

Reforming aviation consumer policy: protecting air passenger rights

CAA Response

CAP 2333

Published by the Civil Aviation Authority, March 2022

Civil Aviation Authority
Aviation House
Beehive Ring Road
Crawley
West Sussex
RH6 0YR

You can copy and use this text but please ensure you always use the most up to date version and use it in context so as not to be misleading, and credit the CAA.

First published March 2022
Second edition

Enquiries regarding the content of this publication should be addressed to: helen.swanbury@caa.co.uk

The latest version of this document is available in electronic format at: www.caa.co.uk

Introduction

1. The CAA, as the UK's aviation regulator, aims to help deliver high standards of safety, security and consumer protection for the benefit of consumers and the public. Our vision is to constantly challenge ourselves and our stakeholders to improve safety, security, and consumer protection outcomes. We are committed to uphold consumer choice, value, and fair treatment and therefore welcome the Government's consultation on measures on aviation consumer policy.
 2. As consumers regain their confidence and appetite for air travel, it is essential that we are able to respond quickly and effectively to any emerging issue that could impact on the momentum of the industry's recovery and that consumers are able to easily access appropriate consumer protection measures.
 3. Our current powers can take too long to deliver redress for affected consumers, and we consider that powers similar to those that other regulators have would lead to better consumer outcomes in certain cases where we have concerns that airlines are not meeting their obligations to consumers. We have long called for a stronger enforcement toolkit to allow us to act more decisively, and we have first-hand experience of the benefit to consumers of resolution services that allow consumers full access to the redress that they are entitled to.
 4. The regulations we enforce on denied boarding, cancellation, and delay and on accessibility and assistance for persons with reduced mobility have significantly improved the experience of air travel for millions of consumers. We look forward to working with Government and other stakeholders to see how these may evolve.
-

Tools for the regulator to protect consumers and ensure fair treatment

5. The CAA relies on powers set down in Part 8 of the Enterprise Act 2002 (EA02) for enforcement of consumer law and air passenger rights. The limitations of these powers have been acknowledged by Government in its 2021 consultation on reforming competition and consumer policy, as referenced in this consultation on aviation consumer policy. Whilst we wait to see the outcome of this work, and the future of the Enterprise Act, it is encouraging that the need for enhanced powers in aviation is being specifically considered.
6. The reforming competition and consumer policy consultation makes a clear case for the Competition and Markets Authority (CMA) to have an administrative enforcement regime on the grounds that they do not have access to alternative powers available to regulators in specific sectors. These arguments also apply to the CAA, as we do not have access to any aviation specific powers for consumer enforcement and cannot utilise other levers, such as license conditions, to address breaches of consumer law in the way that other organisations can.
7. As set out in our response to the reforming competition and consumer policy consultation, we are looking for the means to act quickly when we see potential harm to consumers, to speed up the processes around information gathering and enforcement and to reduce or remove our reliance on court action and the associated long waiting times.
8. We also believe that it would be desirable to punish past behaviour, which is not possible under our current powers and for the sanctions to be sufficient to provide an effective deterrent to incentivise compliance where there is a commercial gain to be made from a breach.
9. We agree that the CAA would most benefit from a civil sanctions regime that it can enforce itself. These powers should include the ability to deliver a verdict on non-compliance with the laws that it already enforces, with the full range of sanctions currently available (undertakings etc) plus the ability to impose fines where non-compliance is particularly harmful or on-going. It would also be extremely beneficial to have access to fines for failure to respond to a request for information (where that request is appropriately justified).
10. These measures would address the speed at which we are currently able to progress enforcement projects and ensure that urgent or emerging issues are handled promptly and efficiently. Much of our enforcement work is done through collaboration with industry to improve compliance standards and to respond to events such as the pandemic to achieve the greatest gains for consumers. Although this approach often leads to appropriate outcomes, it can have limited

success with businesses who do not want to engage and for whom non-compliance is more commercially attractive.

