

# Reforming consumer complaints handling Consultation on the CAA's draft policy

CAP 1257



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## Foreword

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If consumers feel able to complain about the problems they have, and businesses handle those complaints fairly and professionally, there should be less need for regulatory intervention in the market. So effective complaints handling complements proportionate and effective regulation.

The CAA's vision is simple. In the first instance, we want airlines to have strong incentives to handle complaints properly in-house. If this does not happen, we want consumers to have access to independent, impartial and low-cost dispute resolution arrangements that are an easier alternative to court action.

We have been voluntarily handling complaints from aviation consumers for over 40 years, latterly through the Passenger Advice and Complaints Team (PACT). PACT has helped many thousands of passengers, winning millions of pounds of compensation. But this is despite some fundamental problems with these arrangements. The PACT funding model does not create the right incentives for effective in-house complaints handling by airlines. And PACT's lack of powers to make airlines adhere to its decisions remains a major source of frustration for many consumers, who may have to go on to court to get their problem resolved.

As we explain in this document, a system of private alternative dispute resolution (ADR) is a better way to bring about the improvements needed to achieve our vision. That is to say, a scheme set up and directly funded by the aviation industry, but with clear and independent governance, and regulatory oversight by the CAA as a designated competent authority

The European Directive on ADR provides a legal framework for such ADR arrangements and specific information tools to encourage clarity and transparency. However, the Directive is not a silver bullet. Because ADR will not be mandatory in aviation we cannot guarantee that all of the 200-plus airlines serving the UK will join an ADR scheme immediately. Nonetheless, we understand there is a reasonable level of enthusiasm for ADR among the airline community, and we have been encouraged by the constructive and proactive way the industry has engaged with this issue

Our preferred approach is to build on this momentum, and give the industry the necessary support to establish its own ADR arrangements, while accepting not all airlines may join a scheme straight away. We recognise the risk that, for a transitional period, some passengers may have no access to complaint resolution other than the courts. However, the CAA will aim to minimise this transitional period. This draft policy statement therefore explains how we will seek to maximise airline participation in high quality ADR.

In short, we are committing to winding down our direct involvement in consumer complaints handling if we see commitment by 1 September 2015 from at least half of the market to an ADR scheme that meets the criteria set out in this document. The CAA will not stand over arrangements that will not deliver the outcomes that consumers want, no matter how many airlines would join them. Our draft policy explains how, through the use of information and other measures, we will, over time, encourage more reluctant airlines to join an ADR scheme.

Our draft policy is being published for public consultation, which closes on 22 February 2015. We encourage everyone involved with consumer complaints handling and ADR to respond to our consultation, so that together we can shape an efficient and effective redress landscape which delivers for all.

A handwritten signature in black ink, appearing to read 'Andrew Haines', written in a cursive style.

**Andrew Haines**

Chief Executive of the Civil Aviation Authority

# Introduction

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## What is this document?

1. This document sets out for public consultation the Civil Aviation Authority's (CAA) draft policy on consumer complaints handling and alternative dispute resolution (ADR). It explains the approach we intend to take to ensure that consumers booking flights serving UK airports have access to high quality complaints handling arrangements. Our policy encompasses both how we intend to carry out our new role as a competent authority for ADR schemes, as well as how we intend to encourage as many airlines as possible to participate in high quality dispute resolution arrangements.
2. The publication of our draft policy statement follows the conclusion of the Government's own consultation on implementing the European Directive on consumer ADR<sup>1</sup> (the ADR Directive), and the publication of the Government Response in November 2014<sup>2</sup>.
3. The implementation of the ADR Directive in the UK in July 2015 will introduce a new landscape of complaint handling standards, institutions and information requirements, with significant implications for the current complaints handling arrangements in the aviation sector. This document sets out how the CAA will respond to these changes, particularly in light of its commitment to promoting choice and value for passengers, and also given its current role in consumer complaints handling.
4. By publishing this policy statement we intend to provide clarity on:
  - a) The CAA's vision for complaints handling in the aviation sector.
  - b) How the CAA intends to carry out its role as a competent authority. (The CAA will be designated as a competent authority in regulations that implement the ADR Directive in the UK. Our role as a competent authority will be to assess that ADR providers wishing to operate in the UK aviation sector qualify under the ADR Directive, including checking that they meet the requirements of the Directive and any additional criteria we apply as a competent authority.)
  - c) The circumstances in which the CAA will end its direct involvement in complaints handling, including ceasing the service provided by the

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<sup>1</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417446013180&uri=CELEX:32013L0011>

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/377522/bis-14-1122-alternative-dispute-resolution-for-consumers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/377522/bis-14-1122-alternative-dispute-resolution-for-consumers.pdf)

Passenger Advice and Complaints Team (PACT). That is, on the condition that the airline industry sets up an ADR scheme that meets our requirements in terms of market coverage and the design of the scheme.

- d) Our plans to encourage more reluctant airlines to participate, through the use of publicity and other measures.
- e) How the CAA will respond if an ADR scheme is not set up by the industry. The CAA will take steps to ensure that suitable ADR is available for aviation consumers, and that airlines are using the ADR arrangements that are in place. These steps may include exploring the potential for legislation that makes participation in ADR mandatory for the industry.

### Who is this document for?

5. This document is aimed at all stakeholders with an interest in aviation consumer complaints handling, or consumer complaints handling in general, especially:
- Airlines operating in the UK market, who receive consumer complaints (some 20,000 of which are passed to the CAA each year by consumers or airlines because they have not been resolved satisfactorily);
  - UK airports, who also receive complaints from consumers (some of which are also referred to the CAA), although not usually in the volumes experienced by airlines;
  - Trade bodies, particularly given the important role trade bodies have played in other sectors in setting up complaints handling schemes;
  - Providers of ADR services, such as ombudsman schemes, who may be good candidates to deliver an aviation complaints handling scheme;
  - Consumer bodies, due both to their broad interest in improving outcomes for consumers through efficient and effective complaints handling, and their own roles in dealing with enquiries and complaints from individual consumers (e.g. Citizens Advice consumer advice service);
  - Legal professionals and claims management companies (CMCs), who are playing an increasingly prominent role in aviation complaints by helping consumers take court action, particularly claims against airlines for fixed sum compensation under Regulation (EC) 261/2004 (covering passenger rights in the event of denied boarding and of cancellation or long delay of flights).<sup>3</sup>
  - The media, who play an important role in helping consumers understand their rights and the redress available to them; and

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<sup>3</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32004R0261>

- Regulators and other authorities in the UK and Europe, who can assist us with broader perspectives on good practice, and on how the complaint handling landscape is evolving at both the national and cross-border level.

## Definitions and geographical scope

### What is ADR?

6. We define ADR as a complaints handling process that:
  - Provides an out-of-court solution for disputes between consumers and traders, as specified in the ADR Directive;
  - Is assessed to be independent (of consumers, traders and anyone else that might have an interest in the ADR outcome), and offers impartial, transparent, effective, fast and fair alternative dispute resolution procedures – again, following the ADR Directive;
  - Is privately, rather than publicly, funded, e.g. through businesses paying membership fees, levies or case fees to the ADR provider – this expectation reflects a strong steer in the ADR Directive towards privately funded ADR, as well as common practice in existing UK ADR arrangements.

