

Business, Energy and Industrial Strategy Committee

Oral evidence: Flight cancellations and compensation, HC 370

Tuesday 14 June 2022

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Members present: Darren Jones (Chair); Tonia Antoniazzi; Richard Fuller; Paul Howell; Mark Jenkinson; Charlotte Nichols; Mark Pawsey; Alexander Stafford.

Transport Committee member also present: Ruth Cadbury.

Questions 1 - 21

Witnesses

I: Simon Calder, Travel Journalist and Broadcaster; Sue Davies, Head of Consumer Rights and Food Policy, Which?.

Examination of witnesses

Witnesses: Simon Calder and Sue Davies.

Q1 Chair: Welcome to this morning's session of the Business, Energy and Industrial Strategy Select Committee, for our one-off hearing on flight cancellations and compensation. We have a very busy morning, with four panels of witnesses. We hope to understand what has been causing all these cancellations and delays at airports for customers across the country, and what might be done about it to stop it continuing as a problem.

For our first panel this morning, we are delighted to welcome Simon Calder, travel journalist and broadcaster, and Sue Davies, who is head of consumer rights and food policy at Which?. Good morning to both of you. To set the scene, what on earth is going on? Why do we have this problem right now when we have not had it before?

Simon Calder: Good morning. If I can take you back to the end of the 2010s, the UK had by far the best aviation industry in the world. We have great airlines: British Airways, Virgin Atlantic, easyJet, Ryanair's main base of activity in the UK, Jet2 and so on. We also had fantastic airports competing very heavily. It was an extraordinarily efficient machine, which was delivering vast amounts of value, both emotional and economic.

Then Covid came along. The UK had the most onerous, expensive and confusing travel restrictions of any European nation and, as a result, the aviation industry took more of a hit than pretty much any other business. Now it is trying to emerge from that, battered, bruised and, I would say, slightly over-optimistic about what can be achieved this summer.

Sue Davies: We think that both the industry and the Government need to shoulder the responsibility for the chaos that we have seen. There is no doubt that we have gone through unprecedented circumstances with the pandemic, and the sector has obviously been particularly affected, but so have many consumers. At a time when they are starting to feel that they can have confidence in travel again, and are booking a holiday, they are being put through this awful situation, where people have lost money and suffered huge emotional stress.

Particularly appallingly, we have been hearing from lots of people who have had very little information about what is happening on the ground. The airlines and the Government were encouraging people to travel again, and we think that they underestimated the capacity issues and the shortages in both the airlines and the airport services, including the shortage of baggage handlers, for example.

What concerns us is that airlines appear to be still booking flights when they do not know for sure that those flights will be able to go. We have seen people given information at very short notice, and not really being given proper information about their rights. Obviously, there are some



HOUSE OF COMMONS

specific issues here, but this is symptomatic of the issues we have seen in the industry for a long time. There is blatant flouting of consumer rights and a failure to put passenger interest first. That does not only impact on consumers. It will impact on consumers' confidence in booking going forward. We need short-term actions, but also a big overhaul of consumer rights and how they are enforced.

Q2 Chair: Covid has had an obvious impact on the workforce and people's desire to travel. Now they wish to travel again. There has been some suggestion in the media that Brexit is having some effect as well. Is there any evidence of that?

Simon Calder: Certainly from my conversations with everybody, from ground handlers to airports to airlines, yes. One figure, which I have not personally verified, is that 30% of the people who worked in UK aviation before the Covid pandemic were EU nationals. It is not clear how many of those are still here, but of course, if you are seeking workers, skilled or unskilled, from a more limited pool, you are going to have less success, particularly with everybody from retail to the railways competing for the same workers.

Q3 Richard Fuller: Thanks for the background. Right now, we have constituents who are in airports, worried about things. They have had their flights cancelled and are very disappointed. What, practically, can be done now, Mr Calder?

Simon Calder: Thank you for the question. There are so many consumer detriments happening, one of which—this one is really important, and the media is partly to blame—is that everything is chaotic. You do not have a representative of travel agents here, but I have been speaking to them in advance. They say that about one in three questions is from existing customers, saying, "Is my flight to Malaga going to take off on 7 August?" Obviously, nobody knows the answer to that question directly. However, the vast majority of people are getting away. Yes, they might have a 90-minute delay. They might have to queue for an hour when they come back in, but, ultimately, that is not material. There is that harm, which is really serious.