11. It is notable that where the CAA has had access to fining powers for potential breaches of legislation, it has had a significant impact on responsiveness and compliance. The CAA were tasked with the enforcement of Covid-19 health regulations relating to entry requirements for those arriving into the UK by air. Under emergency legislation, airlines were made responsible for ensuring that their passengers had completed the correct documentation for track and trace, proof of vaccination and/or proof of exemption. The enforcement team utilised information provided by Border Force and undertook its own inspections of passengers arriving into the UK to ensure compliance. The issuing of fixed penalty notices where non-compliance was identified was an important tool in improving compliance rates and helped to drive instances of non-compliance reducing by more than half¹.
12. We have produced a separate document setting out our case for the CAA to have enhanced enforcement powers. This has been included as an annex and can be found at the end of this publication and brings together arguments previously presented with some new commentary on our existing approach to enforcement.
13. We welcome any opportunity to reform the powers available to the CAA, to provide us with an effective toolkit to make non-compliant behaviour financially unattractive to balance the commercial gains made by breaching the law, to end our reliance on reputational approaches and address the limitations of the EA02 powers so that we can tackle the risks faced by consumers, promote confidence in the market and be ready to respond to emerging issues. This would bring us in line with similar powers held by other regulators with a consumer focus.

Resolution for individual consumers

14. Alternative Dispute Resolution (ADR) provides an essential service to allow consumers to escalate a complaint or claim against an airline when dissatisfied with a business' response or where the business has not engaged.
15. As described in the consultation document, ADR is currently voluntary in aviation. The CAA, as the Competent Authority for ADR in aviation, has developed a framework that ensures consumers making use of ADR receive a binding decision and policies to encourage industry participation. Through these policies, we have achieved a high level of participation with approximately 80% of consumers travelling to and from the UK having access to ADR.

¹ A reduction in non-compliance was reported from 6% of those inspected to 2.5%. This was calculated based on the non-compliance rates identified during CAA spot checks of passengers arriving at English airports.

16. For the remaining consumers, complaints and claims can be escalated to the CAA's Passenger Advice and Complaints Team (PACT) who will provide an opinion on the case. PACT's opinion is not binding on the businesses and consumers who need to can still escalate further to the courts. Full participation in ADR is clearly desirable and, as we have stated previously², we do not believe that the objective of binding redress for all passengers can be achieved without mandatory ADR.
17. Any development of ADR to encompass more businesses or to offer advice and mediation beyond statutory protections is likely to bring benefits to consumers but these may come at a cost that will ultimately be borne by consumers, so it is important to establish what consumers actually want from these services.
18. At present, the vast majority of complaints escalated are claims for compensation following a cancellation or long delay³. The right to this compensation is set down in law and ADR's main role is to establish the facts of the case so that consumers receive what they are entitled to or to intervene when business are not responding to their customers. It is not clear whether the dominance of these types of complaints is an effect of how the schemes are currently designed or whether this reflects the reality of what consumers need from a complaints escalation and adjudication facility. The CAA recommends that detailed consumer research is conducted to establish the most appropriate direction for ADR.
19. We look forward to working with Government on these proposals as they progress and to hearing stakeholders' views on the specific issued raised. If mandatory ADR is possible for aviation, we will work closely with Government to consider how best to design such a system so that oversight, costs and remit are all fully considered and that the resultant scheme delivers benefits for all participants.

Compensation for delays and cancellations

20. The regulation that provides for refunds, compensation and assistance in the event of denied boarding, cancellation or long delays has had a significant impact on the industry since it was introduced, driving operational improvements and ensuring businesses provide support and redress to their passengers when significant disruptions occur. Whilst recognising the benefits that this legislation has delivered, we acknowledge that the current regime may not be working for consumers as well as it could and that there can be some challenges for airlines

² In response to Aviation 2050: the future of UK aviation consultation 2050 ([CAP1813](#))

³ Data on ADR and PACT cases can be found on [CAA website](#) and shows approximately 90% of escalated complaints relate to [Regulation 261/2004 establishing rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights](#)

to understand how best to comply with some provisions, so we welcome the opportunity to discuss the options for reform.