### What type of complaints are covered by our policy?

7. The vast majority of complaints currently received by the CAA relate to issues where consumers have specific statutory rights, such as denied boarding, cancelled or delayed flights<sup>4</sup> (these alone account for over 90% of PACT complaints); delayed, damaged and lost baggage<sup>5</sup>; and assistance for passengers with a disability or reduced mobility<sup>6</sup>. We would expect that these issues would also dominate complaints received by any future aviation ADR scheme.
8. The ADR Directive applies to “disputes between consumers and businesses concerning contractual obligations in sales or services contracts, both online and offline”.<sup>7</sup> Common airline practice appears to be to expressly include statutory rights in the conditions of carriage. However, the Directive does not prevent qualified ADR providers from dealing with non-contractual complaints. In our view ADR will not be effective in aviation unless complaints concerning statutory rights are also covered by aviation ADR schemes.

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<sup>4</sup> Under Regulation (EC) 261/2004.

<sup>5</sup> Under the Montreal Convention.

<sup>6</sup> Under Regulation (EC) 1107/2006.

<sup>7</sup> See Article 2(1).



9. We would therefore expect that any future aviation ADR scheme would, at a minimum, cover any complaint where a statutory right may apply, whether or not that right is also considered a contractual obligation. We recognise that businesses may also wish to use ADR to resolve complaints that do not relate to statutory rights or contractual obligations. However, this should be a matter for the business and the ADR scheme to determine.

#### **What type of businesses are covered by our policy?**

10. Reflecting the pattern of complaints currently received by the CAA, our policy is primarily concerned with how complaints against commercial airlines (including airlines owned by tour operators) are handled, particularly whether airlines voluntarily join private ADR schemes.
11. However, there is no reason why other aviation businesses could not join an ADR scheme overseen by the CAA as a competent authority. For example, ADR could be used to resolve complaints about assistance that the law requires is provided to consumers with a disability or reduced mobility at airports.
12. We are therefore proposing that the CAA would be responsible for assessing ADR schemes for air transport services provided to or from a UK civil airport, or services and facilities used in connection with such services. In practice, this means that we would be the competent authority for ADR schemes covering complaints against airlines<sup>8</sup>, airports<sup>9</sup> and travel agents.

#### **What is the geographical scope of our policy?**

13. In line with our role as the UK's aviation regulator, this policy statement covers the ADR arrangements for contractual or statutory based complaints from consumers of any nationality relating to flights departing from or arriving at UK airports. This transcends our specific duties under Regulation (EC) 261/2004 and Regulation (EC) 1107/2006 (covering the rights of disabled persons and persons with reduced mobility when travelling by air) to provide facilities for consumers to complain about infringements of their rights under these Regulations. However, we will ensure that these duties will continue to be met under the arrangements that develop as a result of this policy (see paragraph 56).

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<sup>8</sup> Including sub-contracted services like ground handling.

<sup>9</sup> Including airport-owned car parks and providers of assistance to disabled persons and persons with reduced mobility.

14. The ADR Directive applies to all Member States and it is therefore possible that aviation complaints handling arrangements will be established elsewhere in the EU that overlap with UK arrangements in ways that could affect consumer outcomes. (It is also entirely possible that ADR schemes overseen by the CAA could deal with complaints that are not related to flights to or from UK airports.) We set out in this policy statement how we think such overlaps should be dealt with (see paragraphs 43-44). While a pan-European system for complaints handling is, in principle at least, a more efficient and effective approach for a truly global industry like aviation than nationally-based arrangements, we see no evidence of such a system developing in the short- to medium-term.

### Consultation scope

15. We began our internal review of the CAA's role in complaints handling soon after the publication of the ADR Directive in July 2013. During 2014, and particularly following publication of the Government's consultation, we have engaged more widely, both with consumers (through consumer research, see Appendix A), the CAA's independent Consumer Panel and the airline industry (through a dialogue facilitated by the independent transport consultancy, Steer Davies Gleave). We have also discussed this issue informally with the Consumer Council for Northern Ireland (CCNI) and Which?
16. Our engagement with stakeholders has convinced us that we can serve consumers better by adopting a regulatory rather than a service-provision role in this area. Hence, that the CAA should become a competent authority, responsible for assessing and overseeing providers of ADR services in the aviation sector. We have already notified the Government that we wish to take on this role in time for implementation of the Directive, and Government has confirmed that the CAA will be designated as a competent authority in implementing regulations which are due to come into effect in early 2015. This legislation will also designate most other UK sectoral regulators as competent authorities for their respective sectors.
17. We have briefly summarised our reasons for this strategic choice in the next chapter. However, we want to be clear that this consultation is not about whether or not the CAA should become a competent authority – this decision has already been made – but rather how we act in this role, including:
  - The type of ADR that we, as a competent authority, want consumers to have access to;
  - How we intend to encourage the development of ADR, including the future of PACT and how any winding-down of the PACT service will be managed by the CAA;

- How we intend to encourage businesses to participate voluntarily in ADR; and
- The options available to the CAA should industry-led schemes not develop.

## Consultation timings and next steps

18. The CAA has already carried out a significant level of engagement with consumers and industry on the issue of ADR arrangements in the aviation sector, which has greatly assisted our understanding of consumer and industry positions. This consultation will close on **22 February 2015**. We expect to publish our final policy statement at the end of March 2015 and we will remain in close contact with key stakeholders throughout the consultation period, particularly those engaged in the development of prospective ADR schemes.
19. We welcome comments on any aspect of our draft policy statement, but have highlighted issues at the end of each chapter where we would particularly value stakeholders' feedback. Please send responses and any queries by email to [james.tallack@caa.co.uk](mailto:james.tallack@caa.co.uk).

### Questions

Q1: Do you agree with our definition of ADR?

Q2: Do you agree with the type of complaints that we think should be covered by our policy?

Q3: Do you agree with the geographical scope of our policy?

## Our general approach

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### Complaints handling and regulation

20. Effective and efficient complaint handling is a cornerstone of any industry that delivers choice, value and fair treatment for its consumers. If consumers know that, in the event of anything going wrong with their purchase, their complaints will be resolved quickly, fairly, professionally and transparently, they will be more confident as a result. Confident consumers are more likely to shop around, driving effective competition, and more likely to hold businesses that don't meet their expectations to account, resulting in higher standards of choice, value and fair treatment for consumers.
21. While the CAA has no specific statutory duties relating to consumer complaints handling<sup>10</sup>, the strong relationship between effective complaints handling and well functioning markets gives us a legitimate interest in this area. The better markets function, the less need there should be for regulatory intervention, supporting Better Regulation and deregulation agendas.

### Our vision

22. We have defined the following vision for aviation consumer complaints handling to guide our work in this area:
  - a) Airlines will face strong incentives to resolve complaints efficiently, effectively and fairly in-house. (So will other service providers, but we focus on airlines as these are the source of the vast majority of consumer complaints in the sector);
  - b) If airlines (or other businesses) do not deal with complaints properly in-house, consumers will have access to ADR mechanisms that meet the standards in the ADR Directive, i.e. independent, impartial, and a quicker, cheaper and more attractive option than court action; and

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<sup>10</sup> The CAA has duties under Regulations (EC) No 261/2004 and (EC) No 1107/2006 to receive complaints relating to, respectively, denied boarding and delayed and cancelled flights, and provision of assistance for disabled persons and persons with reduced mobility. However, these do not extend to handling complaints (i.e. considering representations of both sides and proposing a resolution).

- c) Complaints handling arrangements will not adversely affect the CAA's enforcement role, which relates to the collective interests of consumers and depends on, among other things, access to timely and accurate data about consumer complaints. Equally, the CAA's enforcement role will not in any way adversely affect the operation of complaints handling arrangements.

