

Responses to the CAA consultation on the Terms of Reference for the H7 Consumer Challenge Forum (CCF)

CAP 1450



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Virgin Atlantic

ABTA

From: Susan Parsons
Sent: 03 August 2016 15:51
To: Tallack James; economicregulation
Subject: CAA consultation - H7 Consumer Challenge Forum

Dear James

I understand that the Heathrow Airline Operators Committee had input into the above consultation document prior to its publication. There are thus just two points I'd like to make.

Firstly, the CCF make no mention of the Passenger Services Sub-Committee (PSSC) of the Heathrow Airport Consultative Committee (HACC). The PSSC's terms of reference are as follows:

1. To consider on their own initiative, or by the direction of HACC, any issue in connection with Heathrow Airport that would improve the passenger experience, and to report their conclusions to HACC.
2. To monitor the procedures and facilities available to passengers and to make recommendations for their improvement and to coordinate with Heathrow Airport management on the content and scope of any specific monitoring exercises in order to prevent overlap or duplication of similar activities undertaken on the airport's behalf. Together with PSSC members' independent appraisals of the passenger experience, these aim to enhance the experience for all airport users.
3. To provide a passenger perspective on airport developments, particularly at the design stage.

As such, the PSSC should be considered as a key stakeholder when it comes to providing insight to the CCF. In turn, PSSC will use the final H7 business plan against which to benchmark the airport's operations and planning as they affect passengers.

Secondly, the Tripartite Appointment Panel deciding on the CCF chair should also have a say in the appointment of the other CCF members; it should not be left solely to the chair (paragraphs 3.6 and 37 refer).

Could you please accept this as ABTA's submission to the consultation.

Kind regards
Susan

Susan Parsons | Manager, Trade Relations

Connect with us:



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5th August 2016

Sent by email to economicregulation@caa.co.uk

Consultation on the Terms of Reference for the H7 Consumer Challenge Forum (CCF) – CAP 1425

Dear James,

British Airways (BA) is pleased to have this opportunity to respond to the CAA's consultation on the Terms of Reference (ToR) for the H7 Consumer Challenge Forum (CCF). We welcome the significant development of the CCF proposals evident since the initial CAA H7 workshops and the acceptance of proposals made by BA and the airline community.

BA is clear that as an airline operating at Heathrow Airport it is best placed to represent the views of the passenger. Operating in a competitive environment with passengers purchasing air transport services from us, our ability to succeed is inextricably linked to being able to anticipate and provide for our passenger's needs. This ability to best represent the passenger has been recognised by the CAA in previous airport regulatory reviews and has led to the development of HAL business plans, funded by airlines, which have transformed Heathrow Airport's infrastructure and quality of service. Consequently BA does not see an over-riding need for the CCF but nonetheless recognises it may be able to play a role if it is appropriately constructed and can ensure that HAL's business plan ultimately reflects the needs of our passengers and other consumers.

Furthermore BA does not agree with the CAA's view that "HAL, in consultation with airlines, is best placed to engage with consumers"¹. Firstly HAL, as a monopoly, has substantial market power and is therefore regulated by the CAA. Secondly, it is airlines that have the direct and contractual relationship with the consumer and, ultimately, if we do not deliver what the consumer wants we fail as a business. Therefore HAL needs to work closely with airlines who do engage with consumers in competition with each other, and the CCF need to ensure that HAL is cognisant of the expertise and knowledge of consumer priorities that airlines have.

One area to be addressed by the CAA is how it will treat the information, advice and recommendations provided by the CCF - which has no direct link with passengers - with the information and views provided by BA and other Heathrow airlines who engage with passengers on a daily basis across the

¹ Para 2.2

globe? Whilst the CAA state that it “expect(s) to place considerable weight on the CCF’s views”² and that it may look to “obtain our own consumer insight to help inform and/or triangulate the views of the CCF”³ it is unclear whether or how the CAA will use airline information it receives directly? BA would like an assurance from the CAA that the wealth of information and analysis on consumers and their priorities we generate and provide in the H7 process will not solely be seen by the CAA through the HAL business plan and the CCF. We would welcome more information on the CAA’s thinking on this point.

The remainder of this response will be structured to answer the CAA’s key consultation questions.

Do you agree with our proposed Role for the CCF?

BA understands the role that the CAA has proposed for the CCF. It must demonstrably be independent of HAL as the regulated company with substantial market power. We would suggest that the opening of para 3.2 is re-drafted to read “the role of the CCF is to provide independent challenge and scrutiny to HAL...”. This more fully reflects the objectives set out in para 2.2.

Do you agree with our proposed membership requirements including the steps to secure the independence of the CCF?

BA supports appointing the CCF chair by the Tripartite Appointment Panel (TAP) and for the Chair in turn to appoint members of the CCF. However BA believes that the CAA should consider whether the TAP should also have a power of veto over CCF membership appointments as well and include this in the draft ToR? In addition to this the Chair ought to have to justify the removal of members to the CAA and seek its approval before those decisions can come into effect.