21. Given the range of flight options available and different business models in the market, for some there is clearly a significant discrepancy between the amounts that can be claimed for cancellations and delays and the cost of the ticket. The compensation amounts were designed to reflect the value of a person's time and the inconvenience caused within the boundaries set by the Montreal Convention. We welcome this opportunity to consider whether the Government should consider a change to this approach and how that change may be delivered. While taking account of the ticket price in setting compensation levels may be appropriate, it would also be important to recognise that the ticket price may not always be at a level that reflects any costs the passenger may incur as a result of the delay, so considering a combination of the ticket price and the value of people's time may be appropriate.
22. The current regime relies on consumers to make a claim for compensation based on the airline informing consumers of their rights. The consultation makes a link to compensation regimes in other forms of domestic travel, and it may be helpful to consider whether any lessons can be learnt from these regimes about allowing consumers to receive compensation more quickly and easily where it is due.
23. The proposal for reducing the time before compensation is payable is interesting and poses questions around whether more gradients would not only benefit domestic passengers where shorter delays will have greater impacts, but also incentivise airlines to build in more resilience to avoid short delays, whilst recognising the operational realities of managing minor technical or mechanical issues. We can see a potential benefit in providing additional incentives to more broadly reduce delays, but that would need to be considered alongside the operational challenges of mitigating some delays, and the potential that the greatest consumer harm comes from longer delays, so it is important that there is a particular strong incentive to avoid these.
24. This is also an opportunity to consider whether improvements could be made to the provision for rerouting passengers. The law states that passengers whose flights are cancelled should be able either to obtain reimbursement of their tickets or to obtain re-routing under satisfactory conditions and should be adequately cared for while awaiting a later flight.
25. The CAA published its view on the acceptable means of compliance with this requirement following concerns that passengers were not being offered the

appropriate choice for alternative travel to their destination⁴. The Government may wish to consider whether there is an opportunity to provide clarification on this obligation. In the case of domestic travel, for example, whilst considering the best options for individual passengers, it may be appropriate and desirable to explicitly state that airlines should consider alternative modes of transport where this is viable.

26. As with the ADR proposals, the CAA is keen to see whether further insights can be gained from consumer research to establish what specific issues need to be addressed and what appetite there is for further changes to the current regime. This could also consider the point raised concerning the ability of package organisers to seek a refund on behalf of the passenger.
27. This has been a significant problem for the travel trade over the last 2 years as various industry stakeholders have conveyed to us the extreme pressure on travel firms processing holiday refunds in line with the Package Travel Regulations requirements whilst the flight refunds were not forthcoming from the airlines. Although these have been extraordinary times and such issues are not ordinarily a major concern, the need for clarity is evident and we look forward to working on possible solutions that take in to account the needs of all parties involved.

Accessibility

28. As the enforcement body for the regulation concerning rights of disabled persons and persons with reduced mobility, the CAA has taken a leading role not only in ensuring compliance with the law but also driving standards across the UK. Through the development and monitoring of the airport accessibility framework, the CAA has encouraged significant improvements across a range of measures including the time taken to provide assistance, the satisfaction reported by service users and the inclusion of disability organisations and advocates when developing these services. We see this as essential work to ensure compliance with the law and also to ensure that passengers requiring assistance or adjustments can travel, confident that these needs will be met.
29. For passengers who rely on mobility aids such as wheelchairs and mobility scooters, these needs include the appropriate handling of this equipment. As stated in the consultation, such mobility aids can be very expensive and is often customised and therefore not easily replaced. Under the Montreal Convention, the amount a disabled or less mobile person can expect as compensation may be limited to around £1,300 when the cost of replacement is likely to be significantly more, especially for tailored equipment that has been designed for

⁴ [CAP 2155 Re-routing in accordance with Article 8 of Regulation \(EU\) 261/2004 as retained \(and amended in UK domestic law\) under the European Union \(Withdrawal\) Act 2018 and the CAA's view on compliance](#)

an individual user⁵. Where this equipment is specially made, it can take months to obtain a replacement, a considerable amount of time to be without an appropriate aid during which an individual's comfort and independence will be significantly curtailed. As this equipment must be carried in the hold, the passenger needs to have confidence that it will be carefully transported and that, if any loss or damage does occur, appropriate compensation is available.