### **Private complaints handling with regulatory oversight**

23. We believe that our vision is not best served by the current approach. A more effective approach would consist of a complaints handling system that combines private provision of complaints handling services (i.e. airlines' in-house processes and 'backstop' ADR arrangements funded directly by the businesses that use them) with independent regulatory oversight by the CAA.
24. In our view, the two main benefits of private ADR over current arrangements are:
- Greater flexibility to design funding schemes that set correct incentives. At present, only UK airlines pay for PACT, so many airlines that generate complaints do not pay for their handling. Also, CAA charges to an airline do not vary depending on how many PACT complaints or enquiries that airline generates. By contrast, ADR presents the opportunity to eliminate 'free riding', enforce 'polluter pays' for poor in-house complaints handling, and establish that individual airlines (both UK and foreign) pay a proportionate and fair contribution towards the handling of complaints from dissatisfied consumers.
  - Contractual arrangements that can bind airlines to implement rulings. This is essential in a sector with strong and often contested consumer protection provisions. We have no such powers to require airlines to adhere to decisions made by PACT (or even require them to provide information to inform our decisions), and this significantly undermines consumer confidence.
25. The ADR Directive would not prevent the CAA from developing PACT to meet the ADR Directive's requirements and becoming a qualified ADR provider that could contract privately with airlines. However, there is no compelling reason to do this, given that specialist consumer ADR providers already exist and have expressed an interest in the aviation sector. Furthermore, the ADR Directive will not force airlines to use ADR, so we would be in no better a position than specialist providers in terms of our ability to introduce incentive funding and binding decisions, which we see as key to delivering our complaints handling vision.

26. Moreover, the CAA being a public enforcement body raises a number of other challenges that would not apply to commercial providers of ADR. These include: susceptibility of ADR decisions to judicial review; the need for information barriers between ADR and enforcement functions; and concerns about independence, e.g. if the CAA was taking enforcement action against a particular airline that was also involved in an ADR case at the same time.
27. A competent authority role is much better suited to our core competencies as a regulator. As a competent authority, the CAA would ensure that ADR schemes operate in the general consumer interest by ensuring that the criteria in the ADR Directive (and any additional criteria we believe should be applied in the consumer interest) are adhered to, while remaining unencumbered by negotiations or disputes with individual airlines over funding, service quality or ADR decisions, and with no conflict arising with our primary role as an enforcement body.

## Ending the CAA's complaint handling role

### The need to end the PACT service

28. While it would not be appropriate for the CAA to act as both a competent authority and a qualified ADR provider, it would nonetheless be possible to continue to run PACT on a non-qualifying (or 'sub-ADR') basis. This is because the ADR Directive does not require that existing consumer complaints handling services are assessed as qualifying by a competent authority as an ADR provider. However, we believe that there are good reasons for not continuing the PACT service alongside widespread use of private ADR:
  - The information obligations in the ADR Directive discourage the promotion of non-qualifying ADR schemes. As explained in the next chapter, in the event of an unresolved dispute, businesses must provide information about a qualifying ADR provider or providers, regardless of whether or not they are willing to use ADR. We believe it would be very confusing for consumers if a non-qualifying ADR scheme was signposted at the same time.
  - More fundamentally, the CAA continuing to provide a complaints handling service is likely to discourage the industry from establishing its own ADR arrangements. UK-based airlines, who largely fund PACT, are unlikely to support both the costs of PACT and private ADR, while non-UK airlines may see little reason to change their approach if they continue to receive the benefits of PACT (including the 'buffer' it appears to provide between consumers and the courts) in return for a minimal financial contribution.

### How the winding-down of the PACT service will be managed

29. We therefore see ending the PACT service as a necessary measure to enable the development of private ADR. However, we are committed to continuing to provide the service until at least half of the UK market has joined a qualifying ADR scheme. In practical terms:
- Upon seeing contractual commitment with ADR providers by airlines who collectively carry at least 50% of passengers departing from or arriving at UK airports, we will begin preparations to wind-down the PACT service.
  - We understand that it takes around six months from an ADR provider being awarded a contract to it being ready to accept complaints from consumers. Therefore, PACT will continue to accept complaints during this set-up period, but will not accept any new complaints once private ADR is available (including consumer complaints where the relevant airline has not joined an ADR scheme). Unless airlines wish for any open complaint files to be passed to the ADR scheme they have joined at this point, PACT will retain them and resolve these complaints in line with prevailing procedures.

### Risks from our approach

30. Because participation in ADR will not be mandatory in the aviation sector, there is a risk that PACT may close without every airline serving the UK committed to private ADR. For passengers of those airlines who have a complaint that they have not been able to resolve directly with the business, court action will be their only option.
31. We set out in this document the reasons why we consider participation in ADR is likely to be attractive to airlines, and how the CAA can encourage participation. For these reasons, we consider the risk is tolerable, since airlines seem to be unwilling to advance unless the CAA makes its position clear. Nevertheless, it should be clearly recognised by stakeholders that the CAA sees the situation where some passengers have no access to ADR as a temporary one, and we can only accept that situation on the basis that it is temporary.
32. We also recognise that the voluntary nature of ADR in aviation means we may not be able to deliver everything that consumers want from ADR. Therefore, in order to maximise the chances of an industry-led scheme being established at all, we have had to balance what consumers want with what the industry has told us it is prepared to offer. However, given the reasonably close alignment we have found between consumer and airline views, we do not believe that the compromises we have had to make are too great.

**Questions**

Q4: Do you agree with our vision for aviation complaints handling?

Q5: Do you agree that private provision of complaints handling with regulatory oversight by the CAA is the best way to achieve our vision for aviation complaints handling?

Q6: Do you agree that 50% of the market contractually committed to private ADR is an appropriate threshold for the CAA to cease the complaints handling service provided by PACT?



## Our objectives for an aviation ADR scheme

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33. This chapter sets out the specific objectives we wish to achieve in relation to ADR and how they would be achieved.

### Maximising participation in ADR

34. The CAA's over-arching objective is to ensure consumers have access to good-quality ADR, and therefore our approach aims partly to maximise the likelihood of airlines participating in ADR.
35. This is necessary because the ADR Directive will not mandate ADR in the UK aviation sector, so airlines will not be compelled to use ADR to resolve consumer disputes. By contrast, ADR is already mandatory in many key consumer service sectors in the UK, such as financial services, legal services, energy and telecoms.
36. At present virtually all passenger airlines serving the UK cooperate to some extent with the PACT service, even though they do not have to. We see a number of reasons why businesses would choose to participate in ADR. These include better information, enhanced reputation, and because it provides a more cost effective and consistent alternative to litigation. Evidence suggests support for ADR among businesses that have used it.<sup>11</sup> These factors are explored in the following sections, which also discuss what the CAA can do to sharpen incentives to participate.

### Information obligations under the ADR Directive

37. The ADR Directive introduces a range of information obligations that are intended to encourage voluntary participation in ADR, principally by raising consumer awareness of ADR and requiring businesses to disclose whether they are willing to use it. Businesses should be aware of the following requirements:
- a) From July 2015, any business that has voluntarily committed to using a qualifying ADR provider to resolve disputes, must provide information about that ADR provider on their website and, if applicable, in the terms and conditions of sales or service contracts.

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<sup>11</sup> E.g. [A survey of 335 businesses](#) by the European Commission's Business Test Panel found that 73% of businesses were satisfied with their experience of using ADR, that 82% said they would use ADR again in the future, and that 70% preferred ADR to the courts to settle disputes.

