



**Consumer
Focus**
Campaigning for a fair deal

**Consumer Focus response to
the Department for Transport
consultation document
*‘Reforming the framework
for the economic regulation
of UK airports’***

June 2009

Summary

We are pleased that the paper has as one of its guiding principles putting the passenger experience first. This is an important market for consumers and for the wider UK economy, yet poor standards have for too long been tolerated and there has been surprisingly little focus within the regulatory system on the interests of passengers.

The proposal that the regulator should have a primary duty focused on the interests of end users is welcome and brings the regulator into line with good regulatory practice. This should give the regulator the encouragement and basis for putting passengers at the heart of a properly functioning market.

The proposal for improved passenger representation is equally welcome and timely. The current arrangements are inadequate and even the best efforts of AUC staff and members have not been able to overcome a flawed structure, unduly narrow remit and very limited resources. Good regulation in this sector requires effective representation of passenger interests, and the airlines' argument that they can perform this function is wholly unpersuasive.

We consider that all airports should collect and publish comparable performance indicators. We are not convinced by the argument that these are unnecessary because of competition.

We would urge the Government to introduce these changes without delay – it is time to change the culture of this sector once and for all.

Introduction

Consumer Focus is the statutory organisation campaigning for a fair deal for consumers in England, Wales, Scotland, and, for postal services, Northern Ireland. We were established in October last year under the Consumers, Estate Agents and Redress Act 2007 and have an economy-wide remit. We have a particular interest in competition, competitiveness, regulation and redress, and a commitment to tackling failing markets which are letting consumers down or ripping them off.

Our Deputy Chief Executive Philip Cullum was a member of the expert panel, chaired by Martin Cave, advising the Department in preparing the proposals in the document. Unsurprisingly, then, we agree with the key proposals directly affecting consumers.

As we will explain below, we consider that the performance of the UK's airports has in the main been poor, and that inadequate air regulatory and consumer representation arrangements have not delivered appropriate outcomes for passengers. The growth of the air travel market more generally would appear to have been in spite of rather than because of the performance of the airports, regulator and consumer committee.

We therefore welcome the emphasis in the consultation document on the interests of passengers, and in particular the intention to provide '*a flexible economic regulatory framework for the sector that puts the passenger experience at the centre of regulatory decision-making*' (paragraph 1.1).

The commitment to better regulation is also welcome. We know that consumers ultimately pay the cost of unnecessary regulation, whether through reduced innovation and choice or higher prices, and so we support only the regulation which is necessary and no more.

Who are the consumers of airports?

The consultation paper incorrectly states that '*the customers of airports and airlines are one and the same*' (paragraph 10.4) – people greeting or seeing off passengers are also customers of airports but not of airlines – but we share the Department's perspective that airports exist primarily to provide services to passengers and freight users, and that they therefore should be at the centre of the regulatory framework.

The most obvious 'service' is, of course, the flight in an aircraft, but a substantial number of other services are provided too. Together they form a package that the consumer buys and pays for, directly or indirectly.

Some services are provided by the airport (and its contractors and concessions):

- The arrival / departure transport 'interface' (including car parks) [NB in many cases, the airport also runs, or has influence over, the final means of transport]
- The general ambience and layout of the building
- Facilities controlled by the airport (eg, toilets, information systems)
- Concessions (eg, shops, duty free, food outlets)
- The check-in area
- Seating / waiting areas
- Security
- Transfer to the aircraft.

Others are provided by the airlines (and their suppliers and contractors):

- Check-in
- Luggage handling
- The aircraft itself
- Aircraft maintenance, stocking, loading etc
- The air crew.

While some services are provided and controlled by other official bodies:

- Immigration
- Setting of security standards
- Air traffic control.

In terms of a direct relationship, the airlines are the airport's customers, and passengers are the airlines' customers. The airlines pay the airports for services, in effect on behalf of passengers.

So the relationship between the airport and the passenger is an indirect one, even though services are experienced directly. This would appear to be the cause of many of the current problems with the approach to airport regulation and also the standards of service delivered, with the regulator, airlines and airports all framing regulation around the direct airport-airline relationship, largely ignoring passengers.

The division of responsibility between airports and airlines is not always clear to passengers, a confusion which each may exploit as they seek to pass the buck. The Air Transport Users Council (AUC), for example, notes with regard to security queues, '*Airlines and airport operators tended to say it was not their fault and to blame each other*¹.'