Whilst stating that the CCF will consist of a minimum of 5 members including the chair it is unclear how many members it is intended to have? BA would support a larger membership of 10-12. This reduces the likelihood of regulatory capture, provides the greatest scope for a mix of skills and availability, and would allow for diversity. BA notes that skills the listed as being needed for the CCF in para 3.5 do not wholly fit with the ‘challenge and scrutiny’ role detailed in para 2.2. Analytical and data management skills would seem to be a better fit with the specific task of evaluating the HAL business plan than more general policy and regulation skills or experience of outcome-based incentives.

As a new addition to the H7 process BA does not believe that the ToR should imply the continuation of the CCF beyond the H7 decision. With the added uncertainty caused by the proposed extension of Q6 by 1 year we suggest that para 3.11 be re-drafted to read “appointment of the Chair and Members will be for the duration of the H7 regulatory review process ending with final H7 decision of the CAA”. After the H7 decision it will then be more appropriate to assess the future life of the CCF and have the CAA, HAL and airlines review it in light of its usefulness and impact.

² Para 2.5

³ Para 2.5

Do you agree with our proposed Scope, Focus and Responsibilities for the CCF?

The sole scope of the CCF should be to monitor the development of HAL's business plan for the H7 price review period. The word "primarily" should be removed from para 3.15 as this implies a scope beyond H7 which has not been proposed or consulted upon to date.

BA believes the scope and focus of the CCF should extend to:

- Advising CAA on whether HAL's process of understanding the consumer is robust – i.e. is survey methodology robust etc.?
- Advising CAA on how HAL translate learning and evidence on consumer priorities into the business plan – i.e. is it clear how airline consumer research and evidence is translated into HAL business plan proposals etc.?

BA does not believe it to be appropriate that the scope and focus of the CCF should extend to:

- Developing an outcomes-based regulatory framework.
- Helping set the parameters for the detailed scrutiny of HAL's business plan by the CAA and airlines.

Therefore in our view para 3.16 is not specific enough and it concerns BA that activities that we see as beyond the CCF's scope, as outlined earlier in CAP 1436⁴, may be introduced. BA would encourage the CAA to review the content of para 3.16 and focus more on the objectives referenced in para 2.2 and ensure that the principles in para 2.9 are consistent with these objectives.

An area that also requires clarification is what the CAA's process and options will be if the CCF finds that HAL has not engaged or reflected consumer priorities in their business planning process and publication as needed. BA would welcome more insight from the CAA on this point.

Likewise the CCF should have an additional responsibility⁵ to show that it has engaged equally with both HAL and the airline community throughout the H7 price control review.

Do you agree with our proposals on the operating principles for the CCF, particularly on remuneration and transparency?

Remuneration

With CAA charging costs to HAL will these be ultimately included in the regulatory settlement? If so then airlines and consumers will pay for them. What scrutiny will BA get of these and will there be a business case we can review?

⁴ Para 2.9

⁵ Para 3.18

Authority

BA agrees with the ability of the CCF to issue 'comply or explain' notices to HAL where necessary. In order to ensure that there is visibility of these notices they should be communicated to the CAA and senior airline community representatives at the time in addition to HAL. This would allow other parties to provide comment that maybe useful to the CCF and HAL.

Escalation Policy

The policy detailed in para 3.22-3.24 only involves the CCF, HAL and the CAA. The airline community would not appear to have any visibility. BA would suggest that it is appropriate for airlines to be made aware and be able to comment on issues that lead to and involve the use of the proposed escalation policy.

Secretariat

The cost of the secretariat should be considered in the same way as remuneration – if these costs are part of the regulatory settlement will BA have scrutiny and a business case to review? BA believes that if the CCF requires accommodation then this would be best provided by the CAA in London. Locating the CCF and/or its secretariat function in a HAL owned or managed property would compromise the independence of the CCF itself and should be avoided.

Resources

Airlines should have visibility of all information HAL provides to the CCF. Without the ability to see what has been shared airlines cannot also bring challenge and scrutiny to bear which, in turn, may lead to the CCF making partial or unsafe conclusions on behalf of the consumer. BA and other airlines have the best understanding of what consumers want and are best placed to help the CCF and CAA.

Transparency

BA does not agree that any CCF material should be published on the HAL website⁶. The CCF is not a HAL body and any suggestion or implication that it is anything other than a body operating under the auspices of the CAA that independently holds HAL to account should be resisted. Placing material on both the CAA and HAL website will also lead to unnecessary duplication and complexity. All CCF material should be made available on the CAA website only. If HAL wish to they can provide a link from heathrow.com to a CCF section on the CAA website.

BA does not see the need for non-confidential versions of meeting agendas to be published. Where there is a need for redactions in the minutes of meetings these should be made for specific text but all parties should have visibility of the context, i.e. the agenda item being discussed where a redaction is made should be visible to all.

Do you agree with our proposals on the working practices of the CCF?

CCF meetings

BA does not see the need to specify the minimum number of meetings to be held by the CCF. We are concerned that allowing 10 working days for the issue of meeting minutes will put BA and the airline community at a serious disadvantage as HAL are more than likely to have 'real-time' knowledge of

⁶ Paras 3.27, 3.30, 3.33 and 3.34

what the CCF are working on and thinking about, particularly where the current ToR proposes having non-confidential agendas as well. As a key principle airlines ought to have equal access and visibility to CCF meeting materials.