- b) From July 2015, in the event of an unresolved dispute, all businesses must provide information about an appropriate qualifying ADR provider or providers to the consumer, and advise whether or not they will use ADR in an attempt to settle the dispute. This means that businesses operating in sectors where the use of ADR is voluntary will have to advise their customers whether or not they are willing to refer the complaint to an appropriate ADR body.<sup>12</sup>
- c) From January 2016, all businesses who sell their goods or services online (e.g. airlines) must provide a link to the Online Dispute Resolution (ODR) platform on their website, whether or not the business has voluntarily committed to using ADR.<sup>13</sup> All websites which act as a platform for businesses to sell their goods and/or services (e.g. online travel agents; aggregators) must also provide a link to the ODR platform.

### Information obligations under the Civil Aviation Act 2012

38. We will give serious consideration to whether there is a need for disclosure of information by airlines regarding ADR provision beyond the requirements of the ADR Directive, particularly if those requirements do not appear to be having the desired effect. Duties were placed on the CAA by the Civil Aviation Act 2012 to make information available to help consumers compare the offers available to them in the market; this may include whether a business is committed to using ADR to resolve any disputes. Our information duties policy statement ([CAP 1143](#)) explains our duties and the powers that underpin them in more detail.
39. It is not possible to say what the appropriate intervention would be at this stage (or indeed whether we would need to intervene at all), but the options available to us include:
- The CAA simply providing information to the market (including other providers of consumer information) about which airlines are committed to using ADR;
  - The CAA 'naming and shaming' airlines that do not participate in ADR;

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<sup>12</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/377522/bis-14-1122-alternative-dispute-resolution-for-consumers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/377522/bis-14-1122-alternative-dispute-resolution-for-consumers.pdf)

<sup>13</sup> [Regulation \(EU\) No 524/2013](#) obliges the Commission to establish an online platform (the ODR platform) to facilitate communication between the parties and a qualified ADR provider, in the event of a contractual dispute arising from an online transaction. A translation service will be available on the platform to assist with disputes involving parties based in different EU member states. The ODR platform will not seek to resolve the dispute itself; rather it will (if both parties agree) channel such disputes to a relevant ADR scheme.

- Requiring airlines to actively disclose whether or not they are a member of an ADR scheme (rather than simply in response to an unresolved complaint, as required by the ADR Directive).

### **Managing the cost of litigation**

40. Our dialogue with airlines found that ADR was seen by airlines as an effective way to respond to an increasingly high profile claims management industry in the aviation sector. Airlines told us they are particularly concerned about the cost of investigating spurious or poorly prepared claims for financial compensation. Some airlines see these risks as greater when claims management companies (CMCs) are involved.
41. Some airlines believe that if a small fee is charged by an ADR provider upon submission of each individual complaint, along with a requirement for consumers who are being represented in the ADR process to provide a signed consent, this extra administration and cost would discourage CMCs from acting in these cases. This would give a further incentive for airlines to participate in the ADR scheme, rather than taking their chances in court. As set out in the next section, subject to certain conditions, we would support these scheme design elements (i.e. a nominal fee and signed consent) as we see no obvious detriment to individual consumers from these two measures.
42. We do believe, however, that CMCs will remain a viable option for some customers of airlines that have not joined an ADR scheme. We are likely to provide clear advice (and encourage other consumer information providers to do the same) about the process of enforcing a claim against an airline through the courts to encourage consumers to take action themselves. We may choose to signpost the services of CMCs that meet certain price and quality criteria for the benefit of those consumers who cannot use ADR, and who choose to have the assistance of CMCs.

### **Participation in ADR schemes not assessed as qualifying by the CAA**

43. Although airlines may choose not to join a UK-based aviation ADR scheme, they may instead choose to use aviation-specific schemes based in other Member States or another UK-based scheme, including the residual ADR scheme that will be set up by the UK Government. (However, airlines have indicated to us that they are unlikely to use the residual ADR scheme due to a perceived lack of aviation expertise.)
44. It does not seem practical for airlines to join an ADR scheme in every Member State that they operate in. As such, we may be sympathetic to airlines that do not join a scheme overseen by the CAA, and so be less likely to use measures to encourage them to join a scheme overseen by us. Whether we take such a view will depend on a range of factors, including:

- Airline-specific factors (e.g. UK market share, record of compliance with consumer protection legislation); and
- Characteristics of the ADR scheme that the airline has joined (e.g. consumer fees, whether decisions are binding and, if not, if there is a strong trend of airlines not adhering to proposed resolutions).

## Delivering high quality ADR

45. As the competent authority for the aviation sector, the CAA will be required to ensure that the ADR providers that it assesses meet the minimum requirements set out in the ADR Directive (see below). However, there is potential for the CAA to apply more stringent qualification criteria, subject to these being necessary and proportionate. Our research with aviation consumers (see Appendix A) found support for certain ADR features (e.g. the ability to make binding decisions), and the CAA is considering the appropriate method to introduce these additional criteria. However, our dialogue with airlines also found wide support for these features.

### Minimum requirements under the ADR Directive

46. The main operational rules that have to be followed by all ADR providers in all sectors are:
- The ADR procedure must be free of charge or available at a nominal fee to consumers.
  - ADR providers have three weeks from receiving a complaint file in which to inform the parties concerned if the ADR provider is refusing to deal with a case.
  - Dispute resolution must be concluded within 90 days of receiving the complete complaint file. This timeframe can be extended in the case of highly complex disputes.
  - The individuals in charge of the ADR process must have the necessary expertise and be independent and impartial.
  - ADR providers must make available specific information about their organisation, methods and cases they deal with, and provide annual activity reports.
  - Consumers must have the option to submit a complaint (and supporting documentation) and to exchange information with the airline through the ADR provider either online or offline.<sup>14</sup>

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<sup>14</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/377522/bis-14-1122-alternative-dispute-resolution-for-consumers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/377522/bis-14-1122-alternative-dispute-resolution-for-consumers.pdf)

### **Additional CAA requirements for qualification**

47. The CAA is seeking to introduce the following additional criteria for ADR providers seeking qualification to provide ADR schemes in the UK aviation sector.

#### **Decisions must be binding on the business**

48. Aviation consumers have robust statutory rights. These rights, and particularly the availability of substantial compensation, means the risk of litigation is perhaps greater in aviation than other consumer markets. ADR needs to offer an attractive alternative to civil court action – which, of course, does provide a route to a binding outcome. Therefore, we see it as essential that any aviation ADR scheme should also be able to make decisions that are legally binding on the company. The question then is whether decisions should also be binding on the consumer.
49. Our consumer research found strong support for the proposition that if the consumer accepts an ADR provider's decision it should be binding on both parties, but if the consumer rejects the decision there should be the right to have recourse to court. This arrangement is standard practice in most UK ADR schemes. Airlines generally support this principle, although some have claimed that not being able to challenge an ADR provider's decision would be unfair to the airlines. We do not agree with this minority view for the following reasons:
- There is the potential for consumer confidence in ADR provision in general to be undermined if it becomes known that consumers can waste time and effort in pursuing a dispute through ADR only for the business not to comply with the ADR scheme's decision. If cases such as this receive public attention, the result could be many consumers deciding to go straight to court.
  - There is also the potential for consumers to be misled into making purchases from businesses which refer to ADR membership as a benefit of buying from them, but who do not comply with ADR decisions arising from those purchases.
  - Consumer confidence in industry-funded ADR arrangements (and consumers' willingness to use ADR as an alternative to the courts) will be enhanced if consumers have a fallback option. This should be seen as a way of building trust in new arrangements, rather than giving consumers any real advantage over businesses. This is because feedback from established ADR providers strongly suggests that consumers very rarely do take court action, even if an ADR decision is not in their favour. This appears to be because, through use of the scheme, consumers come to see the ADR scheme as independent and impartial.