Freight users are also customers of airports, but our remit is predominantly to focus on domestic and, to some extent, small business consumers and so we have chosen not to consider this group in this submission.

The passenger experience of airports

In 2008, around 236 million passengers passed through UK airports², along with a large number of visitors who were meeting people or seeing them off. This is a significant market and, as the government has noted, one that '*plays a key role in the country's economy*³.'

According to the largest airport operator, BAA, '*The success of our service is all about satisfying our customers – from the largest airline group to the individual business traveller*⁴.'

However, the Competition Commission referred last summer to BAA's '*lack of responsiveness to the needs of its airline customers and a lack of initiative in planning capacity. This has resulted in investment that is not tailored to the requirements of airport users and lower levels and quality of service for both airlines and passengers*⁵.' The business lobby group London First says⁶ that

¹ AUC annual report 2007/08, p10 - <http://www.auc.org.uk/docs/306/Report.pdf>

² CAA summary of activity at reporting airports 2008 - http://www.caa.co.uk/docs/80/airport_data/2008Annual/Table_02_2_Summary_Of_Activity_at_UK_Airports_2008.pdf

³ Speech to Airport Operators Association Conference, 18 November 2008,

<http://www.dft.gov.uk/press/speechesstatements/speeches/aoac>

⁴

http://www.baa.com/portal/page/Corporate%5EAbout+BAA%5EOur+performance%5ECustomer+service/f4de4be337282010VgnVCM100000147e120a____/448c6a4c7f1b0010VgnVCM200000357e120a____/

⁵ Competition Commission News Release, 20 August 2008 - http://www.competition-commission.org.uk/press_rel/2008/aug/pdf/24-08.pdf

Heathrow 'provides a poor passenger service' and that 'regulation has failed to reflect the changing needs of consumers.'

The paper states that passenger surveys commissioned by the CAA and the Department were in general positive, while acknowledging that this may reflect limited expectations and positive operating conditions at the time. This conclusion is in our view unduly optimistic. A wider range of statistics suggests that the performance of Britain's airports has at best been mediocre, is some way below the standard that one might expect for such a large and significant service sector, and has generally been getting worse rather than better.

As the consultation document notes, air travel was one of the 45 sectors assessed in the *Consumer Conditions Survey 2008*⁷, published by the Department for Business, Enterprise and Regulatory Reform (BERR). This major survey of consumer experience placed air travel in general towards the bottom end of the mid-table performers. Air travel was found to be a higher performer in terms of price, but a lower performer with regard to consumer rights.

Consumer Focus has now taken on responsibility for the Consumer Conditions Survey and is currently analysing the 2009 results – but early indications are that there has been little change between the 2008 and 2009 surveys in terms of this particular sector.

BAA's own historic data⁸ for its seven airports⁹ indicate that things have declined over the last few years. Looking at comparable consumer satisfaction figures for 1999 and 2007, 37 of the 49 measures for departures (ie, seven categories for each of the seven airports) have got worse. There are 28 measures for arrivals (ie, four categories for the seven airports) – 17 of them have got worse. In terms of overall airport ratings, they are worse for six of the seven airports for both arrivals and departures – Heathrow is the exception, it is marginally improved for arrivals and stood still for departures.

Ratings got worse in most or all of BAA's seven airports in terms of way finding, trolley availability, waiting times (both check-in and security), baggage reclaim, and concourse and departure lounge crowding. Even the toilets are said to be not as clean as they used to be. The only areas of widespread improvement are the shops, restaurants and bars, and the ease of finding flight information.

The focus of regulation

It now seems to be accepted by most if not all key players in the industry that one important means of remedying the current state of affairs is to focus the regulator on the interests of consumers. The regulator agrees that '*passengers need to be put at the heart of airport regulation*¹⁰'.

All the signs are that the CAA has become remote from the passenger experience, and has not been sufficiently challenged from a consumer perspective.

Indications of this lack of user focus include the curious range of metrics used to assess the performance of Heathrow and Gatwick¹¹. The passenger experience of baggage reclaim is measured by the percentage of time when carousels are available, rather than how quickly baggage turns up. And the experience of security queues is assessed solely in terms of waiting time, and not any additional metrics such as the perceived politeness of security staff.