There is also the very severe distress of people who suddenly learn that their holiday has been cancelled. We saw some awful examples of that at the start of the May bank holiday and the half-term week.

I would absolutely agree with Sue that there is a lot of consumer detriment going on that involves the way that passengers are treated by airlines.

Q4 Richard Fuller: You are saying that in the short term the airlines and travel agents are falling short in communication to travellers, and that more assistance could be provided on the ground to help people understand what is really going on.



Simon Calder: Yes, of course. If you are learning that your holiday has been cancelled from a police officer at Manchester Airport, something has gone very badly wrong with the communication process. Time and again—and I am sure that Sue has heard these stories too—people are finding out through text messages, and there are no staff to be seen. I must say that not every airline is having this. Ryanair are having a great summer.

Q5 Richard Fuller: I am going to come to that in a minute. We all want to hear from you about some of the differences between some of the airlines. Ms Davies, you were talking earlier about some of the issues long term. You focused on Covid and recovery from Covid, but in the medium to long term, what would you want to see change so that these sorts of situations become less commonplace?

Sue Davies: There is a real issue of compliance with passenger rights and enforcement of consumer rights. We feel that that has created a culture in the industry where it is acceptable to treat consumers so poorly. As you were saying, there is a lack of immediate information that people need.

We have heard lots of stories, as you are saying, of people turning up at airports, then being told their flight is going 12 hours later, not having anywhere to sleep, sleeping on the airport floor, and then finding that the next flight has been cancelled as well. It is just appalling communication that should be a simple thing to sort out. The overbooking and overpromising that we seem to be seeing is obviously fundamental here.

Looking slightly longer term, there is a real issue in terms of enforcement and the Civil Aviation Authority's relationship with the airlines.

Q6 Richard Fuller: Is it too cosy?

Sue Davies: We think that it should be enforcing the law. It does not have strong enough powers. We were pleased that, in a recent consultation, the Department for Transport proposed that there should be stronger fining powers under the administrative regime for the Civil Aviation Authority. We would like that to be delivered. Even where we found that there appear to be quite blatant breaches of the law, it can be very difficult to see how the CAA is investigating.

Richard Fuller: Are you saying today that the CAA is too cosy with the airlines?

Sue Davies: We think that it is not standing up enough for consumer interests and it is not being proactive enough. That is leading to this culture where there are many well-known names that feel able to just flout consumer law. We are doing some work at the moment, which I can provide the Committee with, looking at terms and conditions of airlines. We will be publishing that soon. It is quite incredible that many airlines, within their terms and conditions, are breaking the law, with apparently no consequence.



Q7 Richard Fuller: People today facing the consequences of these things are going to want to hear which airlines are doing well and which airlines are doing poorly. Which ones have been the worst in overbooking? Which ones have been worse in cancellations? Who is managing well or better than others? Ms Davies, who would you say today is doing well? Which airline do you think is doing poorly? Why is there a difference?

Sue Davies: We are particularly hearing from people who are affected by British Airways and easyJet cancellations, but I do not want to just focus on those. There are obviously some specific issues there, but we feel that this is a systemic problem across the sector that needs a longer-term solution.

We have seen throughout the pandemic that people who were entitled to compensation had a real problem getting that compensation back. We found time and again that it can be incredibly difficult, even when you are entitled to be rerouted or to have compensation. People would often be given the wrong information or were just not given information. When they try to pursue their rights to get what they are entitled to, it can be unbelievably complicated.

Q8 Richard Fuller: I need to press you on this, because I asked for specific about airlines and you mentioned two, but then you mentioned that those were systemic problems. Is it the case that there are certain airlines that are just falling short? What is the particular reason? Mr Calder, is there any particular airline that you think is falling short?

Simon Calder: Yes. I can give you the complete leaderboard. Top of the list in terms of daily cancellations, with 114 today, is British Airways.

Q9 Richard Fuller: Is that just because it is big? Does it have a higher proportion?

Simon Calder: It is roughly the same size as easyJet, in terms of UK operations—in terms of movements, not on some of the other measures. It is cancelling 114 a day, but it is doing it very gently. Typically, you would find that you booked a flight and then, three weeks before it is due to go, you are told, “We are going to move you to this flight”. There is none of the at-the-gate, last-minute distress.

It is, though, a significant consumer detriment, because every day there are about 20,000 seats that are not operating. That means that the prices on the remaining flights are much higher than they would be. In terms of UK regional places, every single UK regional airport to Heathrow today has at least once cancellation. It is at the top, but it is doing it gently and nobody is noticing.