Other meetings

The CCF should publish a log of all meetings in advance and telephone calls as soon as they take place on the CAA website. To do this on request only would be cumbersome and lacks visibility. All meetings and telephone calls should be logged to avoid debate about what constitutes a 'substantive' meeting or call. As well as identifying issues discussed the CCF should also log any actions and agreements made.

Meeting observers

BA believes that any stakeholders – CAA, HAL, or airlines – should be able to attend any CCF meeting they wish rather than this being at the discretion of the Chair. BA would support there being an open invitation for a designated HAL and airline community representatives to attend CCF meetings with the Chair being required to explain why they should not attend specific meetings if necessary. This is consistent with the principles of transparency and independence.

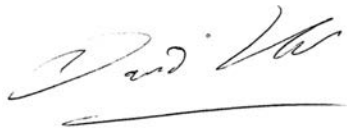
CCF periodic reviews

Any reviews of the CCF's operational performance with regard to the ToR should be disclosed to all parties including airlines.

In conclusion BA believes that it is best placed to represent the consumer in the H7 price control review process. The CCF's activities should be specifically focused on assessing the process HAL undertake to inform their business plan and how that business plan reflects consumer priorities and the views of airlines. The CCF should not be involved in the development of the wider regulatory framework or be responsible for setting the parameters of the H7 review for the CAA or airlines. Remuneration costs must be able to be scrutinised and the CCF's independence should be evidenced by the material it produces and the ability for all parties to attend meetings and access documentation, which should be available through the CAA website only.

If you have any queries on this response please contact me at david.hart@ba.com.

Yours sincerely,



David Hart
Head of Fleet Planning, Airport Regulation & Policy
British Airways plc

Heathrow

CAP 1425 - H7 Consumer Challenge Forum (CCF) Draft Terms of Reference

Heathrow Response

CAA-H7-020

Date: 4th August 2016

Prepared by: Heathrow Airport Limited

Heathrow welcomes the opportunity to respond to the Terms of Reference for the H7 Consumer Challenge Forum (CCF). We see the establishment of a CCF as an important step forward in assuring our stakeholders that the interests of consumers are fully accounted for in our H7 business plans and that extensive research has been undertaken to understand past consumer experience in order to inform the right outcomes for future consumers. We agree with the CAA that the CCF should not replace good stakeholder engagement with our airline customers, but rather provide an independent voice that represents the interests of consumers.

Our responses to your questions are as follows:

1. Do you agree with our proposed Role for the CCF?

We do not agree with the definition of the role of the CCF in the terms of reference. Specifically, in paragraph 3.1 it states that the role of the CCF is to act as an advisory body to the CAA. The CCF's primary role is to act as a "critical friend" to Heathrow Airport, essentially incentivising self-regulation so that the regulatory body only imposes the minimum amount of regulation necessary. It is also to assure the CAA and other stakeholders that consumers' interests are reflected within Heathrow's business plans.

We believe that a more appropriate title of this group is a Consumer Challenge Board rather than a Consumer Challenge Forum. We believe that the word 'forum' suggests a discussion or ideas exchange and we wouldn't want this group to be viewed as a talking-shop. A 'board', on the other hand, represents a group of people with the power to impact proceedings. Whilst a minor change, we feel that a board rather than a forum is more likely to attract candidates with the level of experience we seek. The chair will have a high profile role and play a key role in assuring and influencing the consumer outcomes. They will lead discussions and chair the meetings that represents the interests of over 75 million passengers. Experience of leading discussions during meetings of a similar consumer body is therefore desirable. The chair will also need to demonstrate an ability to build a consensus on the board, whilst recognising that on occasions there may be diverse views, and provide necessary strategic leadership. For simplicity, we continue to use the term CCF in this document.

2. Do you agree with our proposed membership requirements including the steps to secure the independence of the CCF?

We agree with the membership requirements proposed by the CAA and are confident that they will secure the independence of the CCF. The chair of the CCF should also be responsible for ensuring that members are consumer interest representatives rather than representative consumers and that they are independent in thought and able to engage in effective dialogue with a variety of stakeholders with a diverse set of views.

With regards to the period of appointment and level of effort required by the chair and members, we envisage the work effort required by the chair and members to be quite varied and peaky, especially in the first 12-18 months where we estimate the effort of the

chair to be on average 5 days a month. Therefore, there should be the opportunity to review the terms of reference, effort and membership requirements at a point in time earlier than three years.

3. Do you agree with our proposed Scope, Focus and Responsibilities for the CCF?

In the main we agree with the CAA's proposed scope, focus and responsibilities for the CCF. As stated in our response to question 1, we see the role of the CCF to be a "critical friend" to Heathrow Airport and therefore we do not agree with the definition in paragraph 3.15 which states the scope of the CCF is primarily to monitor. We would expect the CCF to promote the interests of consumers by proactively challenging Heathrow rather than monitoring.

With regards to the CCF's focus, whilst we do not envisage the CCF being required to review the detailed outputs of the Constructive Engagement Process, we do think they should also be engaged in this process so that they can provide a continuous thread through the various stages of the business planning process.

4. Do you agree with our proposals on the operating principles for the CCF, particularly on remuneration and transparency?

Whilst we broadly agree with the proposed operating principles there are some issues that in our view require addressing.