⁶ Imagine a World Class Heathrow -

http://www.londonfirst.co.uk/documents/Imagine_a_world_class_Heathrow_SUMMARY_web_final.pdf

⁷ <http://www.berr.gov.uk/files/file48855.pdf>

⁸ BAA, Customer Service Trend Report, Quarter July to September 2008 -

http://www.baa.com/assets/B2CPortal/Static%20Files/QSM_July-Sept2008.pdf

⁹ Heathrow, Gatwick, Stansted, Southampton, Edinburgh, Glasgow and Aberdeen

¹⁰ CAA press release, 26 November 2008

¹¹ CAA Service Quality Rebates Scheme 2003

If leading airports fail to meet the agreed service standards, BAA have to pay a rebate of up to 7 per cent of charges – as happened with 2008, when rebates of some £9 million were paid out for poor performance at Gatwick and Heathrow¹². None of this money makes it as far as passengers, however – instead, it goes to airlines. The airlines may face some additional costs as a result of poor service from an airport operator, but it seems likely that the bulk of the detriment is experienced by passengers.

All of this reinforces the sense that the regulator, airports and airlines all see the critical relationship in this sector as being between airlines and airports, rather than anything to do with passengers.

Enhancing consumer representation within the aviation sector

Experience in other regulated sectors suggests that the proposed shift in regulatory approach, to be focused on the interests of passengers, will need to be underpinned by an effective consumer voice, ensuring that the proposed change happens not merely in terms of the legal framework but also the culture and practice of regulation, and ultimately the performance of the major airports.

Consumer organisations exist because imbalances of power or information in markets and public services all too often mean that consumers, particularly the disadvantaged, lose out. Effective consumer advocacy – a systematic approach designed to promote the interests of consumers by improving the design and implementation of policy – spots up-and-coming issues and is often ahead of the curve of consumer concerns. The best opportunities for advocacy are often at a very early stage, before public concern or consumer detriment even sets in. The targets of consumer advocacy range vary widely. They cover implementation as well as policy; local detail as well as national and international frameworks; the interests of future as well as existing consumers; and a wide range of sectors.

In this sector, the role might include pressing for changes in regulations (eg, ticket pricing, open markets and surcharges), measuring the quality of service provision and taking a balanced, passenger-centred, view on the planning of new airports and expansions, finding logical options between the often polarised views of airlines and local pressure groups, for example. There is also a need for an expert voice with a passenger perspective to contribute to debates about appropriate capital expenditure, price controls and which airports should be subject to regulation.

As indicated above, it is hard to distinguish between those services which are provided by airport operators and those by others; and from a passenger perspective this difference is in academic. Passengers, not unreasonably, expect services to be of an acceptable standard, whoever provides them. It is equally hard to separate those issues which are regulated and those which are not. Our view, therefore, is that the Department is right to propose that the new arrangements should cover all air travel activities, not just those which are regulated.

However it is said by some, not least airlines, that the indirect relationship between the airport and the passenger (even though services are experienced directly) is remedied by the airlines acting as a proxy for passengers and effectively representing their interests. It is in the interests of the airlines for passengers to be happy, it is argued, and so they have an incentive to ensure that the airports are up to scratch. Some, therefore, suggest that consumer representation is unnecessary.

The figures cited above on passenger satisfaction would however suggest that if airlines are speaking up for passengers, this is not making much of an impact. But even a cursory consideration suggests that there are deep flaws in the argument that airlines are effective passenger representatives. The primary concern of an airline is the success of its business.

But the huge growth in passenger numbers over the last few years alongside falling customer satisfaction with airports suggests that passengers are relatively insensitive to poor service; they simply grit their teeth and tolerate it. In many instances, too, they cannot vote with their feet because the airport is the only one near to their home or the only one with flights to their chosen destination. So airlines suffer little or no harm from poor standards in airports, and therefore have little or no incentive to intervene on their customers' behalf.

¹² 'BAA could face £10m fine over poor service at Stansted', The Daily Telegraph, 13 March 2009

Additionally, different airlines will have very different ideas of what they want to deliver to passengers, in terms of both style and cost – some wanting luxury, others preferring no-frills efficiency. Thus they are unlikely to give a coherent picture of what they want airports to provide for passengers. Finally, the interests of airlines currently using an airport may not accord with the needs of other airlines and passengers who might conceivably use it in future.

The regulator noted¹³ in its evidence to the Competition Commission last year that ‘although airlines’ interests will often align with consumer interests, there may be divergences.’