Next is easyJet, with 55 cancellations to and from the UK and within it today. It is cancelling much closer, within typically a day or two. You will be talking to Sophie Dekkers from easyJet later and you can ask her more specifically about this, but it is also doing quite a lot of on-the-day



HOUSE OF COMMONS

cancellations. Gatwick is by far the worst affected, then Luton and Bristol and then miscellaneous cancellations.

Wizz Air started well. It is having a few problems now, again with overpromising. Ryanair and Jet2 will have the odd cancellation because, in aviation, stuff happens. In any normal summer, every day somebody would cancel a couple of flights and it would be annoying but not on the scale we are seeing at the moment.

Q10 Richard Fuller: Is there any airline the two of you would like to mention that is doing a particularly good job in the circumstances?

Simon Calder: I would say Ryanair and Jet2, if I needed to be guaranteed to get there.

Sue Davies: We would agree with that, yes.

Richard Fuller: That is great publicity.

Chair: Other airlines are available.

Q11 Mark Jenkinson: To follow on a bit on compensation schemes for passengers affected, Ms Davies, can you outline briefly what compensation customers should be entitled to, the process for claiming that and how it is working in practice?

Sue Davies: It can be a very lengthy and complicated process for people. It can take months or even years. The worst example we have is the Ryanair case. It will take about five years for some people to get the compensation that they are entitled to. That is due to industrial action. The CAA has had to pursue that through the courts. It is one example of where the CAA has pursued action and tried to enforce the legislation in this area.

One issue is that we have found that people know very little about their rights. The airlines are required to tell them about what their rights are, but they do not always do that explicitly or obviously. As I mentioned, we have been doing some work looking at the contract terms and feel that sometimes the information can actually be misleading or confusing for people. That means that there is a relatively low claim rate, even when people are entitled to claim compensation. It is estimated that it is about 38%.

Under the regulations, people are entitled to compensation as soon as their flight is delayed by three hours or more when they arrive at their destination. If their flight is cancelled, they are entitled to either have a full refund or be rerouted as soon as is reasonable. We have found that often, airlines have not been putting people on the flight that is the most convenient for them and have been arguing that it is not a partner airline. Under the legislation, the requirement is that they should be making arrangements regardless of whether they have a commercial relationship with that airline.



Q12 **Mark Jenkinson:** Is “reasonable” defined, or is the problem that “reasonable” is not defined?

Sue Davies: It is an area that definitely needs clarification in terms of what is required. We find that this is an area where people are given very confusing information. We have had people coming to us saying that they need to get home. They have booked another flight and then tried to get compensation or a refund, and they have found it incredibly difficult.

When people pursue compensation, the process just does not work as it should. You will fill in a claim form for the airline. It can take a while for that to be processed. We found that sometimes people will not get compensation even though they are entitled to it. The next stage for people is to go to an alternative dispute resolution scheme.

The airline sector is different from other regulated sectors, because it is a mandatory ADR scheme. It does not have a statutory ombudsman, as other regulated sectors have. That means that not all airlines sign up to these ADR schemes and they can choose which one to join. It works in favour of the airlines, rather than in favour of the consumer. They switch between them and we have seen that, depending on which one they are signed up to, it can have a big impact on the decisions made.

Even when a consumer has a decision go in their favour, it is not the case that the airline will necessarily even pay up. We have lots of people coming to us who are then having to pursue this through the small claims court. The whole reason for ADR is to try to prevent people from having to go through the small claims court route.

This area needs an overhaul. We are really pleased that the Department for Transport has said that it will look at setting up a statutory ombudsman for the sector. We think that all airlines need to be part of that scheme. Going back to my earlier point, we need to make sure that we have a better culture of compliance in the sector and a stronger regulator, so that people are not put in this situation.

One thing that the Department for Transport has recently proposed that we have concerns about is that it wants to change the way that compensation works for domestic flights. It is proposing that people will get some compensation for shorter flights, but overall, the level of compensation that you would get would drop quite significantly. The amount that an airline would have to pay out for a delayed flight would be massively reduced. We feel that loses sight of the original regulations. The reason why they were introduced was to be a deterrent against people being messed about in this way.

It is great that the Department for Transport is looking at strengthening the CAA. It is looking at reforming the ADR, but it really has to look again at these compensation proposals, because they will weaken consumer protection, and we need protections to be strengthened.