We are not convinced that it is necessary that the CAA handles the remuneration of the CCF members. We do not think this approach necessarily secures independence and in our view there is a strong case for Heathrow Airport employing and remunerating CCF members. We have looked at other models such as the water industry where the chair is contracted by the regulated entity. We think it is important to develop a relationship between the chair and Heathrow's executive committee whereby they hold the airport to account and where the relationship is based on mutual respect.

We think there is a risk that if the contract of employment for the CCF is between the members and the CAA, that this group will be seen as another regulatory body. This is likely to have a negative impact on the dynamic between the airport and the CCF. Any concerns regarding securing independence will be addressed by the chair's joint appointment by the Tripartite Appointment Panel (TAP), with Heathrow, the airline community and CAA represented, and the membership requirements proposed.

5. Do you agree with our proposals on the working practices of the CCF?

In the main, we agree with the working practices, we do not agree however that the CAA should be the only body that can make changes to the Terms of Reference. We propose that the chair of the CCF and Heathrow Airport should be able to make changes to the Terms of Reference as long as it is done in consultation with the representative organisations included on the Tripartite Appointment Panel (TAP).

We would like to confirm our full support to the CAA in appointing the chair at the earliest opportunity, which we hope will be no later than October 2016, in order that the members have the greatest opportunity to inform Heathrow's H7 business planning activities.

Heathrow Airline Operators Committee (AOC) and the London (Heathrow) Airline Consultative Committee (LACC) joint response



London (Heathrow) Airline Consultative Committee

Response to CAA Consultation on the Terms of Reference for the H7 Consumer Challenge Forum (CCF)

5th August 2016

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Executive Summary

The Heathrow Airline Operators Committee (AOC) and the London (Heathrow) Airline Consultative Committee (LACC) welcome the opportunity to submit this joint response to the CAA on its proposed Terms of Reference (ToR) for the H7 Consumer Challenge Forum (CCF).

The H7 review is critically important to the 82 airlines (our members) and their passengers, over 75m who used the airport in 2015. It will set the level of service and range of investments required to meet the needs of both passengers and airlines for many years to come. In previous reviews the airlines devoted substantial resources to understanding the needs of their passengers and promoting these through their inputs to HAL and the CAA. The airlines are once again committed to researching, understanding and promoting the needs of their passengers in the H7 review.

As part of this the airlines are supportive of the establishment of the Consumer Challenge Forum (CCF) but remain concerned about the CAA proposals in a number of areas. Our points are summarised below:

- At the outset we would highlight that the airlines have a direct relationship with passengers and operate in a competitive environment to both win and retain them as customers. In contrast to this Heathrow Airport Limited (HAL) has an indirect relationship with passengers and provides services to them on a monopoly basis. This is a crucial distinction when considering the challenge and scrutiny role for the CCF proposed by the CAA.
- We are concerned that the role for the CCF set out in the CAA consultation appears contradictory in a number of areas. For example, the challenge and scrutiny functions set out in paragraph 2.2 align with previous statements from the CAA about the role of the CCF and are supported by the Airline Community. However, this is in contrast to the activities proposed by the CAA for the CCF in paragraph 2.9 which broaden into the CCF having a role in enhancing constructive engagement and also a policy formulation role in ‘particularly focusing on the development of a consumer-focussed outcomes framework.’
- The CAA should ensure that the CCF is completely independent of both HAL and the airlines and should take proactive measures to ensure this is the case by, for example, avoiding any co-location of the CCF with HAL or the airlines or the use of any resources provided by HAL or the airlines.
- Since this is the first time the CCF is being established it should only remain in place until the end of the H7 review. It would then be appropriate to have a multi-stakeholder review of the role and activity of the CCF with its future being subject to the agreement of all stakeholders at that point.

The airlines welcome the opportunity, and look forward to continuing, to engage with the CAA in the development of the ToR and the actual CCF.

Introduction

The H7 review is very important to the Airline Community at Heathrow given our passengers currently pay amongst the highest airport charges in the world and this review will once again set the charges levied on the airlines and through them to passengers and those with an interest in cargo. It will also set the level and type of capital investment and airport service quality which will determine the nature of air transport operations at Heathrow for many years to come.

Within this context it will be critical, once again, that the interests of the passengers of our members are at the heart of the H7 review and settlement that will be established by the CAA. We continue to hold the view that since the passenger is the customer of our members they are best placed to both understand and represent their interests. In fact, the market incentivises the airlines to actively pursue the interests of passengers and efficiently deliver their services to meet customer needs. History is testament to the airlines which failed to do this (even previous household names) and are no longer in operation.

The market forces incentivising airlines to understand and meet passenger needs are absent for the airport operator at Heathrow – Heathrow Airport Limited (HAL). HAL is entirely reliant on airlines attracting passengers to use their air transport services and who are then processed through Heathrow airport. The airlines are, in turn, completely reliant on Heathrow airport to provide the services the airlines have indicated are important to their passengers. It is for these services and facilities that the airlines pay airport charges to Heathrow airport and are reliant on the CAA to ensure that HAL is not able to leverage its substantial market power (SMP) in this transaction.

In summary, the airlines devote substantial resources to understanding the needs of their passengers and communicating these needs to HAL and are reliant on HAL to respond efficiently to this information. We urge the CAA to recognise this information flow and response dynamic from HAL as the context within which the CAA proposals exist for the establishment of the CCF.