Learning the lessons from other sectors

So what can be done to shift the culture of airport regulation, so that passengers really are put first? There are lessons to be learned from other regulated sectors, where there is much relevant experience.

Table 1 below sets out the main structures of regulation, consumer representation and complaints handling across a range of sectors.

Table 1: GB structures of regulation, complaints handling and advocacy

Sector	Regulator	Complaints Handling	Consumer advocacy ¹⁴
Energy	Ofgem	Advice from Consumer Direct, complaints handling by Energy Ombudsman Service (disadvantaged consumers can, however, go to Consumer Focus). Companies have to meet complaints handling standards	Consumer Focus (specific remit under CEAR Act 2007), plus ad hoc advisory groups (eg, for distribution price control review)
Food	Food Standards Agency	OFT/CC for competition issues, Environmental Health for safety issues	Extensive range of consumer engagement, audited by independent Advisory Committee
Rail	Office of Rail Regulation	Passenger Focus	Passenger Focus
Buses and coaches	N/A	London TravelWatch, Bus Appeals Body (non-statutory – England), Bus Passengers’ Platform (for Scotland)	Passenger Focus (for England), London TravelWatch Passenger View Scotland
Water	Ofwat (for England and Wales), Water Industry Commission for Scotland. Also water quality regulators.	In England and Wales, Consumer Council for Water – but may change as a result of CEAR Act 2007. Waterwatch Scotland – but will be merged into Consumer Focus	Consumer Council for Water (England and Wales) – but may be absorbed into Consumer Focus under CEAR Act 2007. In Scotland, currently

¹³ Quoted in Pilling Review, paragraph 271.

¹⁴ Not including advocacy from non-statutory consumer bodies such as *Which?* or Citizens Advice, or from Consumer Focus where it does not have a specific statutory remit

		Scotland in 2010, with complaints handling done by Scottish Public Services Ombudsman.	Waterwatch Scotland but will be Consumer Focus Scotland from 2010
Financial services	Financial Services Authority	Financial Ombudsman Service	Financial Services Consumer Panel
Communications	Ofcom	Depending on focus: Ofcom, Advertising Standards Authority, ADR schemes	Communications Consumer Panel
Mail	Postcomm	Advice from Consumer Direct, complaints handling by Postal Redress Service (disadvantaged consumers can however go to Consumer Focus). Companies have to meet complaints handling standards	Consumer Focus – specific remit under CEAR Act 2007

As can be seen from the Table, it is widely accepted that some form of consumer input to regulation across a range of sectors is important and that this is unlikely to come on a sufficient scale from privately-funded organisations such as *Which?*

There is a trend towards fewer, larger consumer bodies, increasingly operating on a cross-sector basis, in line with the Government's aspiration to 'strengthen and streamline' consumer advocacy. This has also led to a reduction in the number of sector-specific bodies, although some major ones remain.

However it is also apparent that some (though not all) regulators like having an in-house consumer capability which can act as a critical friend, separate from any consumer department and with independent members. This is best seen as part of a broader trend for regulators to do much more to show that they have taken the consumer interest into account in reaching their decisions. This trend must reflect changes to their statutory duties and also the extent to which they are in the public spotlight and need to be seen to advancing the public interest. Examples include a range of methods for direct consumer engagement, for example using deliberative research approaches, and the creation of ad hoc advisory panels, as Ofgem has recently done to assist a review of price controls.

There has been some movement away from consumer bodies handling complaints, with more emphasis on companies improving their own complaints-handling and then Alternative Dispute Resolution (ADR) mechanisms such as ombudsmen; although there are still significant instances where the regulator or consumer body handles complaints. This has been the subject of much debate over the years; there are still strongly held views on the wisdom or otherwise of consumer bodies handling complaints. The primary argument in favour is that complaints provide a strong connection with consumer experience, giving the organisation both legitimacy and greater insight into emerging issues. The main arguments against are that the complaints handling function can be so resource intensive that it drives out other advocacy work, leaving the consumer body sweeping up the mess rather than helping get things right in the first place; that the body may read too much into complaints data and neglect equally valid sources of consumer intelligence; and that usually the role of the consumer body is overly limited in merely influencing the outcome of complaints rather resolving them.

Our view is that complaints handling need not sit in a consumer body; these are often better dealt with elsewhere, and above all companies should take primary responsibility for getting and putting

things right. But the most important things are to ensure that the system of complaints is clear and fair to consumers and that there are sufficient resources for effective independent advocacy work.