Q13 Mark Jenkinson: Back to your terms and conditions point, do you think that there is evidence to suggest that airlines seek to dissuade customers from claiming compensation by making the process either not transparent or unduly complicated?

Sue Davies: In our research, which we will be able to share with you shortly, we have looked at terms and conditions across a range of airlines. We have sought legal advice to look at those terms and many of them do not comply with legislation. That then makes it incredibly difficult for consumers to know what they are entitled to, or they are given the wrong impression of what they are entitled to, which is obviously not acceptable.

Simon Calder: I have a slightly different perspective. I have put in a good number of claims myself for delays or cancellations, and it tends to work like this. If Ryanair feels it is, as I think the technical term is, bang to rights, it will just pay up in a few days without question, and easyJet also.

easyJet has what I would call a bizarre system. If your flight is cancelled, and it believes it was due to extraordinary circumstances, it will say, "It was caused by air traffic control, or bad weather, so you have no claim against us." If it does not give any reason for the cancellation, you know you can claim, which is an odd way of putting it. They are certainly not going to say, "You can claim".

TUI, which had a pretty awful start to the half term, went round and effectively said to people, "We are really sorry. We have cancelled your holiday. Have your money back, have a voucher and click this link and it will take you straight to the page where we are going to pay you £350 in compensation".

If I may suggest a different perspective from Ms Davies—clearly I am here representing the traveller—the European passenger rights rules have some beneficial aspects to them, but I am not sure that the punitive aspect of saying, "You are paying £15 for a flight. If it gets cancelled, here is £220 in your bank account" is necessarily doing a long-term favour to the traveller. One—maybe the—benefit of Brexit for the travel industry in the UK could be to reform those rules in a way where there is some relationship between what you paid, the degree of discomfort that you experienced and the compensation you get.

Q14 Mark Jenkinson: Ms Davies, I think that you touched on the proposal to change the rules regarding regulation 261, which aligns the amount of compensation a passenger is entitled to with the amount that they have paid, which goes to some of what you have just been saying there, Mr Calder. The proposal is designed to speed up access to compensation. What do you think the potential impact of the proposal on levels of customer service and protection might be?



HOUSE OF COMMONS

Sue Davies: I would agree with Simon that it is always worth reviewing regulations and seeing how they can be improved. We have the opportunity to do that now. We should be looking at how we strengthen protections for consumers, given the situation that we have had recently and the longstanding issues about airline behaviour.

As I mentioned, when you look at the actual, original intention of the regulation, it was to be dissuasive and to make sure that airlines did not unnecessarily delay or cancel flights and therefore inconvenience consumers. You will remember a time when it used to be that you would often turn up to get a flight and find that the flight had been overbooked. Those sorts of practices have tended to be reduced as a result of those sorts of behaviours. Obviously we have had some pretty unprecedented circumstances recently.

The compensation proposals would remove that really important deterrent effect, we believe, because the amount that an airline would have to pay out for a flight cancellation would be massively reduced. From a consumer point of view, we need to make sure that the system that we end up with deals with the refund for what you have paid, but also deals with the additional cost you are going to incur as a result of the inconvenience.

That is what lots of people have been coming to us about. People have been going to family events or there might be a work event. There are lots of costs that you will incur around that, which was the rationale for the compensation to be included as well. We can look at whether there are ways that it should be improved, but we need to think about those two really key aspects about the way that it is designed at the moment.

At the moment, the Government are only looking at domestic flights. That is really important and affects some people in different parts of the country more than others, who are very reliant on domestic flights. We want to make sure that then is not applied to international flights as well.

Q15 **Mark Jenkinson:** Mr Calder, do you have anything to add to that?

Simon Calder: There is one particular piece. Sue mentioned refunds. For a vast majority of holidaymakers this year, refunds are completely irrelevant. The Transport Secretary has promised that you are going to get automatic refunds. In my experience, if an airline cancels a flight it cannot refund you fast enough, because it means that its obligation is over. You want an alternative flight, and that is what we are seeing the real problem with, in particular with airlines—you might want to challenge British Airways and easyJet on this—not making it absolutely clear that they are responsible for getting you to your destination on the day your original flight was due to go.

Q16 **Tonia Antoniazzi:** Sue, you have mentioned the practice of overbooking flights. We have seen it, and it has been really noticeable recently. Airlines have struggled to find alternative flights for those not able to



HOUSE OF COMMONS

board. Why do airlines do it? Why do they sell the same seat to multiple people?

