



Regulating Air Transport: Department for Transport consultation on proposals to update the regulatory framework for aviation

Response from the Aviation Environment Federation

18.3.10

The Aviation Environment Federation (AEF) is the principal UK non-profit making environmental association concerned with the environmental effects of aviation. Supported by individuals and community groups affected by the UK's airfields and airports, we promote a sustainable future for aviation which fully recognises, and takes account of, all its environmental and amenity effects. These range from aircraft noise issues associated with small airstrips or helipads to the contribution of airline emissions to global climate change.

AEF welcomes this consultation and the opportunity it represents to rectify the fact that the CAA's terms of reference currently focus very much on meeting the needs of the aviation industry. The proposed set of new duties clarifies that the CAA's responsibility should in fact be to the general public. We very much support this recommendation from Sir Joseph Pilling and the fact that the DfT is implementing it.

It is important, however, to consider that there may be differences between the interests of consumers (air travellers) and of the general public, including the public on the ground around airports. Noise mitigation through improved building insulation, for example, can bring some relief for people affected by aircraft noise, but may add very slightly to ticket prices if operators seek to recover their costs by increasing charges to airlines, who, in turn, pass them on to passengers. Similarly, if a local authority dealing with a planning application for an expansion in airport activity is able to successfully source projected PSZ contours for the expansion, the authority may subsequently turn down the application because of the disbenefits represented by future planning restrictions in the PSZ contour – a decision that may benefit local communities rather than consumers.

We would agree with the distinction made in the consultation document between the interests of the general public (under the environment heading) and those of air transport users (under the consumer heading) but we consider that to fulfil Pilling's recommendation these conceptually distinct groups must be given equal consideration. The statement made in section 5.6 of the consultation document that 'In the last year alone 50% of UK adults flew at least once' does not justify the heading above it that 'Most of us are now consumers of air transport services', especially as the figure is generally derived from survey data taken from people already in airports. A focus on consumer interests should not be assumed to benefit everyone.

In addition, we are very concerned about the plans to effectively exclude the CAA's responsibilities for economic regulation of airports from the proposed new duty, as reflected in Section 8.13, which states that 'the CAA's primary focus should be on promoting the interests of end users of airport services, with environmental issues considered as part of its supplementary duties'.

We are not convinced that this preference for the consumer interest over environmental concerns in the context of the economic regulation of airports is justified. If the aim for the CAA is to ensure efficient competition for consumers of air services, we see no reason why environmental objectives could not be given equal weighting; similar environmental standards could, for example, be applied at all regulated airports. The aim should not always be to secure the lowest price for consumers of air travel.

We note that the December 2009 Decision Document¹ on a previous consultation on the economic regulation of airports concluded that:

1.11 the single primary duty of the CAA will be to require it:
"to promote the interests of existing and future end consumers of passenger and freight services at airports in Great Britain, wherever appropriate by promoting effective competition".

Environment is mentioned only as a 'supplementary duty' and should be considered, it is specified, only insofar as relevant legal and planning requirements exist. The CAA is thus required, as a subordinate duty which should not override the primary duty:

to have regard to the airport operator's legal obligations to comply with applicable environmental and planning law

Restricting airports' powers to raise revenue for delivering environmental goals beyond those required by law will, for example, make it difficult for airports to act in accordance with the government's policy that noise concerns are best resolved at a local level, since mitigation policies, such as airport noise action plans, comprise a set of voluntary commitments on the part of the airport that are not required by law.

We therefore consider it very unfortunate that the proposed general environmental duty for the CAA will not apply to all aspects of the CAA's activity.

We respond, below, to those consultation questions that relate to our expertise.

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<http://www.dft.gov.uk/pgr/aviation/airports/reviewregulationairports/decisiondocument/pdf/decisiondocument.pdf>

We have looked at two main options for giving the CAA an environment objective:

Q7.1 For Option 1 – Do you agree that the CAA’s general environment objective should require the CAA, where possible and appropriate, to have regard for environmental factors and seek environmental improvements? If you think there are environmental issues which would not be addressed by this proposal but should be, please set these out and explain why.

Yes - we support this proposal and would like to see it extended to all of the CAA’s activities, including the economic regulation of airports.

Q7.2 For Option 2 – Do you think that the CAA should have discretion in relation to its general environment objective and that this should be a second order issue for the CAA below its safety and consumer priorities? If so, please explain why.

While safety should not, in our view, be compromised, we see no reason why environmental impacts should not be considered in every instance. We would oppose policy that put consumer interests above those of the environment as this approach would fail to treat all members of the public equally and would tend, instead, to favour higher earners since frequency of flying correlates closely with income.

Furthermore, safety regulation is relevant not just for those travelling but for those on the ground. No part of the consultation document considers the issue of third party risk from aviation, despite the fact that the CAA has very recently been given responsibility for the administration of the DfT’s Public Safety Zone policy, which seeks to prevent increases in the numbers of people exposed to significant risk as a result of their proximity to airport runways through planning restrictions in these zones. This area would seem to fall most naturally under the ‘environment’ heading, yet it would be a disservice to the public if the safety of those on board aircraft were to be prioritised over the safety of those on the ground: consumer and environmental issues should be given equal weighting.

Q7.3 We would welcome stakeholders’ views and evidence on the relative benefits and costs of the options as set out in the Impact Assessment.

As indicated in our introduction, we believe that environmental and consumer interests should be given equal weighting in order to fulfil Pilling’s recommendation. It is thus unclear to us why costs allowed for extra staffing and research for the CAA’s proposed new consumer objective (£360000, to cover transition costs) are not at least matched for its proposed environmental objective (currently £0). We would be happy for costs for both to be borne through CAA charges if that generated sufficient funding to meet all the new objectives adequately. Should there be a funding shortfall, having mapped out a work programme, we believe the government should be willing to step in to fill the gap.