Current arrangements in this sector

So how do the arrangements for passenger representation compare with the best practice elsewhere, and how is this experience relevant to this sector?

The Air Transport Users Council

The Air Transport Users Council (AUC) sits within the regulator, on a non-statutory basis. Its terms of reference are set out in a Memorandum of Understanding¹⁵ between AUC and the CAA. This states that, *'The AUC's principal focus will be on matters that directly affect the interface between airlines/airports and air passengers. In general, these will cover aspects falling outside the CAA's regulatory remit.'* This is very unusual for consumer panels within regulators – as noted above, they normally exist to provide input on regulatory strategy, whereas the AUC seems to have been teed up to operate in parallel with the regulator, while the CAA focuses on other matters without any meaningful consumer input.

This remit and the connection to the regulator produce some curious results. For example, the Council's submission to the CAA's price control proposals¹⁶ states that, *'In matters relating to airport regulation, the AUC recognises that the CAA's duties require it to take account both of passenger interests and of those of air transport service providers. The AUC's interest in the CAA's price cap proposals for Stansted Airport is therefore to consider whether, on the basis of the Competition Commission (CC) and CAA analyses, the proposals represent a reasonable balance of the interests of the respective parties.'*

Consumer bodies normally state that they recognise the importance of a sustainable industry making fair returns, but their role is single-mindedly to take a consumer perspective. The idea of a consumer body undertaking a balancing act between consumers and industry is highly unusual and in our view confused.

The AUC handles complaints and enquiries, with 9 of its 11 staff concentrating on this work, leaving little space for consumer advocacy work. Despite recent claims in the media¹⁷ that the AUC has been an energetic critic of government policy, the reality is that it has a good record on complaints handling but has not been effective in terms of policy advocacy. According to its website, it published just two policy reports last year, and this year it has submitted only three consultation document responses, two of which were less than a page in length. It did not apparently input to the key Competition Commission investigations which led to the requirement that BAA sell three airports, two in London and one in central Scotland.

There also appear to be some issues about the way in which the AUC is connected to the passenger experience. It has undertaken a small number of surveys, but in other instances its evidence seems to be no more than what has been published in the media. For example, in its contribution¹⁸ to the CAA consultation on price controls for Gatwick and Heathrow it commented, *'The problems with security queues at Heathrow and Gatwick have been well documented, not least in the press. The Competition Commission's public interest finding, that security processing at the two airports has been inadequate therefore comes as no surprise to the AUC.'* The Committee members are volunteers and the public should be grateful for their time and commitment over recent years; but it is now time to put passenger advocacy on a more solid footing.

¹⁵ <http://www.auc.org.uk/docs/306/TermsOf.pdf>

¹⁶ 3 February 2009 - <http://www.auc.org.uk/docs/306/AUC%20response.pdf>

¹⁷ Passenger Focus watchdog will replace Air Transport Users Council, The Times, 14 May 2009 - <http://www.timesonline.co.uk/tol/travel/news/article6283052.ece>

¹⁸ 10 January 2008 - <http://www.auc.org.uk/docs/306/AUC%20on%20LHR-LGW%202008-13%20price%20caps%201.pdf>

Airport Consultative Committees

There are also individual airport consultative committees – more than 20 such committees belong to the Liaison Group of UK Airport Consultative Committees, which meets once a year¹⁹. These committees have a role in advancing passenger interests, but this is just one part of their remit – much of the focus is on engagement with the local community, including issues such as employment and noise. Committee membership reflects this wide-ranging remit, with a strong emphasis on local Councillors. The committee for Gatwick²⁰, for example, has 29 members, of which 14 are representatives of various local Councils; just two are passenger representatives. Other members include representatives of trades unions, travel agents and airlines. There is also a passenger advisory group. The committee for Birmingham follows a similar pattern, although there are also a significant number of resident groups represented²¹.

Assessment of these arrangements

It is clear that these arrangements do not measure up well against the best practice from other sectors. The regulator is not getting strong consumer input to its strategy or decision-making about airports because there is no independent body with the resources or remit to fulfil this role. The AUC has been given a remit focused mainly on complaints handling, with a view that focusing on the same issues as the CAA represents unnecessary duplication; its work is also mainly about airlines rather than airports. It publishes occasional policy reports on topics flowing from its complaints handling, and it makes some short consultation responses but rarely seems to engage in detail in the major issues of economic regulation, even where they are likely to have a direct impact on passengers. The airport consultative committees have extremely limited passenger representation and, as the consultation paper acknowledges, are structured to focus more on local community engagement. Given the scale and importance of the industry and its relatively poor performance, these arrangements are surprisingly weak and are not the basis for driving greater innovation and efficiency across the sector.