Sue Davies: That is something that you have to ask the airlines. There has been a failure to anticipate the volume of people booking. The airlines, and the travel sector in general, have been encouraging people to book, so people have felt confident to do that and now many people have been put in this really difficult situation.

Simon Calder: I think that we are talking about two slightly different concepts here. We have been discussing the idea that airlines—I will mention specifically BA and easyJet—have been putting on more flights than they have the resources to operate. That is one issue. Actual overbooking, where you have a flight with 180 seats and you sell 190 tickets, is great when it is handled properly. It has benefits all round, as long as proper compensation is paid for people who do not travel.

I do not think that overbooking is a problem. With easyJet, we have seen a number of occasions where it has been downsizing the aircraft to a smaller one for operational reasons and then you have 40 people who are not going to get to where they want to be. That is not actual overbooking.

Q17 **Tonia Antoniazzi:** Simon, if you were in that position, how do the airlines decide who gets on the plane and who does not?

Simon Calder: They throw money at you. That is what happens in the US, literally. They will start an auction on-board the plane: "Okay, who will get off this plane for \$200, \$300, \$400?" When they have enough takers, that is fine. You all go. I am always first in the queue for being offloaded, thank you very much.

Q18 **Ruth Cadbury:** One of my questions has been answered; it was about the comparison between different airlines. What about the comparison between what UK travellers experienced over the last few months and travellers in other countries? Are they experiencing the same issues from their airlines?

Simon Calder: There is a European league table. I did a summary at the weekend. Heathrow is at the top in terms of cancellations, but you would not notice most of them. Heathrow's mantra throughout this is, "If you have a seat booked and you are travelling today, your flight will go". Next up was Amsterdam. It is having big problems in terms of staffing, to the extent that two weekends ago, KLM actually said, "We are not going to sell any tickets from Amsterdam because we do not have enough people to frisk the customers who are getting on at Amsterdam". Gatwick is after that. Amsterdam is an airport problem, whereas Gatwick is much more of an airline problem, with easyJet chief among them and Wizz Air and occasionally BA doing some cancellations too.

Q19 **Ruth Cadbury:** We have seen quite a lot of press articles stating that it is not just a UK problem; it is happening in France and Germany and so



HOUSE OF COMMONS

on. You have mentioned Amsterdam. Are there other countries where they are not having the same problems?

Simon Calder: Yes.

Q20 **Ruth Cadbury:** Have you had a chance to look at why that might be?

Simon Calder: I would say, for example, Italy. That is because no country has had to bounce back so high. No country had its aviation industry crushed so deeply and none has had the bounce-back that we have had. That is partly, of course, because of being an island nation. You are always going to need airlines more. If you are in Italy, you can drive or catch the train to somewhere nearby. Most European countries are having stresses and strains, but they are not systemic, to use Sue's phrase.

Sue Davies: We work a lot with our sister organisations across Europe and globally. A lot of them have been having similar concerns and consumers coming to them with similar issues. The extent of that partly depends on the approach of the regulator within that country as well. I can come back to you with a bit more detail, if that is helpful, on some of those differences.

Q21 **Ruth Cadbury:** One key cause of the cancellations that we are going to go on to, around staff shortages, security clearance and so on, is this issue about being ready for the bounce-back. What could a Government have done differently? A longer lead-in to reopening travel, or aviation-specific Covid support, which many of us were asking for, over and above the however many billions that industry got, in terms of furlough and so on?

Simon Calder: By the way, the £8 billion that the Government repeatedly say was given in support was not actually given. There was quite a lot of guaranteeing of loans and so on. The first thing would have been not to have the degree of travel restrictions, which were—I am quoting here from your excellent colleagues on the Transport Committee—"opaque, ambiguous and inconsistent", and combined to completely trash the industry.

Since we are where we are now, yes, some furlough help would have been good, beyond September—I have talked to lots of airlines—particularly since we then went into omicron and had yet more travel restrictions. That was pretty awful. Ultimately, getting a plane off the ground involves dozens of people with really good skillsets, all working together. If one part of that is missing, the whole thing starts to unravel very quickly.

Sue Davies: There was a failure to anticipate exactly what the impact would be, while flights continued to be sold as though things were functioning normally. As we are still seeing that happening, there needs to be a fuller understanding of exactly what the capacity is, so that consumers are not, at the end, facing the consequences.



HOUSE OF COMMONS

Chair: Thank you to both of you, Simon Calder and Sue Davies, for your contributions.