Q7.4 We would also welcome stakeholders' views and evidence on which of these two options would be most appropriate for the CAA and why.

We consider it important that the new environmental duty is mandatory rather than voluntary on the part of the CAA. If the duty is to have any meaningful impact on the CAA's day to day operations, it should become a systematic requirement for environmental impacts to be considered at every level. Were the CAA simply to be empowered to consider environmental impacts it would be possible for environmental concerns to be discounted in cases where there were budgetary shortages or where a conflict of interest arose between the interests of consumers of air travel and those of the public at large.

Q7.5 Do you agree that the Government should give the CAA guidance to help it interpret its environment objective? If you do agree, please set out what you think this guidance should cover and why.

Yes. In the immediate future better guidance is needed on how to manage the sometimes competing objectives of minimising emissions (and airline fuel costs) and noise. We note in this context Pilling's recommendation that, quoted in section 3.15 of the consultation document, 'the CAA's primary responsibility is to the public *rather than* the aviation industry' (our emphasis).

More generally, guidance is needed from central government on acceptable limits for environmental impacts at airports. We would not consider it appropriate for the CAA to have to make environmental judgements on, for example, noise or emissions at an airport level, but we can envisage a role for the CAA in regulating these impacts in line with government policy. There is evidence now that would allow government to set out maximum acceptable noise levels and/or noise levels at which compensation must be offered, and in future, the government may need to consider setting emissions caps at an individual airport level in order to achieve the target of a stabilisation of emissions at 2005 levels by 2050.

Clear guidance from DfT will be essential in determining whether or not the proposed environment objective for the CAA is meaningful or whether, like the existing legislation referred to in section 7.35 of the consultation document, it remains largely unused. The absence of such guidance could (a) make it very difficult for the public to be able to assess whether the duties are being appropriately carried out, while (b) inhibiting the CAA from pursuing its environmental duties for fear of legal action if it is unable to judge how to balance competing concerns (such as noise impacts and emissions) adequately.

Q7.6 Do you agree that the Secretary of State should have new powers to direct the CAA in regard to its environment objective? If yes, do you agree that the proposals set out in 7.38 and 7.39 are the right ones? Please explain.

Yes. We agree that the Secretary of State should have these new powers and support the proposals set out in 7.38 and 7.39. We suggest that emissions contributing to local air pollution be added to the list of impacts that are not currently regulated by the CAA but for which it is conceivable that CAA action and policy could be relevant.

Q7.7 Do you agree that any new funding requirements arising from a new environment objective should be met through the CAA's existing charging schemes?

Yes. But please see our comments on question 7.3.

Q8.1 Do you agree that the principles of the proposed environment objective (Option 1) should apply to the CAA's planning and management of airspace?

Yes. We believe that the various powers listed in chapter seven should be reflected and enhanced through the general environmental duty proposed and that this should apply to CAA's planning and management of airspace.

Q8.4 Do you agree that the principles of the proposed environment objective (Option 1) should apply to the CAA's economic regulation of air traffic services?

Yes – we believe that environmental impacts should be considered in all parts of the CAA's operation. The recent controversy generated by NATS' plans to reform the TC North airspace perhaps illustrated the strength of feeling among community and civic amenity organisations about the significance of the environmental impact of decisions about air traffic management. We consider it appropriate that NATS' own commitments on the environment be appropriately supported through an environmental duty for the CAA with respect to its economic regulation of air traffic services.

Q9.1 Do these proposals to give the CAA new information gathering and publishing powers achieve the right balance between supporting the public and avoiding unnecessary regulatory intervention? Please give reasons for your answer.

Yes. There are many ways in which the CAA could consolidate its role as an information provider without extending its regulatory intervention. Echoing our responses to previous questions, we would argue that the target audience should be the general public rather than a consumer group such as Passenger Focus (as suggested in section 9.2). Our organisation is regularly contacted by people looking for information on traffic volumes and similar information in relation to UK airports, for example. The CAA currently provides a very useful source of data on these topics, yet it is not possible to see from the website's homepage how to find it. A rethink of

how information that is of interest to the public could be made more easily accessible would be very welcome.

We recommend that the CAA, as part of its proposed environmental remit, act as a clearing house for environmental information in relation to aviation, particularly that generated by government departments and agencies. The CAA could usefully, for example,

- 1) Ensure that data on aircraft movements is relevant to government policy. Noise action plans, for example, are required of airports with greater than 50,000 aircraft movements, excluding those purely for training purposes on light aircraft. The CAA categorisation of aircraft activities, however, does not allow training movements on light aircraft to be segregated.
- 2) Make noise contour information easy to access. Noise contours are currently published by Defra, using Lden and Lnight metrics to comply with the Environmental Noise Directive, and by DfT for the large London airports using the Leq metric. It would be helpful to have both these information sources highlighted by the CAA.
- 3) Similarly, publish annual greenhouse gas emissions from flights on an airport by airport basis – information that is already periodically published by DfT but is not always easy for the public to find.
- 4) Publish public safety zones for all relevant airports. These already exist but often only in local planning documents; we are not aware of any central source that is publicly available. Given the recent transfer of administrative responsibility for PSZ policy from DfT to the CAA this should be very straightforward.
- 5) Relatedly, publish NATS' methodology for calculating public safety zones, or require NATS to publish it. DfT has indicated to us that the methodology is already publicly available but in practice we have been unable to source it; the model could be very useful for planning authorities considering the public safety impacts of proposed changes to aviation activity.