The CAA has set out a number of headings and questions in its consultation paper on which it has invited responses. This has been a helpful feature of the consultation paper and we have structured our response under similar headings and as answers to these questions. We hope this is helpful and look forward to working with the CAA on the establishment of a CCF which meaningfully adds value to passengers for the H7 review.

Objectives

The CAA notes that it wants to ‘see good quality consumer engagement at the heart of the H7 review.’¹ We welcome this and would highlight three points:

- Throughout each regulatory review the airlines have based their input to the CAA on robust research of the needs of their passengers. Not to have done so would have been detrimental to their businesses. For the H7 review the airlines will continue to research the needs of their passengers and use this to inform their proposals to HAL and the CAA.
- In addition to their own research, the airlines have previously also sought the input of passenger representative bodies such as the previous Air Transport Users Committee and the Passenger Services Sub-Committee (PSSC) of the Heathrow Airport Consultative Committee (HACC).
- Within the value chain of service provision to passenger it should be noted that HAL is the company with substantial market power and is subject to economic regulation. It is the incentives of this SMP to HAL and the extent to which the interests of passengers are (or are not) pursued by HAL which requires regulatory scrutiny in H7.

Within this context, the airline community sees value in a role for the CCF of advising the CAA on the quality of HAL’s engagement with the research of airlines on the needs of their passengers and also on the quality of HAL’s own research into the needs of passengers. We can also see a role for the CCF of advising the CAA on the extent to which HAL has reflected the findings of their research (and the research provided by the airlines) into its Business Plan (BP) for H7.

However, there are two points set out by the CAA in the Objectives section which are of concern to us:

- Firstly, in paragraph 2.1 the CAA appears to allude to a role for the CCF in considering ‘outcomes’ and ‘incentives’ for HAL in its BP. If this simply refers to the CCF taking a view on the extent to which the needs of passengers are reflected in HAL’s BP we are content. However, we are concerned that it could refer to regulatory outcomes and incentives which we consider outside the scope of the proposed CCF. We would welcome further discussions with and clarity from the CAA on this.
- Secondly, the CAA indicates that ‘HAL, in consultation with airlines’ is best placed to engage with consumers to understand their priorities’.² In considering this comment we would highlight to the CAA that the primary relationship with passengers belongs to the companies (airlines) with whom passengers contract for the provision of air transport services in a competitive environment. Furthermore, the scope of the

¹ Paragraph 2.1 of CAP 1425

² Paragraph 2.2 of CAP 1425

airline contract consists of a complete journey from a destination to an arrival point in a global network. Given this fact, it is the airlines who are most incentivised to undertake robust research on the needs of their customers throughout the whole journey and to respond to those needs. The competitive market in which airlines operate ensures this happens. In contrast to this, HAL engages with passengers for a comparatively brief period of time as a supplier of airport services (on a monopoly basis) to airlines. It is the supply of airport services on a monopoly basis which results in HAL having SMP which needs to be regulated to ensure it does not abuse its position when engaging with airlines and passengers. Therefore, the fundamental question should be about the extent to which HAL responds to the research presented by its customers, the airlines, rather than the primary point of reference on passenger research being from HAL and its consultation with airlines. This is a key point for our members and one on which we would be happy to engage further with the CAA if it would be considered helpful.

We would also note that whilst the CAA has indicated its expectation that the CCF will review the quality of HAL's research, and the extent to which this is reflected in HAL's BP, there are no objective guidelines, reference standards or definitions of what the CAA expects 'quality engagement' to be. It will therefore be difficult for the CCF to take a view on the quality of HAL's engagement and we should avoid a scenario in which the view of the CCF is characterised by unsubstantiable subjectivity. Therefore, if the CCF is to take a view on the quality of HAL's engagement it will need a set of criteria on which to base its opinion. The existence of such criteria could actually add substantial value to the H7 process so we would welcome an opportunity to work with the CAA on the development of these criteria. For example, a criterion could be established on the extent to which HAL has welcomed and responded to a challenge/scrutiny/alternate interpretation of its data in contrast to it simply stating the number of engagement meetings at which it presented its data.

Key principles

We welcome the opportunity to comment on the proposed ToR. Having a ToR for the CCF which has been agreed between stakeholders will bring objectivity and a common understanding of its function before it is set up in a way that would not occur if the ToR was allowed to be written post establishment of the CCF.

The last sentence of 2.8 is not clear to us as it would appear to suggest that measures have previously been put in place to promote the interests of passengers by the CAA which were not based on consumer research. As mentioned above the airline input for each regulatory review has been based on research into passenger needs and indeed in Q6 the CAA undertook its own research as highlighted by the CAA.

The activities proposed for the CCF by the CAA in paragraph 2.9 would appear to be at odds with the activities envisaged for the CCF by the CAA in paragraph 2.2 and for the CAA themselves in 2.3. We believe the challenge and scrutiny functions set in paragraph 2.2 align with previous statements from the CAA about the role of the CCF and are supported by

the Airline Community. This is in contrast to the activities proposed for the CCF in 2.9 which broaden into the CCF having a role in enhancing constructive engagement and a policy formulation role in ‘particularly focusing on the development of a consumer-focused outcomes framework.’