50. It should also not be the case that an ADR decision is completely immune from challenge and we would encourage ADR providers and participants to explore ways for legal issues that emerge from ADR cases to be referred to the courts for a ruling to provide legal certainty. However, this should be on the basis that the parties agree that the court's ruling would not affect the outcome of the specific ADR case in hand but would provide certainty for future cases.

#### Fees must be kept to a minimum

51. As set out above, airlines believe that charging consumers to use ADR will discourage spurious and poorly prepared claims and limit the involvement of CMCs, since a fee would have to be paid for each individual claim. Although our preference would be for ADR to be free at the point of use, the ADR Directive does permit a 'nominal fee' to be charged to consumers on the basis that it could help deter consumers or their representatives from submitting trivial complaints.
52. The guidance from the Government is that a nominal fee should be much lower than the fee charged to the business for using the ADR process and not necessarily linked to the amount of the claim. The CAA's view is therefore as follows:
- The consumer fee must be no more than the lowest fee for starting a claim in the civil court, regardless of the amount claimed. This is currently £25.<sup>15</sup> Fees should also be charged on a 'per booking' basis, e.g. a family of four travelling on the same booking would pay £25, not £100.
  - Any fee charged to the consumer should be refunded if the complaint is upheld by the ADR scheme. We would consider a complaint to be upheld if the ADR scheme decides that redress is due to the consumer. Redress would include both financial (i.e. monetary compensation) and non-financial awards (e.g. other goodwill gestures, an apology). ADR providers should also explore whether pre-authorisation of debit and credit cards could be used so that consumers are not charged until the decision is made.
  - Fees should not be charged where complaints relate to assistance provided to disabled persons and persons with reduced mobility at airports and on board aircraft under Regulation (EC) 1007/2006. This is because the Regulation is about equality of access for these consumers; without the assistance required under the Regulation, many in this group would not be able to participate in the market at all.

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<sup>15</sup> <https://www.justice.gov.uk/courts/fees>

## Supporting a simple ADR landscape

### Supporting a consistent approach across sectors

53. Regardless of the sector in which a dispute arises, there should be a consistent way for consumers to understand the responsibilities of businesses and their rights to redress, and to obtain assistance in accessing ADR and contacting a relevant ADR provider. This will help ensure that ADR can deliver the widest possible benefits to consumers and the economy.
54. The Government sees a single point of contact as key to making the ADR landscape easier for consumers to navigate. It has announced that it will be providing additional funding to the Citizens Advice telephone and online consumer advice service<sup>16</sup> so that it can provide specific advice and assistance to consumers attempting to resolve a disputes, including referring them directly to ADR providers where appropriate.
55. The CAA will support the Government's objective to make the ADR landscape easier for consumers to navigate. Although we will continue to provide consumer information on the CAA website, we do not see providing a separate frontline advice and guidance service for aviation consumers as conducive to this aim, particularly when we no longer have a complaints handling role. As such, from early 2015 we will begin to explore how this function could be provided in future by Citizens Advice.

### The CAA's duty to receive complaints

56. We will also ensure that we are able to continue to meet our statutory duties to receive complaints in accordance with Regulation (EC) 261/2004 and Regulation (EC) 1007/2006<sup>17</sup>, whichever ADR arrangements emerge as a result of our proposed policy. We set out below how we will respond to the situations that we think will emerge:
  - For airlines and airports that join an ADR scheme, we would expect complaints from consumers that would have previously been received by the CAA to go to the ADR scheme instead. We would continue to receive intelligence about these complaints in order to ensure that we are still able to carry out our role as the UK enforcement body for the Regulations (this is provided for under Article 17 of the ADR Directive). We do not think a system where consumers are expected to recount their complaint to both the CAA and the ADR scheme would be in consumers' interests.

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<sup>16</sup> The Citizens Advice consumer advice service replaced the OFT's Consumer Direct service in 2012.

<sup>17</sup> Under Article 16 of Regulation (EC) 261/2004 and Article 15 of Regulation (EC) 1107/2006, Member States must designate a body to whom consumers can complain regarding infringements of the Regulations. The CAA is designated as the body to receive such complaints in the UK and must forward complaints to designated authorities in other Member States as appropriate.

- For airlines and airports that do not join an ADR scheme, we will still need to provide somewhere for consumers to make a complaint about an infringement of their rights under the Regulations. However, recognising that the CAA providing any kind of complaint handling service is likely to be a disincentive to companies joining a private ADR scheme (see paragraph 28), this 'residual service' will only do the minimum required under the Regulations. This is likely to mean us treating the complaint as intelligence to support our enforcement work (mirroring the approach we would take for airlines and airports that do join an ADR scheme, see above). We would not seek to investigate and mediate the complaint as PACT does at present and would advise consumers to seek a remedy through the courts.<sup>18</sup> This might include sign-posting consumers to CMCs (see paragraph 42). We will also explore whether this role could be carried out on our behalf by Citizens Advice, along with the provision of advice and guidance (see paragraph 55)..

## Having credible contingencies

57. Our dialogue with the airline industry to date has given us confidence that the industry will establish an ADR scheme for the UK aviation sector that satisfies the criteria set out in this draft policy statement. If we see firm commitment to these arrangements by 1 September 2015, we will take the necessary steps to end our own complaints handling service.
58. It is, however, necessary to have fallback options if, for whatever reason, industry-led arrangements do not materialise, or fail after having been established. We have deliberately not devoted significant resources at this stage to exploring these options, as our strong preference is for the industry to lead on the provision of ADR. The time we allow for the industry to come to its own arrangements will also allow us time to give further consideration to our contingency plans. Therefore, at this stage it is only necessary to provide a brief overview of the options we are considering.

## Exploring legislative options

59. The CAA seeks to regulate in a proportionate manner. Where appropriate, voluntary approaches should be tried before intervening in a market and mandating certain behaviours. Voluntary approaches have the advantage of involving stakeholders themselves in the process of delivering desirable market outcomes, and may be cheaper and more flexible to use than prescriptive rules. As such, we understand the rationale for the Government's decision not to mandate participation in ADR in the aviation sector at this stage.

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<sup>18</sup> We may make an exception for complaints relating to Regulation (EC) 1107/2006 given that they are relatively few in number.



60. Nonetheless, we believe that consideration should be given to the legislative route if the approach set out in this policy statement fails to deliver our vision. We note that legislation was required to deliver aviation ADR in Germany when voluntary approaches failed (although it may be that positive experiences with ADR in Germany once participation was made mandatory are a factor in airlines' apparent enthusiasm for a UK-based scheme). We will therefore remain in close contact with the Government on this issue.

### **A CAA-procured ADR scheme**

61. Another option would involve the CAA (in its regulatory role) procuring an ADR scheme from an independent provider, which would then seek to be assessed as qualified under the ADR Directive by the CAA (in its competent authority role). We could either do this unilaterally or in partnership with airlines which support ADR but are unable to meet our 50% market share threshold.
62. The basic model would be for regulatory charges to fund the essential overheads of the scheme (i.e. to make it available for use) and for the handling of complaints accepted by the scheme to be funded through case fees paid directly by businesses. This approach has already been used in the UK: it was used by self-regulatory body the Royal Institution of Chartered Surveyors (RICS) to deliver an ADR scheme for the industry it oversees. The information obligations in the ADR Directive would also apply, and the additional measures described above would be available to us to encourage participation.
63. We do not see that this would be a conflict of interest as the CAA would not run the scheme, but would procure it from an independent provider which would then be qualified and overseen according to the same criteria as other providers. If we withdrew our approval from that independent provider, we would simply seek to replace it with a different provider. Moreover, the long-term objective would be to eliminate the CAA's involvement, by handing over the full financing of the scheme to the industry, once enough airlines were committed to it.

