

Consumer Panel minutes

1-4pm Thursday 29 October 2015

Attendees

Consumer Panel

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

Invited guests

James Tallack (JT)	CAA (PPT)	Pedro Pinto (PP)	CAA (MCG)
Dan Edwards (DE)	CAA (PPT)	David Stoplár (DS)	CAA (OGC)
Anne-Marie Hopcroft (AH)	CAA (PPT)	Will Webster (WW)	CAA (MCG)
Tim Johnson (TJ)	CAA (PPT)	Freya Whiteman (FW)	CAA (MCG)

Apologies

Anthony Smith (AS)

Minutes by James Tallack, Panel Secretary

1. Introduction

KR and TJ welcomed newly- and re-appointed members to the next three year phase of the Panel. KR summarised the progress the Panel had made in getting the CAA to think more systematically about the consumer interest across all areas of its work. TJ said that the CAA would be looking to the Panel to both respond to the CAA's agenda and proactively highlight other issues that the CAA needed to think about. Members identified safety as an area where the Panel needed to renew its focus, particularly in the light of the findings of the MH17 inquiry around airspace closure.

Action

JT to invite SARG colleagues to a Panel meeting in early 2016, probably February.

2. Surface access review

WW and PP set out the background to the CAA's proposed review of surface access, particularly for the benefit of new members. Since the last discussion with the Panel, the CAA had engaged with airport operators, surface access providers (e.g. bus operators, parking operators), mainstream consumer groups and key regulatory stakeholders, including the CMA. An overview of the findings from these stakeholder discussions was provided and the CAA set out its plans to publish its consultation before Christmas.

Key comments/responses/questions

- The CAA should not consider mainstream consumer groups, such as Which? and Citizens Advice, as the only sources of consumer input. In fact the views of groups representing more vulnerable or disadvantaged consumers, such as Age UK, may be more valuable as such consumers may not be able to benefit from the full range of surface access options. The CAA should consider developing a matrix / multi-layered model that sets out how competitive the market is for different types of consumers, recognising that different consumers may have very different experiences at the same airport.
- There was concern that the CAA had little sense of what consumers might want from surface access, and that the CAA was giving the industry too much space to define what good outcomes look like. While the CAA had a well-developed picture of how the supply side of the surface access market functions, its evidence is currently much less developed on the demand side, which is an equally important aspect of effective competition. Particularly, asking consumers if they feel informed or not about their options is unreliable, as consumers don't know what they don't know. Comparing unprompted responses to the actual situation may be a better measure. If the CAA decides to go out to consultation on the basis of the evidence gathered so far, it should be clear about the things it lacks reliable evidence on and specifically invite input in these areas.
- Although the CAA is not ruling out a formal investigation, it needs to be clearer and more forceful about the courses of action it could take as the tone of the draft consultation felt quite tentative. One member felt that this area was rich for an investigation under the Enterprise Act as there seemed to be sufficient cause for concern and the issues applied at all airports, irrespective of size. If the CAA insists on going down the sector review path first then it should consider bringing about a formal investigation (if needed) and remedies (if needed) swiftly after the conclusion of the sector review. The CAA should also ensure that it is clear about the possibility of a more formal investigation if issues are identified and not remedied quickly.
- If the CAA decides that good practice principles are an appropriate remedy, it should seek to learn from similar self-regulatory approaches in other sectors. The parcel delivery industry was highlighted as an example of where industry push-back had seen well-meaning principles diluted to bare minimum standards. A code of practice – which implies more rigorous arrangements for ensuring adherence – was seen as more desirable. A one size fits all approach may not be appropriate as different airports have different characteristics but the CAA could ensure that any code of practice is aligned with passenger needs by requiring airports to carry out an assessment of their specific characteristics and the consumer vulnerabilities that these can produce. The main thing is that there is a commitment to address issues that cause passengers surface access problems at any given airport, not that all airports have to do the same thing.
- The taxi trade is a key stakeholder that appears not to have been included in the CAA's initial evidence gathering discussions. Although taxis may face similar surface access challenges to bus operators, the CAA should nonetheless ensure they are

made aware of the consultation when it is published and have an opportunity to make their views heard.