Role of the CCF

Do you agree with our proposed role for the CCF?

We welcome the role for the CCF as set out by CAA in paragraph 3.2 and would suggest the words ‘and scrutiny’ be added to the first sentence to reflect the scrutiny of HAL role for the CCF envisaged by the CAA in paragraph 2.2.

It is also important for the CCF to be robustly independent and populated by people who are able to consider the interests of a broad range of passengers and those with an interest in cargo.

Membership of the CCF

Do you agree with our proposed membership requirements including the steps to secure the independence of the CCF?

Composition of the CCF

In our view the CCF should consist of a minimum of 8 members including the Chair but ideally should have a membership of 10 -12 people in order to bring a broad range of experience and expertise.

We welcome the CAA proposal that a Tripartite Appointment Panel (TAP) be established for the recruitment and appointment of the Chair. In our view the broad range and numbers of airlines at Heathrow would warrant the TAP being expanded to include 2 representatives of the Airline Community.

The range of skills required for the CCF members, as set out in paragraph 3.5, would again appear to be at odds with the challenge and scrutiny role envisaged by the CAA as the suggested skills include ‘Consumer policy and economic regulation, including outcome-based incentives’. In our view the skills required should also include a greater emphasis on the analysis and interpretation of data.

Once the Chair is appointed we consider that it would be appropriate for the TAP to also have a substantial role, in conjunction with the Chair of the CCF, for the appointment of the Members of the CCF. The implementation of such a process would promote the acceptability of all the members of the CCF to all stakeholders.

Independence of the CCF

The CAA is correct in setting a number of criteria designed to ensure the independence of members of the CCF and these are supported by the Airline Community.

Period of appointment

In our view the CCF should be established for the duration of the H7 review. It would then be appropriate for there to be a transparent review of the usefulness of the CCF by all stakeholders with its future based on an agreed decision from the main stakeholders at that point.

Termination of appointment

We think the Chair should be required to justify to the CAA the removal of any members of the panel with the CAA needing to approve the proposed termination before it can come into effect.

Scope, Focus and Responsibilities of the CCF

Do you agree with our proposed Scope, Focus and Responsibilities for the CCF?

Scope

This is agreed by the Airline Community

Focus

In paragraph 3.16 the CAA indicates that the CCF will make recommendations to HAL. This would appear to be contradictory with the role envisaged for the CCF by the CAA of the CCF challenging HAL and then giving a view to the CAA about the quality of the HAL BP and the extent to which the BP reflects the needs of passengers. We would also highlight that the last sentence of paragraph 3.16 is contradictory to the role for the CCF set out by the CAA in paragraph 2.2.

Responsibilities

We agree with the text in paragraph 3.18 and ask the CAA to ensure the CCF is tasked with ensuring that the CCF is able to demonstrate that it has engaged to an equal extent with both the Airline Community and HAL.

Operating principles of the CCF

Do you agree with our proposals on the operating principles for the CCF, particularly on remuneration and transparency?

Remuneration

We recognise the preference of the CAA for the Chair and Members of the CCF to be remunerated and able to claim reasonable expenses. However, given that the costs for this will ultimately be borne by the airlines and passengers we think it would be appropriate for these costs to be no more than is absolutely necessary. We also think that the airlines should be involved in the discussions associated with determining these costs.

Gifts, hospitality and donations

The Airline Community agrees with paragraph 3.20

Authority

We welcome the CCF being able to require HAL to 'comply or explain' in responses to notices to it from the CCF.

Escalation

We consider that the CCF should be required to transparently report on the queries it raises with HAL and separately report on any areas where it is escalating issues with HAL.

Secretariat

Our comments on remuneration also apply to the costs associated with the secretariat function for the CCF.

In our view the independence of the CCF would be substantially compromised (and therefore open to challenge) if the accommodation for the CCF or secretariat was to be at any HAL owned or managed property. Therefore, the CAA should provide for any accommodation requirements for the CCF.

Resources

We consider that HAL should be required to share information on passenger research transparently. If this was not to be the case there would not be an opportunity for the airlines to take a view on the conclusions HAL is proposing from its research.

Transparency

It is not clear to us why the CCF would publish information on the HAL website. The CCF reports to the CAA and so should publish its material on the CAA website.

Working practices of the CCF

Do you agree with our proposals on the working practices of the CCF?

CCF meetings

We consider that the number of meetings required should be left to the Chair to determine is necessary for the CCF to adequately fulfil its role and discharge its duties. Stakeholders can then take a view on the extent to which this has been achieved.

We do not think that a gap of 10 working days is required before publishing the minutes of meetings. It will be important for the airlines and HAL to have visibility of meeting minutes at the same time in order to maintain a parity of access to information for both the airlines and HAL. Any agendas and minutes should also be published on the CAA website rather than the HAL website.

Other meetings

As part of demonstrating transparency and independence the CCF should proactively publish a log of all meetings and phone calls in advance. The contents, agreements and actions which come out of these meetings/calls should also be published. Not to do so could lead to queries about the independence and transparency of the working practices of the CCF.

Meeting observers

Also, as part of demonstrating transparency and independence, there should be an open invitation for nominated representatives of the Airline Community and HAL to attend the CCF meetings. If the CCF Chair does not want any such representatives to attend they should be required to explain why.