30. The CAA supports any measure that can deliver this. As cited by the Government in the consultation, there are examples from other countries where legislation provides for the immediate replacement, repair or reimbursement for the full cost of expenses incurred for the loss or damage to mobility equipment. Whether this be achieved using special declarations or specific legislation, we welcome the recognition from Government that more can be done to help these passengers with the ultimate aim of incentivising airlines to consistently take better care of such equipment to avoid the significant inconvenience and upset that can occur when loss or damage occurs.

⁵ Whilst the price of a basic wheelchair can range from £150 to over £1000, custom made wheelchairs costing significantly more, around the average price of a car.

ANNEX A

The Case for Enhanced Enforcement Powers for the CAA

Introduction

1. The CAA enforces consumer rights using the powers set down in Part 8 of the Enterprise Act 2002 (EA02). It has very few other tools to tackle consumer harm created by non-compliance with air passenger rights or consumer law. The successes that we have had over the last 10 years have been achieved despite the shortcomings of the EA02. These shortcomings are recognised by Government, regulators and consumer groups as the speed at which regulators can respond to harm and the ultimate reliance on the courts to uphold regulators' judgments of a business's behaviour. Whilst they can be used to correct future behaviour, EA02 contains limited sanctions on past non-compliance and businesses may be able to take advantage of their consumers for commercial gain with little consequence.
2. Government has proposed reforms to the consumer enforcement landscape to address these deficiencies in a consultation on reforming competition and consumer policy published by the Department for Business, Enterprise, Innovation and Skills (BEIS). Publicly available responses to this from regulators and consumer groups support these reforms and reflect the same issues that the CAA has experienced when using EA02 to enforce consumer rights. The Competition and Markets Authority (CMA), who lead the UK's consumer enforcement work, state that reforming consumer enforcement with an administrative model for regulators will allow swifter resolution, act as deterrent against breaches and provide clarity for fair-dealing businesses.
3. The CMA enforces consumer rights in non-regulated markets and where the sector regulator does not have the remit or expertise to act. Since the pandemic grounded flights and lockdown measures prevented consumers from travelling, the CMA has helped consumers gain refunds for flight-inclusive package holidays and attempted to clarify contractual rights where a flight operates but the consumer cannot travel due to Government advice.
4. The CMA also relies on Part 8 EA02 for its enforcement powers and the arguments put forward for CMA to gain administrative powers apply equally to the CAA. Whilst other regulators can employ sector specific sanctions or make use of license requirements to manage non-compliant behaviour, the CMA and CAA cannot. Our approach to enforcement has been developed to maximise the

tools that we do have and rely heavily on reputational regulation. Our aspirations are to be more agile and impactful, achieving good outcomes for consumers with less disruption to businesses meeting the needs of consumers and quicker resolution where problems arise.

5. This paper aims to set out why the CAA should have administrative powers by setting out the role of the CAA in the consumer rights landscape and the impact that having enhanced powers could have. It sets out the successes that we have had using our current regulatory approach and the lessons that these provide on how stronger powers could achieve more.

CAA duty and role of consumer rights in aviation market

6. The legal basis for the CAA's consumer work is found in both consumer protection laws which apply to all businesses and in sector specific legislation.
7. The CAA's general duty, as set down in the Civil Aviation Act 2012, is to carry out its functions in a manner which will further the interests of users of air transport services regarding the range, availability, continuity, cost and quality of airport operation services.
8. As the UK's aviation regulator, our stated aim towards consumers is to ensure that they have choice, value for money, are protected and treated fairly when they fly. This is achieved in part through our role as a designated enforcer under Part 8 of the EA02 (as a schedule 13 enforcer).
9. The CAA does not have an explicit consumer remit, but we believe that there are specific characteristics of the aviation market that create risks for consumers that can be managed to some extent by the interventions of the CAA through our enforcement of consumer rights.
10. These include the fact that, in general, flights are purchased infrequently for most and typically consumed weeks or months after purchase. This means that consumers are generally more reliant on information provided by the business when making this purchase than when buying a product they use more regularly.
11. There can be an imbalance of the power between businesses and consumers, as the business knows much more about the characteristics and performance of their service making the consumer more vulnerable to incorrect, misleading, or difficult to compare information. That, combined with the fact that consumers' ability to collect and process all the information potentially relevant to making an informed decision is limited by lack of time and other barriers, can be exploited.
12. CAA direct intervention is also required where consumer characteristics mean that businesses may see them as too expensive or inconvenient to serve in a competitive environment. The work that we do enforcing rights for passengers of

reduced mobility is incredibly important and has led to significant improvements to accessibility in aviation.