- Although the CAA has only engaged with larger airports in the pre-consultation phase, it should ensure that smaller airports are clearly included in the scope. It may be that surface access competition is far less developed at smaller airports, such as in the Scottish Highlands and Islands, and consumers therefore at greater risk from the effects of local monopolies.
- The CAA should also seek the views of local authorities and devolved governments who typically see local airports as key engines of economic growth. The Scottish Government, which is taking a keen interest in the development of Edinburgh and Glasgow airports, was highlighted as being particularly active in this area.
- Some concern was expressed about the cost of airport parking for 'walk-up' users, particularly where consumers do not have access to online sales channels, and the CAA was advised to give this area some thought (although it was acknowledged that this issue applies across the economy).

Actions

The Panel decided (following the meeting) that responding to the consultation would not be consistent with its role as an internal critical friend. Instead, the CAA would ensure that the Panel's concerns are summarised in the consultation document, reflecting the approach taken for the Q6 proposal documents.

3. Strategic plan update

DE provided a final pre-consultation update on how the CAA's 2016-21 strategic plan had been developing since it was last discussed with the Panel in September. The item included a discussion of the draft of the strategic plan that had been seen by the Board. DE also summarised the feedback from the Board discussion the previous week, which centred on concerns about overpromising on outcomes, the vague and unspecific nature of some outcomes and the need to reposition some of the safety outcomes to make them more externally focused.

Key comments/responses/questions

- KR opened the discussion by stating that the CAA had come a long way from the 'siloed' approach which characterised its current strategic plan and that this was welcomed by the Panel. Ultimately the strategy needs to free people within the CAA from thinking in silos. Although remedies may be different, distinctions between things like consumer and competition policy are artificial – they are all about getting the best out of the market for end users.
- It was pointed out that the key strategic objective of fair treatment received significantly fewer mentions than consumer choice and value and this needed to be addressed.
- It was felt that consumer and public outcomes were sometimes conflated when these were often divergent and required trade-offs to be made. The CAA needs to be clear about whose interest it is serving in each context and unpack the transactional consumer experience and the wider public good.

- The focus on monitoring the outcomes in the strategic plan through consumer research was strongly welcomed but a quantitative tracker survey would not provide all the answers. It was agreed that the tracker should be seen as a temperature check and a platform for taking deeper dives into specific issues.
- The strategy is quite light on how the CAA will ensure it stays on course to deliver the outcomes it is aiming for. Apart from the Panel, where will the strong voices outside the CAA come from to keep the CAA on track?
- The enabling strategies set out in the Board paper were welcomed as a sign of a confident and healthy organisation. However, there needs to be more emphasis and clarity in the strategy itself of the investments the CAA needs to make, primarily in its people, in order to deliver beneficial outcomes. This would help significantly in dialogue with a Government focused on reducing the cost of regulation – the CAA needs to clearly demonstrate the need to spend to deliver and must not give the impression that the organisation can stand still and still achieve what it wants to for consumers and society.
- The strategy could be supported with a view on where the CAA sees the industry position on the outcomes it wishes to deliver. Where alignment between the CAA and the industry is poor, the CAA needs to set out how it will translate and transfer its vision to regulated businesses.
- The issue of new runways and how they are paid for deserves more attention – it is a huge consumer and political issue. Is the CAA going to take a position on affordability? Strong, credible objections are starting to emerge to the cost of a new runway at Heathrow, which could be the most expensive in the world. Is it a case of new capacity at any cost?
- The draft strategy still feels overly targeted at an internal audience. Writing it for the man/woman on the street needn't alienate CAA colleagues and the industry. In fact, writing in plainer language should help test the logic of some of the statements.
- There was disagreement with the blanket statement that disabled passengers' needs differ from those of other passengers as making travel easier for disabled people can improve everyone's journey, e.g. better wayfinding. Older and disabled passengers are also the fastest growing passenger segment, so the industry will have to adjust anyway.
- There is a need to standardise some of the terminology in the draft strategy, particularly the different 'levels' of objectives, outcomes, indicators etc. It felt quite confused at times.

