



Consumer Council response to the Department for Transport

Call for Evidence on the New Strategy

Beyond the Horizon - The Future of UK Aviation

13 October 2017

1. Introduction

- 1.1. The General Consumer Council for Northern Ireland (The Consumer Council) is a statutory body whose main function is to “promote and safeguard the interest of consumers in Northern Ireland”.
- 1.2. In taking forward our statutory remit we work to bring about change to benefit consumers by making their voice heard and making it count. The Consumer Council represents consumers’ views by obtaining and researching consumer opinions so that we can robustly reflect consumers’ views.
- 1.3. The Consumer Council handles complaints from public transport users, ferry passengers and air passengers. We are the designated complaint handling body for EU Regulation 1107 (Passengers with reduced mobility), the voluntary complaint handling body for EU Regulation 1177 (Maritime passenger rights) and we handle complaints for Northern Ireland (NI) passengers flying to and from NI in relation to EC Regulation 261 (Denied boarding and cancellation).
- 1.4. As the passenger representative for NI consumers, the majority of our response will focus on Chapter 3 – ‘Help the aviation industry work for its consumers’, and the other relevant sections of the consultation.

2. Response

2.1. The Consumer Council welcomes the commitment from the Department for Transport (DfT) that this strategy will have a particular focus on consumers and cover the whole country. NI consumers are dependent on air travel which was recognised by the NI Affairs Committee which, in its report 'Air Passenger Duty: implications for Northern Ireland', stated *'that for many people in NI, travelling by air is not a luxury, but is an essential element of family and economic life'*.¹

Help the aviation industry work for its customers

2.2. Section 3.2 of the call for evidence states that the government wants to explore how consumers make decisions and whether they have enough information to make choices that are right for them. The Consumer Council supports this approach and has taken steps to support NI consumers to make informed decisions on their air travel.

2.3. Airlines have a wide range of additional charges which can be applied if passengers bring luggage, book a seat, pay by a certain method etc. Not all of these costs are included in the final price. The Consumer Council produces an airline charges table to inform passengers of the additional costs they may encounter when booking a flight to or from NI².

2.4. Section 3.10 states that consumers need to know that they have a good level of protection if things go wrong. It goes on to say that "passengers should have a robust level of protection and that their rights should be communicated in a timely and clear way".

¹ House of Commons Northern Ireland Affairs Committee *Air Passenger Duty: implications for Northern Ireland* (July 2011).

² [Consumer Council Airline Additional Charges Table - July 2017](#)

- 2.5. The Consumer Council agrees with this statement but believes the current situation falls below the government's stated position. In September 2017, Ryanair made widespread flight cancellations affecting thousands of passengers. Despite the Civil Aviation Authority (CAA) previously writing to all airlines reminding them of their obligations under EU 261/2004 it was reported that Ryanair was 'persistently misleading passengers with inaccurate information regarding their rights in respect of its recent cancellations'³ prompting the CAA to expedite enforcement action against the airline.
- 2.6. Research from the CAA, in 2015,⁴ highlighted a significant minority (around a quarter) of consumers were dissatisfied with the information and assistance provided when problems occur before or during their journey; and that consumers have difficulties seeking redress when things go wrong, reporting high levels of dissatisfaction (40%) with complaints handling.
- 2.7. Further research by the CAA, in 2016,⁵ found:
- Less than a third (31%) of those who experienced a delay of two hours or more were satisfied with how they were treated;
 - Just 32% were happy with the support provided when luggage was lost, stolen or damaged; and
 - Only 18% of those who encountered disruption were satisfied with the length of queues and crowding at UK airports.

³ [CAA Press Statement - September 2017](#)

⁴ [CAA Consumer Research - 2015](#)

⁵ [CAA Consumer Tracker Research - December 2016](#)

2.8. Of those that complained:

- 37% were dissatisfied with how well informed they were kept about their complaint;
- 35% were dissatisfied with how helpful and friendly the people dealing with their complaint were;
- 34% were dissatisfied with any redress offered as a result of their complaint; and
- 31% were dissatisfied with how fairly they were treated.

2.9. The CAA research referenced above would indicate that current passenger rights are not always being communicated in a timely and clear way. The focus of any future passenger protection regime should be to minimise the incidences of disruption and to provide support and redress when this cannot be avoided. This is not always happening at present, with thousands of consumers being forced to take complaint processes to the very limit before redress is provided.

2.10. Section 3.10 also states government wants to make sure that passenger protections are designed in a way that does not unreasonably impact on competitiveness or connectivity. The Consumer Council would welcome further information on what this would mean in practice.

2.11. The Consumer Council recognises government desire to ensure passenger protection is not anti-competitive. However, when travel plans are disrupted, the assistance and redress available should focus primarily on the needs of the individual passenger as opposed to the interests of airlines.