13. Consumers are also vulnerable to the impacts of disruptions to the operation of the flight. Delivering air services to consumers is undoubtably complex and, whilst disruption is sometimes unavoidable, how the business response to the disruption can mitigate the impact on consumers. Providing redress to consumers when delays and cancellations occur is an important acknowledgement of the impact of these events on individual consumers and is key driver of consumer confidence in aviation.

CAA's existing powers and consumer enforcement experience

14. Part 8 of the EA02 gives the CAA enforcement powers in the aviation sector for a range of general consumer legislation and some sector specific rules.
 - Rights to compensation and assistance for denied boarding, cancellation and long delay (Regulation EC 261/2004 retained)
 - Consumer Protection from Unfair Trading Regulations 2008
 - The Package Travel and Linked Travel Arrangements Regulations 2018
 - The Consumer Rights (Payment Surcharges) Regulations 2012
 - Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
 - Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015
 - Consumer Rights Act 2015 (including Part 2 Unfair Terms)
 - Informing passengers of the identity of their airline (Regulation EC 2111/2005 retained)
 - The Electronic Commerce (EC Directive) Regulations 2002
15. For the enforcement of other regulations, the relevant statutory instruments contain sanctions based on those set down in EA02
 - Access to air travel for disabled and reduced mobility passengers (Regulation EC 1107/2006 retained)
 - Transparent pricing (Regulation EC 1008/2008 retained Article 23)
16. To enforce the above legislation using the EA02 powers, we have developed an approach based on reputational regulation whereby we consider a specific aspect of the law and review the level and method of compliance across a large section of the industry.

17. In most instances, the projects begin with clarification for businesses on what compliance with specific requirements could or should look like followed by a request from information from businesses on what they are doing in that specific area to ensure compliance, including governance and oversight mechanisms. That information is then assessed and reviewed alongside additional evidence such as website content, consumer complaints and site visits.
18. Typically, the CAA submits its assessment to the business and initiates a dialogue with a view to improving compliance before publishing a final assessment as a compliance report, taking enforcement action where the necessary improvements are still not made.
19. This approach has resulted in improved compliance across the board, with participating businesses amending processes and policies to avoid negative publicity. Formal enforcement activity related to these projects resulted in 19 undertakings, with a further 16 received as a result of enforcement work between 2011 and 2014 to address instances of hidden charges, inaccurate pricing and pre-selected add-ons⁶.
20. From 2015 to 2020 we have published 12 reports into compliance with air passenger rights and consumer rights. Details of the projects undertaken can be found at the end of this document.
21. As stated above, these reports represent the culmination of an enforcement project. Each project has taken between 1 and 3 years to complete. With a stronger toolkit we believe we could have achieved the same or better results much more quickly.

Impact of Enforcement Projects

22. Taking our first project as an example, our review of airline compliance with the requirement in 261 to inform passengers of their rights during a disruption⁷, the airlines identified as non-compliant or in need of improvement carried over 85 million passengers in the year before the work began on the report, with over a million of those affected by disruption.
23. If we take that as a typical representation of the number of passengers per year travelling with non-compliant airlines who are impacted by disruptions for which they have the right to claim assistance or compensation, a million passenger per year is a significant number.