### **Supporting the residual scheme**

64. A further option would be to provide funding for aviation sector expertise to enable the Government's residual scheme (which will be overseen by the Trading Standards Institute as the competent authority) to handle aviation complaints. This reflects the strong steer from the aviation industry that it would only participate in ADR arrangements that had access to industry-specific knowledge. However, this would be at odds with the current approach for industries with a regulator to have their own ADR schemes (and the Government's decision to designate those industries' regulators as competent authorities), and that the residual scheme should be a catch-all for all other sectors. Use of the residual ADR scheme as described above is also less desirable because we would have no control over the ADR arrangements that cover the sector which the CAA regulates.

**Questions**

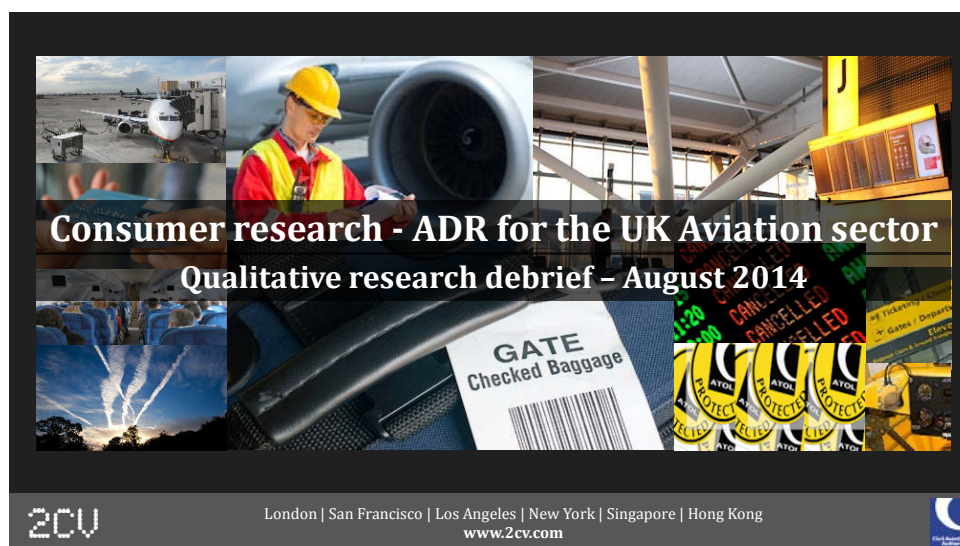
- Q7: Do you have any comments on the additional measures that the CAA could put in place to encourage airlines to participate in ADR? Are there any measures that we have not considered above that we should explore?
- Q8: Do you have any comments on the additional criteria that the CAA will adopt beyond the minimum required by the ADR Directive? Do you consider that the criteria are proportionate? Are there any criteria that we have not considered above that we should explore?
- Q9: Do you agree that the approach the CAA intends to take will help ensure the ADR landscape is navigable for consumers?
- Q10: Do you agree that the approach the CAA intends to take will help ensure that it continues to meet its statutory duties to receive complaints and that it can continue to carry out its enforcement functions effectively?
- Q11: Do you have any comments at this stage on any of the fallback options available to the CAA if our preferred approach to ADR does not deliver? Are there any other options we should consider?
- Q12: Do you have any other comments to make that are not covered by our other questions?

## Appendix A

## Consumer research

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65. The CAA commissioned the consumer research agency 2CV to conduct qualitative research to understand what kind of approach to ADR consumers would expect to see in the aviation sector. During August 2014, 2CV carried out the following research:
- Four three-hour deliberative sessions designed to take participants on a research 'journey', helping them understand what ADR is, before sifting through 'evidence' explaining the most common dispute resolution models and identifying a preferred approach.
  - Four 90 minute workshop-type sessions designed to 'refine' the preferred approach identified in the deliberative sessions by exploring specific options, e.g. around fees and the nature of ADR decisions.
66. We used the findings of the research, which are set out in the images below, to inform a dialogue with major airlines and their associations during September and October 2014, which was facilitated on our behalf by the transport consultancy, Steer Davies Gleave.



**2CV** Consumer research - ADR for the UK Aviation sector

## Background

- Court resolution of consumer problems can be expensive and the cost of unresolved consumer disputes is thought to be around €52bn (or 0.4% of the EU's GDP). The European Commission has therefore issued a Directive on consumer Alternative Dispute Resolution (ADR) to ensure that ADR is available for any dispute regarding contractual obligations that a consumer has with a business in all member states.
- In March 2014, BIS published its consultation on the UK implementation of the Directive, which defined ADR as an "alternative to the courts, in the event that a consumer encounters a problem and is unable to resolve their complaint directly with the business from whom they made their purchase". In the UK context, BIS considers that ADR should be "privately funded, often through businesses paying membership fees, levies or case fees", with "impartiality of the ADR bodies ensured through appropriate governance and structural arrangements".
- The CAA believes that some form of independent dispute resolution outside the justice system is a core element of an effect consumer protection regime in the aviation sector. The CAA wishes to understand whether directly-funded arrangements that broadly meet the needs of consumers are likely to be established by the aviation industry in the UK. This will inform a facilitated dialogue with the industry and, subsequently, a consultation on the CAA's future approach to complaints handling towards the end of 2014.
- To this end they commissioned 2CV to conduct qualitative research to understand what kind of approach to ADR consumers would expect to see in the aviation sector

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**2CV** Consumer research - ADR for the UK Aviation sector

## Research Objectives

Provide a detailed understanding of the **preferred consumer ADR model** which can be used as part of the facilitation process and shared with external stakeholders

<ul style="list-style-type: none"> <li>• Understand attitudes to ADR on a general level</li> </ul>	<ul style="list-style-type: none"> <li>• Identify any specific demands within the aviation sector</li> </ul>	<ul style="list-style-type: none"> <li>• Investigate the practicalities of implementing an ADR model</li> </ul>
<ul style="list-style-type: none"> <li>• What is their level of understanding and their expectations?</li> <li>• What are their perceptions and what influences these?</li> </ul>	<ul style="list-style-type: none"> <li>• How do they respond to different ADR models?</li> <li>• How do their perceptions of the aviation industry influence expectations and attitudes towards ADR?</li> </ul>	<ul style="list-style-type: none"> <li>• What's the most effective process?</li> <li>• What degree of legality should the ADR have?</li> <li>• What might be the impact of consumer behaviour on key issues?</li> </ul>

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**2CV** Consumer research - ADR for the UK Aviation sector

## Methodology and sample

**Deliberative sessions**

- 4 x 3 hour Deliberative sessions
- 6-8 respondents (32)
- 5<sup>th</sup> Aug – 11<sup>th</sup> Aug 2014

**Consumer lens workshops**

- 4 x 90 minute workshops
- 6-8 respondents (32)
- 13<sup>th</sup> Aug – 14<sup>th</sup> Aug

A two-stage process adopted:

- **Deliberative sessions:** immersive groups in which respondents are go on a research 'journey' to understand the requirement for ADR before sifting through 'evidence' detailing the various options available and to help identify the preferred approach
- **Consumer lens workshops:** focus groups to explore the specific details of ADR's implementation, and to establish a consensus over the practicalities