Other matters

The CCF should be required to transparently report to the CAA and stakeholders on its activities and how it is operating within ToR and achieving its objectives.

Given the importance to all stakeholders of the addition of the CCF into the process of airport regulation, the Airline Community considers that there should be tripartite review of the operation of the CCF within 12 months of it being formed.

Additional points to the CAA from the Airline Community

The Airline Community would like to understand from the CAA what the process will be, and what action the CAA will take, if the CCF indicates that it considers HAL not to have engaged with it as required?

Summary

Subject to our comments above we are supportive of the establishment of the CCF. However, we are concerned that there are still a number of points regarding the role of the CCF which appear to be contradictory.

In our view the scrutiny and challenge of HAL's passenger research and engagement with the airlines and then an advisory role to the CAA on this are the fundamental activities for the CCF. However, it should not be tasked with the development of policy proposals to the CAA.

ends

Heathrow Airport Passenger Services Sub-Committee (PSSC)

HEATHROW AIRPORT PASSENGER SERVICES SUB- COMMITTEE (PSSC)
RESPONSE TO CAP 1425 – CONSULTATION ON THE TERMS OF REFERENCE
FOR THE H7 CONSUMER CHALLENGE FORUM (CCF)

Introduction

1. The Heathrow Airport Consultative Committee (HACC) is an independent statutory committee first convened in 1948. It meets quarterly to discharge its role of fostering communication and understanding between the airport's owners and operator and its users, both passengers and airlines, local authorities and interest groups. An important part of the HACC is the Passenger Services Sub-Committee (PSSC) which represents the particular interests of all passengers.
2. The PSSC meets quarterly to review customer experience metrics, provide direct feedback to Heathrow Airport management on member and wider user experience and to receive reports and operational updates. The PSSC does, on a regular basis, focus on specific areas of delivery and invites both Heathrow Airport management and experts along with third-party stakeholders to attend Q&A sessions for detailed discussions.
3. The CAA have issued a consultation document asking for response to CAP 1425 – Consultation on the Terms of Reference for the H7 Consumer Challenge Forum (CCF).

Response

4. The Heathrow PSSC acknowledges and supports the establishment of the H7 Consumer Challenge Forum as a fully independent body which will ensure that the end consumers' needs are reflected and delivered by HAL in the context of the H7 business plan.
5. Specifically the Heathrow PSSC understands the benefits of a body comprised of a membership which is not only independent from HAL but all other airport stakeholders.
6. Notwithstanding 5 the Heathrow PSSC is of the opinion that it should be a key stakeholder when it comes to providing insight to the CCF as part of evidence gathering as to the current Heathrow passenger experience based on our insights as a body.

7. As with all other Heathrow strategic plans the Heathrow PSSC will use the final H7 business plan as a key benchmark document to monitor the day to day operation of the airport as it impacts the passengers which we represent.

8. The Heathrow PSSC supports the establishment of the Tripartite Appointment Panel (TAP) to appoint the Chair of the CCF (3.6) but believes the Tripartite Appointment Panel should also appoint, along with the Chair, the general membership of the CCF and not leave it as a matter solely for the Chair (3.7).

Conclusion

8. The Heathrow PSSC supports the establishment of the Consumer Challenge Forum and looks forward to working with it for the benefit of the Heathrow passenger, current and future.

Further Information

Professor Roderick Smith HACC Chair rodericksmith@hacc.org.uk

Martyn Hurst HACC Technical Advisor martyn.hurst@tiscali.co.uk

3rd August 2016

Star Alliance Services

From: Simon Scoggins
Sent: 05 August 2016 16:57
To: economicregulation
Subject: H7 Consumer Challenge Forum

Star Alliance thanks the CAA for the opportunity to review and respond to the draft ToR and consultation document reference the above forum.

We have consulted with our colleagues at other LHR airlines and as such, our input is included within the detailed consultation response being sent jointly by the LHR AOC and the LACC. We support and endorse the contents of this response and look forward to consideration by the CAA of the points made therein.

Kind regards,

Simon Scoggins
Consultant to Star Alliance Services GmbH
Heathrow Programme Director

Virgin Atlantic



James Tallack
Consumer and Markets Group
Civil Aviation Authority
CAA House
45-59 Kingsway
London WC2B 6TE

Sent via e-mail to: economicregulation@caa.co.uk

Date: 4th August 2016

Dear James,

Virgin Atlantic Airways Response to the CAA consultation on the Terms of Reference for the H7 Consumer Challenge Forum (CCF)

Virgin Atlantic (VAA) welcomes this opportunity to respond to the consultation on the Terms of Reference (ToR) for the H7 Consumer Challenge Forum (CCF). As highlighted in our response to the H7 'Strategic Themes' consultation, the concept of a CCF is interesting and one that *could* bring the consumer closer to the economic regulatory process than ever before.

We continue to highlight that airlines represent the interests of our passengers; however, we remain open to reviewing how such a forum can play an appropriate and considered role in this process.

It will be vitally important to ensure that the CCF is comprised of the appropriate members in order to be viewed as truly independent. We welcome the tripartite voice that is being suggested by the CAA in the decision-making process for membership as it is important that any decisions taken are truly balanced.