Moving forward

We consider that there are four options for consumer representation in the future. The first, which we would discount immediately for the reasons set out above, is to have no statutory consumer representation in this sector. The other options are:

- An enhanced version of the AUC
- A new body
- Attaching the role to an existing advocacy body – most probably Passenger Focus or Consumer Focus.

We consider that the criteria for this decision should be:

- Visibility – the body needs to be a relatively high profile advocate for passengers
- Skills – it needs to have the advocacy and technical skills to be able to advance the consumer case and stand up to vested industry interests, sometimes on highly technical issues
- Legitimacy – it must have insight into the passenger experience and back its analysis with evidence. This will require some resources. It must be demonstrably independent of the regulator and industry

¹⁹ <http://www.ukaccs.info/>

²⁰ <http://www.ukaccs.info/gatwick/index.html>

²¹ <http://www.ukaccs.info/bham/membership.htm#Cons>

- Scale – it must have the scale to be able to build relevant skills and knowledge, treating advocacy as a professional discipline
- Context – it needs to be able to step back from the industry, take a consumer perspective and avoid the danger of capture, and compare and contrast this industry with other sectors. It should be able to look at the passenger experience through consumers' eyes, rather in a way dictated by regulatory structure.

It must also offer value for money to passengers, who will ultimately meet the costs of these arrangements.

In the Table below, we evaluate the different options against these criteria

	Enhanced AUC	New body	Passenger Focus	Another existing body eg, Consumer Focus
Visibility	The AUC presently has an extremely low profile, and so improved profile would require considerable investment. This will essentially be like creating a brand new body	Building profile from scratch would take considerable investment	Passenger Focus has a very good profile and clear brand within the transport sector, some investment would be needed to extend this to air travel	Consumer Focus has a growing profile and brand in a range of markets, though not in transport. Substantial investment would be needed to extend this to air travel
Skills	The AUC has a strong record on complaints handling and has knowledge about this sector but is weak on advocacy. Changing this would take a considerable investment of resources and will to a large extent be like creating a brand new body	Building skills and knowledge from scratch would take considerable investment. The AUC's complaints staff would presumably be TUPE'd to the new body, maintaining existing knowledge and skills in this area	Passenger Focus has a strong record in advocacy and working within regulated sectors, and would have to focus on developing sectoral knowledge rather than skills. The AUC's complaints staff would presumably be TUPE'd to the new body, maintaining existing knowledge and skills in this area	Consumer Focus has a strong record in advocacy and working within regulated sectors and would have to focus on developing sectoral knowledge rather than skills. The AUC's complaints staff would presumably be TUPE'd to the new body, maintaining existing knowledge and skills in this area

Legitimacy	The AUC has commissioned some research in the past, but this would need to grow substantially, along with clarity about the unique role of a consumer body	A new body would need considerable investment to establish an evidence-based approach, with clarity about the unique role of a consumer body	Passenger Focus has a very strong record in evidence based policy making, and has invested heavily in research	Consumer Focus has a very strong record in evidence based policy making, and has invested heavily in research
Scale	An air transport only body would need very considerable resources – possibly out of line with the detriment in this market – to achieve real scale	An air transport only body would need very considerable resources – possibly out of line with the detriment in this market – to achieve real scale	Passenger Focus already has the scale to deliver both advocacy and complaints functions in a professional way	Consumer Focus already has the scale to deliver both advocacy and complaints functions in a professional way
Context	The AUC's past performance and the work of single sector consumer bodies in other industries suggest that an air transport only body may struggle to step back from an industry perspective on issues	The AUC's past performance and the work of single sector consumer bodies in other industries suggest that an air transport only body may struggle to step back from an industry perspective on issues	Passenger Focus already works in more than one transport sector and so could compare and contrast them, and analyse the industry as passengers themselves do – not in isolation, but as part of a wider transport system	Consumer Focus already works in numerous sectors and is experienced in comparing and contrasting industries and regulators

Our view is very strongly that creating a new single-sector body would not be an effective way of advancing the passenger interest, nor offer good value for money. There is generally little appetite for creating new organisations within government, and this would be at odds with the Government's declared aim of 'strengthening and streamlining' consumer bodies. Giving the AUC an enhanced role would equally not be the best way of moving forward – it would need to undergo such substantial development in terms of advocacy that this option is in many respects quite similar to creating a new body.