⁶ A total of 32 undertakings were provided under EA02 from 2011 to 2018. Details of these undertakings and other CAA enforcement activity can be found on the [CAA website](#)

⁷ [CAP1227 – A Right To Know](#)

24. The level of flight disruption has been constant in recent years until early 2020 when international travel restrictions introduced to manage the impact of Covid-19 led to mass flight cancellations. We estimate that around 30 million people had been booked to fly on over a million cancelled flights. Considering the difficult circumstances that the industry was facing, and the volume of work involved in processing refund claims, the CAA took a pragmatic approach and again made use of its informal approach to understand the situation and judge the most appropriate regulatory response. Following the publication of guidance on the requirement to refund passengers, the CAA initiated a compliance review in May 2020, with a summary report published in July 2020⁸.
25. Of the 18 airlines covered by the review, only 3 were found to be processing refunds promptly with no significant backlog. As a result of our intervention, the remaining businesses implemented plans to significantly reduce the waiting time. This is another example where the act of monitoring was, in itself, a useful tool in forcing airlines to admit where they were falling short of the legal requirements including a lack of transparency around refund options.
26. This intervention has seen an improvement with airlines working towards commitments relating to the time taken to provide refunds. We have not been pushed to formal enforcement action in this instance and believe that all airlines are now generally meeting the legal requirement to make a refund within 7 days of the cancellation. Had it been necessary to make use of formal enforcement measures, it is likely that consumers would have had to wait for a significant length of time for a resolution as we are reliant on the courts.

Lessons learnt and future enforcement

27. The above approach can involve time consuming information gathering and significant engagement with businesses, and we have found that smaller businesses in particular are often not resourced to deal with this type of approach.
28. We also face a long wait for court action when needed. For example, the CAA began enforcement action against an airline for its refusal to compensate passengers when flights were cancelled due to industrial action by staff. Passengers will have to wait for the outcome of the CAA's enforcement action before being able to claim financial compensation from the airline. This has only recently been heard in court, with a finding delivered by the high court in April 2021 that the airline would need to pay compensation to the passengers affected by delays and cancellations. The case is currently being appealed to the Supreme Court and is ongoing.

⁸ Available on the [CAA website](#)

29. With these factors in mind, the CAA's approach to consumer enforcement has been to make use of more informal measures. We have focussed on assessments of business' compliance with specific aspects of air passenger rights and consumer legislation and published our findings. This approach has allowed us to inform consumers of specific aspects of the law and has incentivised businesses to improve to avoid negative reputational impacts.
30. In both the formal and informal approaches, we find that a lack of information from businesses is a significant obstacle. The requirements related to information requests in EA08 are very specifically related to a potential breach of the law, whereas in many situations we cannot know if there has been a breach without the information from businesses. The inability to access basic information that should be kept by businesses as a matter of routine, such as complaints data or information on an airlines rate of paying refunds when flights are cancelled, frustrates our work. The sanctions in EA02 for non-compliance with an information request are insufficient to persuade businesses to respond within a reasonable timeframe. The option of court action to enforce a request for information is burdensome and difficult to justify when we aim for our interventions to be proportionate and targeted.
31. We also believe that the existing powers fail to act as a meaningful deterrent to businesses tempted to flout the rules. In providing the CAA with an undertaking under Part 8 EA02, a business is promising to comply in the future and, whilst it is possible to impose specific requirements related to the particular case, in general a business will not face any penalty for its previous failings⁹. This makes it very difficult to deal with some issues, for example in relation to disability rights where consumers may have faced lengthy waits to receive assistance at the airport and our only option is to seek undertakings to improve the service in the future, or where consumers have not been informed of their right to redress and therefore miss out on what they are entitled to by law. In such instances, the business is gaining an advantage from its non-compliance with no effective sanctions or deterrent.
32. The unpredictability of the market, both in term of external factors and innovation from industry, means that instances may arise where a rapid response is necessary to change behaviour and protect consumers. During the early period of Covid disruption, we saw a significant increase in concerns that a number of businesses may be misleading consumers into accepting credit note vouchers in

⁹ The Consumer Rights Act 2015 introduced Enhanced Consumer Measures to EA02 enforcement allowing enforcers to impose measures that are specific to a particular case related to redress, compliance and publicly available information provided by the business. When considering what redress measures can be imposed, the requirement to link this to specific loss creates an obstacle when considering non-compliant behaviour that impacts on the behaviour or experience of a wide range of consumers or when applying alongside existing international legislation such as the Montreal Convention.

lieu of a refund, for example. It is unclear how many were issued where the consumer would have preferred or indeed needed the refund due to changes in personal circumstances. Under a different enforcement regime, we could have intervened sooner to correct this, and businesses may have been deterred from this behaviour in the first instance if we had stronger sanctions that we could impose quickly.

