that using the DfT's Aviation Strategy consultation as a mechanism to seek more powers in this area could be helpful.

Punctuality information

- The Panel discussed the use of third parties to provide comparable information rather than the CAA. HF noted that this was something actively being considered but it was not clear the extent to which this was something consumers wanted or whether it would be taken up by third parties. ASc highlighted that as long as aviation businesses were providing raw data, even if not in a digestible format, third parties would be able to make it more consumer-friendly. He encouraged the CAA to look at similar apps already available to learn in particular about their user friendliness and noted that to get the best outcomes for consumers, the CAA may have to relinquish control of its data once published, which may feel counter cultural. With regard to data provided by the CAA, TJ noted the CAA's priority was to ensure the quality and accuracy of this data. He highlighted that the CAA was establishing new parameters relating to early flight arrivals (which could cause operational issues) and the actual arrival time at destination for outbound flights. If there was a compelling case for the CAA to be the providers of comparable data then this would be considered at a later stage.
- Drawing on the discussion from the previous agenda item, AS questioned whether the tracker survey also captured the flight details of the passengers being surveyed as this would also help to see whether there was a correlation between overall satisfaction and punctuality.
- RL noted how Japan has an outstanding performance in punctuality and whether there were lessons to be learnt from their approach.

Identifying areas where CAA could use its duty

- The Panel felt that the priority areas for intervention identified by the CAA were broadly correct. SG noted that one of the priority areas was "ADR" but suggested this was broadened to consider the whole complaints process.
- KR thanked HF for his presentations on both the tracker survey and information duties, highlighting the support of the Panel for this work and offering further help if required outside of the Panel meeting.

Actions

- HF to circulate the draft punctuality data consultation paper to the Panel.

7. AvSec Report

KR welcomed DE and ML to the meeting and highlighted the Panel's interest in the activities of AvSec, particularly from a vulnerable consumer perspective. The Panel recognised the challenge of balancing the needs of consumers against keeping them safe against security threats. DE focused his briefing of the Panel on the consumer specific activities that AvSec had undertaken over the last year.

Key comments/responses/questions

- KR questioned whether the tracker survey was being used to help AvSec identify security related consumer issues. AS considered that the tracker survey provided

reassurance that there was an appropriate balance of consumer need versus maintaining a secure environment. It was recognised that security is a key issue for consumers and can be an emotive subject. The Panel suggested that focus group based research may provide a richer picture to build upon the tracker survey data. DE noted that it would be a good time to pursue such research as the Department for Transport is taking a broader view of what security will look like in the future and an indication of passenger perspectives would help inform this.

- The Panel recognised that some aspects of aviation security fell outside the remit of the CAA but that these still impact on the passenger experience.
- TM was keen to explore the level to which consistency in approach to aviation security could be improved at airports and the extent to which the CAA is involved in the training of aviation security personnel. DE highlighted that the approach to aviation security was shifting towards deliberate use of “unpredictability” in order to minimise the risk of security events. It was felt that this should be better communicated to consumers to explain why consistency was not necessarily appropriate. ASc highlighted that the focus group research would also help better understand tradeoffs, particularly around unpredictability and how best to communicate this to consumers. DE also briefed the Panel on prohibited hand baggage items, which is another area of perceived inconsistency that is often brought to AvSec’s attention. Although there is a mandatory list of prohibited items, airports are able to add additional items if they feel that they are a security risk. While the CAA could impose a more consistent approach, it is felt that this would not reflect the organisation’s approach to flexible regulation.
- AF thanked the AvSec team for the work that they had done on screening procedures for medical implants. She highlighted that the guidance to operators had been that medical implants “should not” be removed but felt that this should be strengthened to “must not” given the risks, such as infection, to the removal of such items. AF also noted the guidance for security scanner operators and suggested that, where the hand baggage of visually impaired passengers has been unpacked, it is then repacked in the same order so as not to lose the point of reference for the passenger. She also suggested that chairs be placed close to security lanes for those with reduced mobility to be able to put back on their shoes if they have been removed for screening. DE thanked AF for the helpful advice and agreed to raise these issues at the next operational committee meeting.
- RL asked whether there were any concerns regarding Brexit. DE noted that although international aviation security requirements are derived from the International Civil Aviation Organisation, it would still be helpful to be able to influence and contribute at a European level.
- In response to a question about security related targets, it was noted that the CAA only sets these for the airports it economically regulates (i.e. Heathrow and Gatwick). It was highlighted that airports tend to be incentivised to progress passengers through security quickly so that they can spend in the airside shops.
- KR thanked DE and ML for engaging with the Panel. He highlighted that while the need for unpredictability in security procedures was understood, there should nevertheless be clarity and consistency in the way passenger needs are met, that passengers with disabilities (not just physical or obvious) should be aware of the requests they are entitled to make and they should be confident that their needs will always be accommodated. High quality disability equality and awareness training for all security staff is crucial to giving disabled people that confidence. It was noted that hidden disabilities provide a particular challenge for security teams and the Panel would be keen to explore further how needs are identified and what training is in place to respond to those needs.

8. Any Other Business

KR highlighted that this was SG's last meeting as a Panel Member and thanked him for all of his intellectual and grounded inputs to the Panel. TJ also added the CAA's thanks for SG's involvement in the Panel.