One viable option would be to give Consumer Focus an additional sector responsibility, as we already have for energy and post. We would, however, not recommend this option and believe that giving the remit to Passenger Focus would make more sense. This is partly because Consumer Focus may well take on responsibility for the water industry in the next year or two through a merger with the Consumer Council for Water, and merging in another sector at the same time as this significant change may create undue complexity at a time when the organisation is still establishing itself. But more significantly, the opportunity to create a single body representing all passengers seems to be too good an opportunity to miss – it makes sense in terms of public profile, visibility and legitimacy, and also provides the chance to analyse all aspects of the transport sectors together. In contrast, it would surely be confusing for consumers if Passenger Focus were to represent the consumer interest for some modes of transport, and Consumer Focus for another.

A move towards the establishment of a truly multi-modal passenger body would be consistent with the government's wider strategy: the Secretary of State has commented that, '*my focus will be on*

how we improve the entire end-to-end journey for passengers... we're identifying bottlenecks in the system and looking at new ways to improve transit times to and from the airport by road, by rail, and by public transport. This is a key issue for passengers – especially for those whose journey to the airport and through the terminal is longer than the actual flight time²².

We consider that Passenger Focus is well placed to take on this new responsibility, as proposed in the consultation document. This option has the advantage that it would be building up a multi-modal transport consumer body of considerable weight and influence (adding to rail, bus, coach and tram). It would also cover most of the transport links to / from the airports. Passenger Focus has a unique knowledge of gathering performance data. This would be a logical move for consumers, equating with passengers buying 'transport' rather than specific modes.

We agree that these arrangements should be funded from licence fees, and perhaps also the rebates which airlines get when leading airports underperform. As noted above, at the moment these are effectively a windfall for airlines, and are not used to benefit the consumers who have experienced detriment as the result of failing airport services.

Freight and parcels; and the airlines

Consumer bodies generally do not represent businesses, even as purchasers of goods and services. This raises the issue of whether the interests of freight users should be represented, if at all; and also how the airlines' perspectives should be captured.

One possibility would be to learn from the experience of the Financial Services Authority, which has not only a Consumer Panel but also a Practitioner Panel and a Small Business Panel. There could perhaps be a statutory committee within the regulatory structure representing the interests of freight users, and another for the airlines.

Summary: answers to questions

Q6.1: We agree that this hierarchy makes sense.

Q6.2(a): We support the proposed primary duty.

Q6.2(b): We support the proposed approach.

Q6.2(c): We agree that competition can be an effective way of consumer interests, but have some concerns about whether there is as much competition, or potential for it, in this sector as the paper suggests. We would expect this to be a key issue for Passenger Focus to consider, if and when it takes on a remit in this sector.

Q9.2: The metrics should clearly reflect the passenger experience of airports, and where this goes beyond the services provided by airports directly these should be covered too.

Q9.3: BAA should be required to consult Passenger Focus on the metrics. We would suggest that the regulator is empowered to assess the quality of data collection and analysis as and when it thinks appropriate, and take action if they are not being collected in a sufficiently rigorous way.

Q9.4: The creation of incentives for airport operators to improve customer service should be an early topic of discussion between the regulator, Passenger Focus and the airports. This might include fines for poor performance and some kind of reward for meeting stretch targets, but the latter really should be earned by top quality performance. Where fines are levied for poor performance, the money should at least in part be spent on activities benefiting passengers – for example it might pay for additional research by Passenger Focus – rather than being handed over as a windfall to the airlines.

Q10.1: We support the proposal to give Passenger Focus this role. We think there are merits in Passenger Focus developing a series of consumer panels at leading airports, which would provide

²² Speech to Airport Operators Association

valuable consumer intelligence and a demonstrable connection into passenger experience. We would suggest that this need not be mandated by legislation, however.

Q10.2: We have some concerns about advocacy bodies also handling complaints but in this instance we are content with the proposal. We assume that the expertise of the AUC in this field would so far as possible be retained through the transfer of staff under TUPE regulations, as happened in the creation of Consumer Focus.

Consumer Focus response to the Department for Transport consultation document 'Reforming the framework for the economic regulation of UK airports'

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