*All respondents to fly at least once a year; 2 in each group to have complained to airlines in past 18 months*

Location	Spec	Location	Spec
London	Recent Complainers BC1	London	Recent Complainers C2D
London	Activists Mixed SEG	London	Activists BC1
Belfast	Recent Complainers C2D	Leeds	Recent Complainers BC1
Leeds	'Seethers' Mixed SEG	Leeds	Activists C2D

**Recent complainers:** have complained more than once in the past 18 months  
**Activists:** regularly complain or otherwise stand up for consumer rights  
**Seethers:** often tempted to complain; rarely do so

1

# 1 | Headlines

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## Headlines

- People want a process that offers:

**CLARITY:**  
Easy and  
straightforward to  
engage with

**EMPATHY:**  
Human and  
approachable

**FAIRNESS:**  
Puts the consumer  
and airline on an  
even footing

- They tend to prefer a model that makes them feel as though it will stick up for consumers, offering impartial decisions and doing so for free
- They shy away from any model that can be perceived as 'woolly' and potentially 'toothless', especially if ADR is not compulsory; the ideal model needs to be widely known and offer clear resolutions in order to prove it has 'teeth'

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# 2 | 'Making a complaint' - the consumer context

200

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### No one *wants* to complain; when they do they feel they have compelling reasons to do so

**Making a formal complaint requires time, effort and energy**

- Life is busy enough; when a consumer complains and it's not resolved in the first instance **many think twice** about pursuing it further
- Making a formal complaint and the necessary follow ups can be a significant undertaking and a **serious investment of your own time**

**It often feels like David vs Goliath**

- Consumers ultimately feel they **lack the right muscle and clout** to take on large, multi national companies
- They feel **under equipped and under resourced** and view the process with a **large sense of inequality**

**No one wants to be labelled as a complainer**

- The very act of complaining is unattractive
- Awareness that complainers often have a reputation for being disingenuous or Victor Meldrew-esque

*"Coming back from Ibiza our luggage didn't arrive. One case went to Manchester, the other stayed in Ibiza. I rang [the airline], they said they'd be with me in 24hrs. They weren't. One case turned up 3 days later. I phoned again and they said the other one was on it's way. It finally arrived over a week late and my hairdryer and straighteners were missing. I rang [airline] again and they said I need to talk to my insurance company. I rang my insurance company and they said it wasn't covered by them. I couldn't get a straight answer from anyone and by then I had given up and just bought myself some new straighteners."* Julie, Belfast

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### Why complain? What are consumers seeking?

An apology

Compensation

Improving things for others in the future

Standing up for the 'little guy'

↓

Ultimately, consumers are motivated by a **pursuit of fairness**, a sense of **justice and what's right**

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# 3 |


## Complaints in the airline sector

200

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### Airline complaints can be more emotive than other sectors

**"It's my holiday"**




A precious, hard-earned few days that are *supposed* to be perfect and stress-free

**"Being late has knock-on effects"**



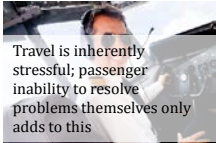
A delayed flight doesn't stop there: connecting flights, car hire, hotel bookings, events, jobs etc can all be affected

**"I'll never get this time back"**



Nothing can compensate for missing family time, specific events or important meetings.

**"I'm not in control"**



Travel is inherently stressful; passenger inability to resolve problems themselves only adds to this

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### Low-cost airlines felt to offer little/no customer service

There feels like there is no recourse for customers of low-cost airlines  
 Low standards are often expected (and experienced) from what are seen as no-frills airlines

*"If something goes wrong on a [low-cost airline] flight you'll never get someone to do anything about it"*



*"You get what you pay for"*

- Rules are believed to be different:
  - unwilling to engage with customers when complaints are made
  - often difficult to even make a complaint
  - little perceived desire to make amends for poor service


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# 4 | Taking complaints further


2CV

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### Most assume that taking it further means getting serious



**Frustration** means people are swift to escalate to more 'extreme' measures



**Low awareness of options** so they opt for most 'obvious' routes



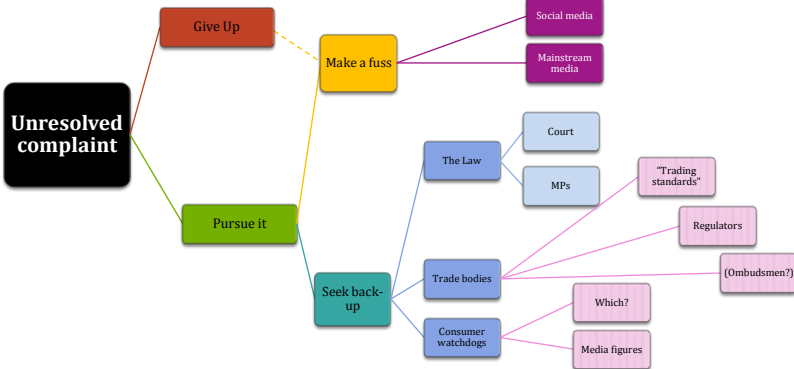
**Desire for resolution** means they seek an option with 'teeth'

Tendency to assume that redress can only be achieved through the most 'serious', formal routes

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### Independent/ADR bodies are rarely top of mind



Independent third parties are currently less salient than more expensive/time-consuming options

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### Preconceptions and confusion have a negative impact on perceptions of ADR bodies

**Ombudsmen can be tainted by the reputation of regulators**

- Some regulatory bodies (esp. Ofgem, Ofcom) have poor reputations:
  - inefficient, ineffectual, even corrupt
  - general dislike of 'quangos'
- ...yet these are often top of mind associations with the term 'ombudsman'

**ADR terms are used interchangeably**

- Little distinction made between ombudsman, arbitration and mediation
- All assumed to be much the 'same process'

*"That energy ombudsman is in the pockets of the big energy companies"*

*"I went to the police ombudsman who did this arbitration-mediation process, which was really helpful"*

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2CU Consumer research - ADR for the UK Aviation sector

### EU directive seen as sensible, if ambitious

- Unsurprisingly, none have heard of the ADR Directive
- Yet **most approve of its intentions**, even if generally critical of Brussels:
  - Sticking up for consumers
  - Providing an alternative course for redress
  - Formalising something assumed to be largely unregulated


*"[The Airline] have already broken EU law by not compensating me for my delay; why would they listen to an EU ADR body?"*

Hopes	Fears
<ul style="list-style-type: none"> <li>▪ It will be compulsory for all airlines</li> <li>▪ Any ADR body will have 'teeth'</li> <li>▪ It will be straightforward</li> </ul>	<ul style="list-style-type: none"> <li>▪ Just another EU body</li> <li>▪ Liable to be ignored</li> <li>▪ Overly bureaucratic</li> <li>▪ Only UK will adhere?</li> </ul>

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2CU Consumer research - ADR for the UK Aviation sector