2.12. A passenger protection regime cannot be anti-competitive if it applies to and is implemented by all airlines equally. Therefore, The Consumer Council would ask DfT, as part of this call for evidence, to investigate whether there are any airlines that routinely fail to provide passengers with their right to support and assistance in times of disruption.

- 2.13. Section 3.12 of the consultation relates to the introduction of Alternative Dispute Resolution (ADR) and states that almost 80% of passengers are now covered by ADR. The Consumer Council has been in correspondence with the CAA in relation to the issue of ADR and whether it is working for consumers.
- 2.14. The CAA has confirmed that in its first year of operation, almost 10,000 cases have gone through the ADR process. Of those cases, approximately 4,000 have been decided and 75% have been resolved in favour of the passenger.
- 2.15. This is a concern as cases that are referred to ADR providers have already been dealt with via an airline's complaint handling process. The vast majority of these cases relate to complaints regarding passenger rights under European Regulation 261 which have been in place since 2006, therefore, complaint resolution processes should be well established for all of the airlines operating in the UK.
- 2.16. The CAA's Consumer Tracker research⁶ (slide 47) states that when looking at experience of disruption, satisfaction is also quite low (38% are dissatisfied with arrangements made to look after passengers, 35% are dissatisfied with information and updates provided, and 29% are dissatisfied with the outcome of any complaints). Despite this, 84% of complaints are not escalated to a third party as part of an ADR process.
- 2.17. Therefore, The Consumer Council would ask that DfT, as part of this evidence gathering exercise, reviews whether ADR is working in the interests of consumers; whether it is an improvement for passengers when compared to the previous regime; and, what improvements are necessary to ensure passengers get the redress they are entitled to without having to resort to ADR.

⁶ [CAA Consumer Research - 2015](#)

- 2.18. Section 3.12 also states that before the introduction of ADR, the CAA was the only body to which consumers could complain about an alleged breach of their rights. In NI, The Consumer Council is the designated complaint handling body for EU Regulation 1107 (Passengers with reduced mobility), and we handle complaints for NI passengers flying to and from NI in relation to EC Regulation 261 (Denied boarding and cancellation).
- 2.19. In addition, Section 5.(1) of the General Consumer Council (Northern Ireland) Order 1984⁷ states, *“The Council shall consider and, where it appears to it to be desirable, make recommendations with respect to any matter affecting ... services and facilities provided for passengers travelling to and from Northern Ireland.”*
- 2.20. Since 2015, The Consumer Council has assisted over 1,000 NI airline consumers to receive almost £150,000 in refunds and compensation. Therefore, we ask that our statutory role in assisting NI consumers be acknowledged in the final Aviation Strategy.
- 2.21. Section 3.14 refers to ATOL reform and states that if the market develops a suitable insurance market, it is able to step back from the regulatory approach as appropriate.
- 2.22. The Consumer Council would urge caution with this approach as the current ATOL scheme ensures all consumers that purchase an ATOL protected product are covered. Consumer Council research published in 2013⁸ found that 44% of those that travelled in the previous five years had not purchased travel insurance. Should government step back from the current regulatory approach, this could leave a number of consumers stranded when airlines/operators cease to exist and appropriate insurance has not been purchased. The

⁷ [The General Consumer Council \(Northern Ireland\) Order 1984](#)

⁸ [Consumer Council Travel Insurance Research - 2013](#)

Consumer Council believes further research and consultation would be needed before this approach could be considered.

- 2.23. Sections 3.8 and 3.9 refer to passengers with a disability and reduced mobility. Section 3.16 refers to the increasing need for accessible travel and the need for industry and service providers to plan for this increasing demand. The Consumer Council works in partnership with the three airports in NI to conduct 'Access Audits'. We facilitate groups of passengers with a disability and reduced mobility on a tour of the facilities at the airports, from arrival through to the point of boarding the plane. Airport staff are able to promote the types of assistance available and passengers are able to make suggestions for improvements. The passenger group tends to be made up of individuals from advocate organisations, such as Guide Dogs NI, Disability Action, the Inclusive Mobility Advisory Committee (IMTAC), etc. This way, the participants can then promote awareness of their experiences among stakeholders within their own organisations and user groups to further inform passengers of the assistance available.
- 2.24. In addition, The Consumer Council produces information guides for passengers on their rights when services are delayed or cancelled⁹ and for passengers travelling with a disability or reduced mobility¹⁰. This information is available in accessible formats, as a podcast for download, and in an easy read format. The Consumer Council works with partner organisations and local media to promote awareness of passenger rights within NI, deals with complaints from passengers in relation to Regulation EU 1107 and EC 261, works with airports to improve service for passengers, and is a statutory body required to sit on the three airport forums in NI as prescribed in the Airports (Northern Ireland) Order 1994¹¹.