Actions

RL to provide specific feedback on concerns about terminology and the different levels of the strategy to DE.

4. NERL enforcement regime

DS and FW explained the work the CAA is doing to make a case to DfT for reforming the NERL enforcement regime under the Transport Act 2000, specifically to bring it more into line with other regulated industries.

Key comments/responses/questions

- KR complimented the CAA on the paper it had submitted for its clear objectives, clear outcomes, consideration of regulatory comparators, and identification of opportunities for legislative change to benefit consumers, stating that this is exactly the kind of information the Panel should be provided with in order to give a considered response. KR added that a compelling case for reform had been made and that the Panel would absolutely support it.
- It was felt that the CAA may have been too quick to rule out measures that would allow consumers to be directly compensated, rather than fines simply going to the Treasury for wider public benefit. It was thought that in other sectors efforts had been made to directly compensate end users for infrastructure failures despite the absence of a contractual relationship between the end user and the provider (e.g. energy distribution). The practical difficulties of identifying affected people and the magnitude of harm was noted but this is not a reason in itself for not doing it. It was suggested that the CAA also look at other aviation markets to see whether (and how) this issue had been addressed. These comparisons might be more instructive than other industries given the particular characteristics of aviation.
- As part of reforming the enforcement regime, the CAA should also look at removing NERL's legal immunity under section 10 of the Transport Act. This was considered an anachronism and similar provisions had been removed in other industries, such as legal advocacy services.
- The need to protect safety in the first instance was acknowledged, but the Panel strongly endorsed the CAA's decision to consider how consumer detriment could be addressed in instances where safety was clearly not at stake. The scope to justify a response to a performance failure on safety grounds should not be limitless.
- It was felt that the transition that NERL is making to new computer systems added weight to the political argument for reforming the enforcement regime, as this would help ensure that NERL retained its focus on maintaining legacy systems until the transition was complete.

Actions

- DS/FW to further explore mechanisms for directly compensating consumers - how this works in other sectors and other consumer friendly jurisdictions.
- DS/FW to provide an update to the Panel when more is known on the forthcoming Aviation Bill from DfT.
- DS/FW to keep the Panel informed of progress on issues raised, and use the Panel as a sounding-board in the meantime by email.

5. Digital and data strategies

AH and MT provided a high level explanation of the CAA's strategies to improve the online experience of aviation consumers and customers of the CAA through the provision of better information; and to open up the data that the CAA holds about the industry to enable businesses and the regulatory regime to be held to account more effectively, as well as supporting the development of new online services for consumers by third parties.

Key comments/responses/questions

- There appears to be two categories of information: information which is directly relevant to a purchase decision, such as the price of a product or its key characteristics (e.g. baggage allowance in the case of air travel); and information that may not be of direct interest to consumers and would seldom be identified by consumers as being useful, but can have the effect of driving up standards for their benefit due to public scrutiny, actual or expected (complaints figures in financial services being a good example). In the first case, there is good evidence that information directed at consumers has most impact when it is provided at the right point in the consumer journey. In the second case, it may simply be a case of making the information available and ensuring relevant stakeholders are aware of it.
- Where the CAA is seeking to ensure that consumers have access to important information it needs to ensure it understands where people look and how they behave. Don't automatically assume people go straight to airport or airline websites, many people just use Google. An engagement programme with information providers, such as Which?, Citizens Advice and Age UK, as well as intermediaries and app developers would be useful.
- In terms of information that is likely to be directly useful to consumers, the CAA should consider making comparative information about facilities and policies for disabled passengers and PRMs available – not just allowing airports and airlines to squirrel it away on their websites. Complaints data and data on airline punctuality are likely to be of less interest when making purchases but could drive behaviour change by ensuring information is available to industry commentators and the consumer press.

Actions

JT to identify most effective way for Panel to feed into ongoing development of the two strategies, particularly the development of indicative 'customer journeys'.