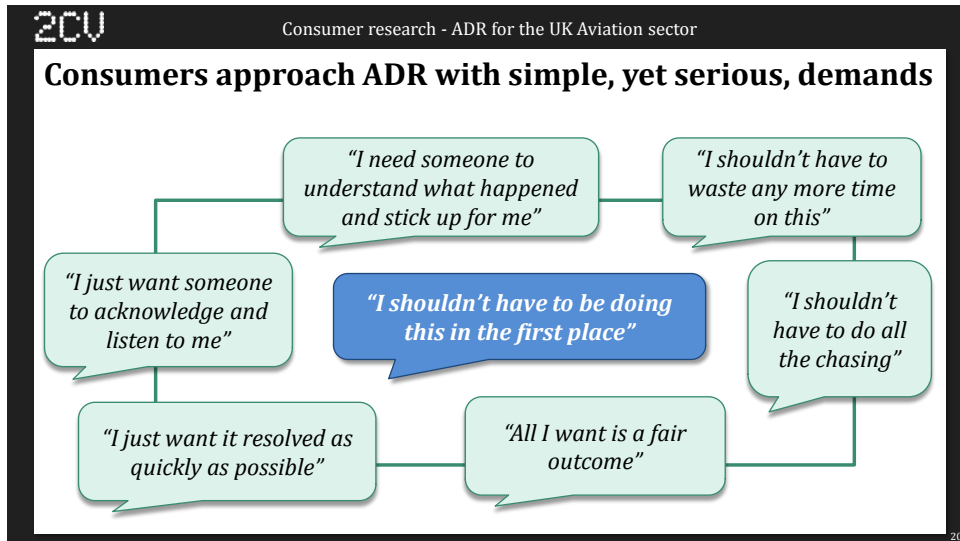
### CAA believed to be consumer-focused, though restricted



- CAA thought to be an appropriate body to lead on ADR in the aviation industry
- Few have had direct contact
- Those who have tend to be positive in terms of their experience though some have concerns:
  - While they are keen to help, they don't have the powers to force an airline's hand
  - Can take a long time to resolve anything

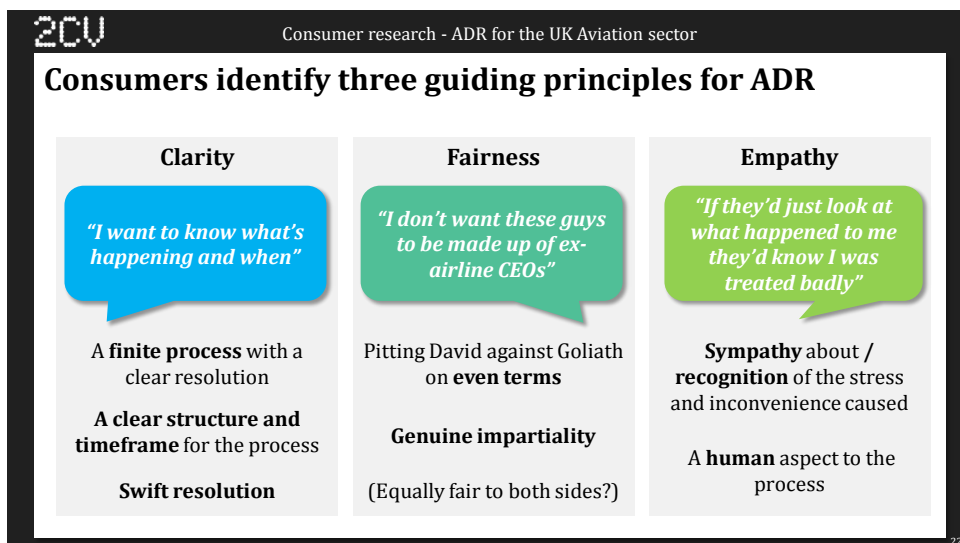
*"The CAA is swamped with complaints. They say it could take 18 months just to get to yours from point of submission. They need to clear the backlog before attempting something like this."*

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# 6 | Demands from a potential ADR process

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### Key elements of an ADR model

#### Likely to work

- An experience that feels **accessible and human**, so consumers want to approach it with a complaint
- A **body with 'teeth'** that can definitely bring about a **clear, binding decision** at the end
- Standing up for the consumer **bridges the gap between David and Goliath** and creates a greater sense of security and fairness
- Something ensuring **both customer and airline have a 'voice'**
- An obvious sense of **independence and impartiality**
- The idea that a body would make decisions public and **improve the system for others** is often appealing

#### May put people off

- Anything that sounds **time-consuming** or likely to drag on for months
- Being asked to come face to face with representatives of an airline feels **confrontational** and thus **daunting**
- Paying to seek redress** is typically regarded as adding insult to injury, especially if they feel they have already paid for poor service
- Binding decisions on consumers can feel like a worrying **loss of control**
- Perceived 'wooliness'** (through a lack of an obvious outcome) is seen as a key concern
- Minority express concern over the idea of decisions **only being binding on airlines**: is this truly fair?

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### The ideal model...

<b>Overall role</b>	An independent and impartial third party
<b>'Feel' of process</b>	Feels accessible and demonstrates empathy throughout
<b>Decision-making</b>	Decisions are legally binding on company, not consumer (who can still go to court).
<b>Role of the third party</b>	Decisions based on what is fair and reasonable, taking into account: both sides of the story, regulatory rules, guidance and standards, codes of practice, relevant law and regulations and what is accepted as good industry practice
<b>Contact</b>	Prefer 'remote' contact to face to face – essentially documents only, though with flexibility around what constitutes a document
<b>Public/ Private</b>	Details of individual cases not published (unless anonymous) but data on decisions used by public authorities (e.g. regulators) to improve firm and industry performance
<b>Fee</b>	Must be free of charge

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### Fine-tuning consumer demands

**Costs:**  
Strong opposition to being charged to complain, especially if they already feel they have lost money

**Data:**  
Consumers want to know which airlines are having most complaints resolved through ADR

**Entitlements:**  
Unclear whether they would settle for less than legal entitlements, though seem likely to accept what they see as 'fair'

**Timescales:**  
People want to know these in advance, and for all parties to stick to them

**Naming and Shaming:**  
They expect to know which airlines have and have not signed up to ADR

**Decisions:**  
They don't just want to know the result, they want to know *why*

25

2CV Consumer research - ADR for the UK Aviation sector

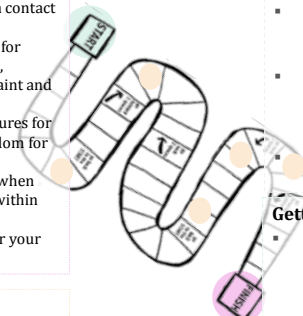
## Submission/receipt of decision practicalities

**Submitting a complaint:**

- Want option for phone or written contact throughout process
- Written approach often favoured for initial contact (stronger evidence, documented record of the complaint and easier to articulate your story)
- Offer of template/example structures for those who need it as well as freedom for those who don't
- Read receipt/acknowledgement when correspondence/calls received (within 24-48 hours)
- First follow-up with next steps for your case within 7 days


**During the process:**

- Progress updates (set by own frequency preferences or dictated by case actions)
- Or tracking login to follow case progress



**Timescales:**

- Whole duration: Not too fast not too slow (6 weeks – 3-6 months)
  - Recourse if airline does not respond!
- Enough time to have both sides of story and respond as required (belief that it has been dealt with comprehensively and seriously)

Key is keeping informed; managing expectations throughout process 

**Getting the decision:**

A written record is essential and want the option to get both:

- A straightforward answer
- And a formal legal doc (showing workings out) – in case of escalation or proof (and reward) of hard work as much as evidence of decision

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# 8 | Recommendations

2CV

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## Summary

- Consumers are open to an independent, neutral body providing ADR to aviation customers
- They prefer a model that offers...
  - An empathetic approach to customers
  - A voice for customers
  - 'Remote' submission of documents
  - The potential for escalation where necessary
  - A clear, concrete resolution and the ability to enforce that decision
- ...and they expect the above for free
- They are concerned at the idea of ADR being optional, or for the potential to choose between competing ADR models, as they feel this dilutes the idea of ADR

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