⁹ [Consumer Council Plane Facts Guide](#)

¹⁰ [Consumer Council Access to Air Travel Guide](#)

¹¹ <http://www.legislation.gov.uk/nisi/1994/426/article/20>

- 2.25. Despite this, no funding is provided for these activities from DfT or CAA. The Consumer Council would therefore request, that as part of this call for evidence and DfT's desire to "*ensure that aviation is accessible to all and meets the needs of passengers with disabilities and restricted mobility*", DfT considers funding The Consumer Council to continue its statutory remit to promote and safeguard the interests of NI consumers.
- 2.26. Section 3.17 relates to providing consumers with the information they need to make informed choices. Publishing information on the typical length of delays could help consumers switch suppliers, thereby rewarding better performers and incentivising improvements.
- 2.27. This may be of limited benefit to consumers flying on routes where competition between airlines is limited. For example, The Consumer Council reviewed CAA statistics in 2014 to identify the top 10 routes for NI passengers based on passenger journeys. These routes account for over 45% of passenger journeys via NI airports in 2014. Of these top 10 routes, there is competition on eight. However, only two routes (Belfast City to Heathrow and Belfast International to Gatwick) have direct competition in the same airport. Therefore, if a passenger chose to switch from using EasyJet to fly to Liverpool in favour of using Flybe (or vice versa) they would have to also switch their departure airport, which for many, would negate any potential cost or time savings.
- 2.28. Therefore, ensuring airlines meet their obligations to passengers may have more of an impact in driving up standards by reducing the number of incidents of delay or cancellation that are within the airlines' control. At present, only passengers that choose to complain may get compensation, and in many cases, it is only those that are persistent in pursuing their claim through the full complaints process and system of ADR that get the redress that they are entitled to. DfT should give consideration to requiring airlines to automatically

compensate all affected passengers when services are impacted by factors within the airlines control.

2.29. Sections 3.19 and 3.20 continue the theme of providing protection for passengers when things go wrong. In particular, section 3.20 states *we need to find ways to make consumers more aware of their rights when things go wrong*. The Consumer Council supports actions to empower consumers with knowledge of their rights. However, the onus should also be on industry. Airlines should be fully aware of their obligations to passengers and must deliver the required support and assistance to passengers in times of disruption. The fact that almost 10,000 people have had to resort to ADR processes to resolve their complaints would indicate that this is not the case.

Encourage competitive markets

2.30. Section 6.12 refers to Air Passenger Duty (APD) and states government is keen to explore how aviation taxation policy could support the objectives of the strategy.

2.31. Analysis of NI passenger flow statistics for 2016¹² shows that upwards of 75% of all flights to and from NI airports are via other UK airports. This means that NI consumers pay APD twice. The Consumer Council is of the view that this tax disproportionately impacts on NI consumers due to our dependency to use air travel when travelling within the UK.

2.32. Sections 6.13 and 6.14 relate to regional connectivity and slot allocation. In particular, section 6.13 makes reference to the Airport Commission's final report recommendation that government considers using public service obligations (PSOs) to support a wide network of domestic routes at Heathrow.

¹² <https://www.nisra.gov.uk/publications/northern-ireland-air-passenger-flow-publications>

- 2.33. In our response to the Draft Airports National Policy Statement (ANPS)¹³, The Consumer Council called for a clear description of how protection for the domestic connectivity needs of regional airports would be implemented.
- 2.34. Section 3.33 of the ANPS consultation document stated that the Government recognises that *'air routes are in the first instance a commercial decision for airlines and are not in the gift of an airport operator'*. In relation to the domestic route envisaged under an expanded Heathrow Airport, Section 3.33 of the ANPS also states *'the Government is determined that these new routes will be secured, and will hold Heathrow Airport to account on this.'*
- 2.35. It is not clear from the ANPS consultation how the Government will hold Heathrow Airport to account to protect domestic connectivity despite the fact that guarantees have been given that protection would exist.
- 2.36. There is no mention in the ANPS of PSO as a mechanism to protect connectivity in the consultation document, and no stated alternative which outlines how Government will *'guarantee that there will be protections for the regional airports and the connectivity that they need.'*
- 2.37. The Consumer Council reiterates its request for further information on how Government will deliver these protections for regional airports and the necessary domestic connectivity to ensure NI benefits from an expanded Heathrow Airport.

To discuss this response please contact Scott Kennerley, Head of Transport Policy on 028 9025 1653 or scott.kennerley@consumercouncil.org.uk

¹³ [Consumer Council Response to the DfT Draft Airports National Policy Statement - May 2017](#)



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