It is also important that the CCF evaluates proposals with cost efficiency in mind given the current economic climate. When end users have a full picture and understand the costs involved then they will have a more balanced view on what is most important to them during this review.

We have answered the questions presented in this document in turn as follows:

- **Question 1: Do you agree with our proposed Role for the CCF?**

VAA agrees that it important that any such forum is truly independent and fully reflects the interests of the many varied consumers at Heathrow.

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Along with passengers of current and future users of the services, it is also important that cargo customers and transporters are taken into consideration. However, we would like greater clarity as to whether there is a longer term role for the forum beyond H7 as this has not been made explicit in the ToR as currently drafted.

- **Question 2: Do you agree with our proposed membership requirements including the steps to secure the independence of the CCF?**

VAA would like some clarity over the duration of membership and how it coincides with the H7 process. We would also like some greater clarity over the duration of the appointments as it is stated that the initial term will be of no more than 3 years, which may be renewed for a further 3-year term, however, this does not coincide with the H7 timeframes.

It is important that the members of the CCF are able to maintain independence but also have the appropriate skills and expertise to succeed in such a role. Also, the appropriate checks need to be in place to ensure a balance of expertise and experience.

The decision to devise a Tripartite Appointment Panel (TAP) is a positive step. However, it is important that all members of such a panel are able to have an equal and balanced say on outcomes.

As mentioned previously, independence of the CCF will be key in its success and we agree with the points set out regarding the ability to become a member. Aside from our points, we also agree with the proposals for the period of appointment and for the termination of appointment.

However, it is also important that the TAP is able to agree the names of the CCF appointments after they have been selected by the Chair. This will again help to ensure that the appropriate panel is selected to engage in this process.

- **Question 3: Do you agree with our proposed Scope, Focus and Responsibilities for the CCF?**

Scope

VAA agrees with the primary points raised on the scope of the CCF but the

CAA may also want to specify that the forum should assess whether HAL's understanding of consumer needs is methodologically robust and interpreted in an appropriate way.

It is also worth noting that the CAA may want to clarify under the scope that the secondary scope is to monitor HAL's performance in engagement and behaviour during the H7 process.

Additionally, greater clarity is needed on the role of the CCF post the H7 outcome and how (if indeed at all) will they engage in the ongoing regulatory process.

Focus

Whilst it is noted that the CAA will reserve the right to consult with the CCF on specific issues, we would like some more clarity on what types of issues the CAA may interject and over what timeframe.

Responsibilities

VAA would like greater clarity on how the CCF will consult with other stakeholders, particularly the airline community, and on what basis and frequency.

VAA also has additional questions around how the CCF will assess whether HAL's business plan is an appropriate response to consumers' views. As an example, consumers may know that they want their flights to leave on time, but they are unlikely to know all the activities that are required to make that happen and therefore are unlikely to stipulate these as requirements. We would like to know how such an example would be addressed. Consumers' stated requirements are in reality only likely to make up a small proportion of the business plan and VAA would question how the rest of the plan will be assessed.

We would also like further clarity around what the process will be if the CCF deems HAL has not sufficiently engaged with or appropriately represented consumers' views, as this is currently not clear in the ToR.

It's important that cost effective/innovative solutions to the consumer are assessed in HAL's business plan requirements and if the CCF is to have this function then they will need to have the expertise to be able to assess this. Additionally, there are likely to be consumer requirements that will be at odds with one another, for example, budget airline users are likely to have different requirements to those of VAA's customers. VAA would like to know how the CCF will judge the merits of how HAL has balanced the

requirements of different consumers.

One of the primary requirements of most customers is likely to be value for money and user costs that are broadly comparable to equivalent airports. It is important that this is taken into account during this review process.

- **Question 4: Do you agree with our proposals on the operating principles for the CCF, particularly on remuneration and transparency?**

Remuneration

VAA would be interested in assessing the level at which remuneration is being set, and believes there may well be a role for the TAP to have some level of influence in the final rate set. A clear validation process for expense claims is also required.

Authority

VAA notes the issuance of 'comply or explain' notices, and would request in order to maintain transparency in this process that these are made publicly available, along with the subsequent responses received.

Escalation policy

What will the process be if the CCF deems HAL has not sufficiently engaged with or appropriately represented consumers' views?

Resources

It is important that the appropriate protections are in place particularly when sharing confidential information. However, in order to ensure transparency, it is important that as much information as is feasible is made available in the public domain.

Transparency

We would expect the publication of any documents from the CAA to be made available as soon as possible. Any delay in doing so could have overall implications on the transparency and robustness of the process.

- **Question 5: Do you agree with our proposals on the working practices of the CCF?**

CCF Meetings

CCF meetings should not take place in HAL owned property, including the Compass Centre. The dates of, agenda and minutes from said meetings should all also be made fully publicly available.

Finally, whilst we note the above during Q6 we witnessed the CAA playing the part of a mediator between HAL and the airline community. VAA would hope that with the introduction of the CCF taking into account consumer preferences and requirements that this will allow the CAA to take on a challenger role during the H7 process.

If you would like any further information please do get in contact.

Kind regards,



David Joseph
Regulatory Affairs
Virgin Atlantic Airways