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|--|---|--|--|
| <b>Title:</b><br>Granting the Civil Aviation Authority (CAA) Powers to Publish Information<br><b>IA No:</b> DFT00120<br><b>Lead department or agency:</b><br>Department for Transport<br><b>Other departments or agencies:</b><br>None | <b>Impact Assessment (IA)</b>               |  |  |
|  | <b>Date:</b> 06/02/2013                     |  |  |
|  | <b>Stage:</b> Enactment                     |  |  |
|  | <b>Source of intervention:</b> Domestic     |  |  |
|  | <b>Type of measure:</b> Primary legislation |  |  |
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**Summary: Intervention and Options** **RPC Opinion: AMBER**

| Cost of Preferred (or more likely) Option |                            |  |   |
|---|----------------------------|--|---|
| Total Net Present Value                   | Business Net Present Value | Net cost to business per year (EANCB on 2009 prices) | In scope of One-In, Measure qualifies as Two-Out? |
| £-5.9m                                    | £-4.6m                     | £0.55m   | Yes   IN  |

**What is the problem under consideration? Why is government intervention necessary?**  
 Air travel is a complex consumer product. Surveys suggest that for many non-price characteristics (e.g. aspects of service quality and environmental performance) there is not sufficient information available for passengers to make an effective comparison between flights. Government intervention is necessary for the following reasons: 1) to reduce the risk of passengers making uninformed decisions on non-price aspects due to poor information, which should aid passengers in purchasing tickets that provide greater benefit to them; and as a result 2) facilitate competition between airports and airlines on aspects of the flight package that passengers cannot observe at the point of purchase.

**What are the policy objectives and the intended effects?**  
 The Coalition Government has a stated aim to improve transparency of information and encourage, support and enable people to make better choices for themselves. The policy objective is to do this by reducing information failures and thereby improve the performance of airlines and others by enabling the CAA to:  
 (a) Ensure better and more easily comparable information is made available to the public on aspects of customer service and environmental performance to help passengers make more informed choices; and  
 (b) Provide guidance to industry in order to enable best practice to be shared; but  
 (c) To only undertake these activities where the benefits of doing so clearly outweigh the costs.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
 Option 0: Do nothing - The CAA continues to publish information within its current regulatory functions.  
 Option 1 (Preferred Option): Empower the CAA to ensure data are published on service standards and environmental performance to help consumers make more informed choices. The benefits from option 1 could include passengers selecting the most beneficial flight, improved airline and airport performance and increased transparency in the comparison of industry performance. Despite these benefits not being monetised, we believe they could be of substantial value to customers. The costs are relatively small compared to potential benefits, and will place limited burdens on industry. Because the CAA will have a legal obligation to demonstrate benefits outweigh the costs before using this power and because the CAA cannot oblige industry to collect information it does not already possess, the additional costs to industry are expected to be small, and only generated where benefits are shown to outweigh costs.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date: 02/2018**

|  |                    |                      |                                  |                     |                                      |
|--|--------------------|----------------------|----------------------------------|---------------------|--------------------------------------|
| Does implementation go beyond minimum EU requirements?   |                    |                      | N/A                              |                     |                                      |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.                       | <b>Micro</b><br>No | <b>&lt; 20</b><br>No | <b>Small</b><br>No               | <b>Medium</b><br>No | <b>Large</b><br>No                   |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent) |                    |                      | <b>Traded:</b><br>Not quantified |                     | <b>Non-traded:</b><br>Not quantified |

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

Signed by the responsible Minister:  Date: 7.2.13

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Empower the CAA to facilitate, where the benefits outweigh the costs, the publication of data on service standards and environmental performance to assist consumers in making more informed choice.

## FULL ECONOMIC ASSESSMENT

| Price Base Year 2010 | PV Base Year 2011 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) |            |                     |
|----------------------|-------------------|----------------------|---------------------------------------|------------|---------------------|
|                      |                   |                      | Low: -11.1                            | High: -4.4 | Best Estimate: -5.9 |

| COSTS (£m)    | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|---------------|---|--|----------------------------|
| Low           | -                                       | 0.53   | 4.4                        |
| High          | -                                       | 1.33   | 11.1                       |
| Best Estimate | -                                       | 0.70   | 5.9                        |

### Description and scale of key monetised costs by 'main affected groups'

The CAA's costs of evaluating and consulting on the need for specific pieces of information to be collected and disseminated are approximately £1 million (PV over 10 years). The CAA has stated that it does not expect the licence fees that it charges industry to increase because of the use of these powers. Costs to industry for data analysis and publication are expected to total approximately £4.9 million (PV over 10 years). The cost per passenger is expected to be less than 0.04 pence (see paragraph 89 of the full IA).

### Other key non-monetised costs by 'main affected groups'

The CAA must ensure that the benefits of carrying out functions under the powers should outweigh any adverse effect, and will be required to consult. The CAA will have the power to require a person to provide information or documentation that is held by the industry or under its control. The CAA will not be able to compel industry to provide information that industry could not be compelled to provide in evidence in civil proceedings before the court. Therefore costs from data collection should be kept low.

| BENEFITS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Benefit (Present Value) |
|---------------|---|--|-------------------------------|
| Low           | Not quantified                          | Not quantified                                     | Not quantified                |
| High          | Not quantified                          | Not quantified                                     | Not quantified                |
| Best Estimate | Not quantified                          | Not quantified                                     | Not quantified                |

### Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to monetise the benefits for two reasons:

- 1) The information that the CAA may request is not prescribed in advance; the use of the power is subject to consultation by the CAA and is therefore currently unknown; and
- 2) Many factors and incentives influence airline and airport performance and therefore it is very difficult to isolate the impacts of information provision.