33. It is notable that where the CAA has had access to fining powers for potential breaches of legislation, it has had a significant impact on responsiveness and compliance. The CAA were tasked with the enforcement of Covid-19 health regulations relating to entry requirements for those arriving into the UK by air. Under emergency legislation, airlines were made responsible for ensuring that their passengers had completed the correct documentation for track and trace, proof of vaccination and/or proof of exemption. The enforcement team utilised information provided by Border Force and undertook its own inspections of passengers arriving into the UK to ensure compliance. The issuing of fixed penalty notices where non-compliance was identified was an important tool in improving compliance rates and helped to drive instances of non-compliance reducing by more than half¹⁰.
34. The treatment of passengers with reasons to complain regularly scores lowest for satisfaction in the CAA commissioned UK Aviation Consumer Survey and nearly a fifth (17%) of respondents stated in 2019 that they do not believe that they would be treated fairly if things go wrong¹¹. A strong toolkit to respond robustly is essential for creating consumer confidence to counter this. As regulations and guidance around international travel is currently subject to change in line with the Government's public health policy, consumers with concerns about their treatment when their plans change, or travel rules are amended are unlikely to have much confidence in the market.
35. We are also very interested in the development of guidelines around misleading environmental claims. The CMA has published guidance on "green claims" to promote accuracy and clarity. Aviation has a significant impact on the climate, and we are seeing greater interest in environmental credentials of different airlines and routes as a factor in choosing a flight. To consider whether a business is making a misleading claim, we would need to be able to gain information from that business and be able to act swiftly to prevent the business gaining a commercial advantage from its use of misleading information and to

¹⁰ A reduction in non-compliance was reported from 6% of those inspected to 2.5%. This was calculated based on the non-compliance rates identified during CAA spot checks of passengers arriving at English airports.

¹¹ <https://www.caa.co.uk/data-and-analysis/uk-aviation-market/consumer-research/analysis-reports/uk-aviation-consumer-survey/>

ensure that the consumer is not misled over the impact of their choice on the environment.

36. As the aviation industry recovers from the pandemic and as we look forward to the needs of future aviation consumers, we believe that the benefit of the CAA having enhanced powers and the gains to be made for confidence in the industry are very strong. We look forward to working with Government and other stakeholders to achieve this change and deliver an effective and proportionate regime for consumer enforcement in aviation.

Compliance and Enforcement Projects 2015 - 2020

Air Passenger Rights

CAP1227: A right to know (March 2015)	Review of airline compliance with the requirement in 261 to inform passengers of their rights during a disruption
<i>CAP1275: Financial compensation, technical faults and time limitations</i> (March 2015)	Application of case law regarding redress for delays and cancellations related to technical faults and time limits imposed by airlines on consumers seeking redress
<i>CAP1305: Information rights and financial compensation</i> (May 2016)	Review of airline compliance with the requirement in 261 to inform passengers of their rights during a disruption and application of case law regarding redress for delays and cancellations related to technical faults extended to more businesses
<i>CAP1500: Compliance report on assisting passengers during disruption</i> (February 2017)	Review of care and assistance provisions, policies on missed connections, denied boarding and downgrading
<i>CAP1947: CAA review into airline refund practices during the Covid-19 pandemic</i> (July 2020)	Review into airline refund practices during the Covid-19 pandemic including responsiveness, timeliness and use of credit vouchers

Consumer Rights

CAP1709: Paid for allocated seating: an update (October 2018)	A review of the practice of allocating seating where an additional charge is made.
CAP1815: Review of airline contract terms (June 2019)	A review of the compliance of airlines with the requirement for contract terms to be fair and transparent.

Accessibility

CAP1438: Accessible air travel: Airport performance report 2015/16	Review of performance against guidance published by the CAA on standards and measures indicative of compliance with EC1107 on rights for passengers with reduced mobility.
CAP1577: Accessible air travel: Airport performance 2016/17	As above
CAP1679: Accessible air travel: Airport performance 2017/18	As above
CAP1821: CAA Airport Accessibility Report 2018/19	As above
CAP1978: CAA Airport Accessibility Report 2019/20	As above