### Other key non-monetised benefits by 'main affected groups'

We expect the benefits to be significant. Broadly we expect two types of benefits to consumers:

- 1) Passengers should choose the flight that generates the greatest benefit to them since they have better information to make a fuller comparison between airlines and airports that is not solely price based; and
- 2) Incentivise airlines and airports to compete on non-price factors that passengers care greatly about but often cannot observe before buying tickets (e.g. baggage reclaim times, environmental performance).

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

We assume: 1) that consumers will be able and prepared to use the information provided to make decisions that better reflect their preferences, and that this will translate into further competitive pressure on industry; 2) that there will be compliance with information requests or penalties applied and so no use of the appeals mechanism will be made; and 3) a risk is that airlines do not directly link any change in customer behaviour to the information that is provided, and therefore not improving their performance in that area in response.

## BUSINESS ASSESSMENT (Option 1)

|   |             |           |                   |                      |
|---|-------------|-----------|-------------------|----------------------|
| Direct impact on business (Equivalent Annual) £m: |             |           | In scope of OITO? | Measure qualifies as |
| Costs: 0.55                                       | Benefits: 0 | Net: 0.55 | Yes               | IN                   |

## Enforcement, Implementation and Wider Impacts

|  |                         |                         |
|--|-------------------------|-------------------------|
| What is the geographic coverage of the policy/option?  | United Kingdom          |                         |
| From what date will the policy be implemented?   | 19/02/2013 <sup>1</sup> |                         |
| Which organisation(s) will enforce the policy?   | DfT/CAA <sup>2</sup>    |                         |
| What is the annual change in enforcement cost (£m)?  | 0                       |                         |
| Does enforcement comply with Hampton principles?   | Yes <sup>3</sup>        |                         |
| Does the proposal have an impact on competition?   | No                      |                         |
| What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable? | <b>Costs:</b><br>100    | <b>Benefits:</b><br>100 |

## Specific Impact Tests: Checklist

| Does your policy option/proposal have an impact on...?  | Impact | Page ref within IA |
|---|--------|--------------------|
| <b>Statutory equality duties</b> <sup>4</sup><br><a href="#">Statutory Equality Duties Impact Test guidance</a> | No     | 144                |
| <b>Economic impacts</b>   |        |                    |
| Competition <a href="#">Competition Assessment Impact Test guidance</a>   | No     | 144                |
| Small firms <a href="#">Small Firms Impact Test guidance</a>  | No     | 144                |
| <b>Environmental impacts</b>  |        |                    |
| Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>                        | No     | 145                |
| Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>                      | No     | 145                |
| <b>Social impacts</b>   |        |                    |
| Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>                                | No     | 145                |
| Human rights <a href="#">Human Rights Impact Test guidance</a>  | No     | 145                |
| Justice system <a href="#">Justice Impact Test guidance</a>   | Yes    | 146                |
| Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>  | No     | 146                |
| <b>Sustainable development</b><br><a href="#">Sustainable Development Impact Test guidance</a>                  | No     | 146                |

<sup>1</sup> These provisions will commence two months after Royal Assent to the Civil Aviation Act.

<sup>2</sup> Whilst these policies do not inherently require statutory enforcement, CAA would be accountable to DfT and Parliament for the use of its new powers. The CAA will be given sanctions to enforce the proposed publication powers.

<sup>3</sup> See footnote 2 above. The CAA's use of civil sanctions under option 1 will comply with Hampton principles.

<sup>4</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

# Evidence Base (for summary sheets) – Notes

## References

| No. | Legislation or publication   |
|-----|--|
| 1   | Department for Transport <i>Regulating Air Transport: Department for Transport Consultation &amp; Impact Assessment on Proposals to Update the Regulatory Framework for Aviation</i> . (10 December 2009 – 18 March 2010)<br><a href="http://webarchive.nationalarchives.gov.uk/20110202210710/http://www.dft.gov.uk/consultations/closed/regulatingairtransport/">http://webarchive.nationalarchives.gov.uk/20110202210710/http://www.dft.gov.uk/consultations/closed/regulatingairtransport/</a> |
| 2   | The Civil Aviation Act 1982  |
| 3   | CAA, <i>Research on the air passenger experience at Heathrow, Gatwick, Stansted and Manchester airports</i> March 2009   |
| 4   | AUC <i>Report on Passenger Survey</i> July 2010  |
| 5   | <i>The Coalition: our programme for government</i> May 2010  |
| 6   | OECD <i>Experts Workshop on Information and Consumer Decision-Making For Sustainable Consumption</i> 2001  |
| 7   | Environmental Audit Committee, <i>Environmental Labelling</i> March 2009   |
| 8   | CAA Consumer Research by Accent (2010 unpublished)   |
| 9   | Gatwick Airport Baggage Delivery <a href="http://www.gatwickairport.com/business/performance/baggage-delivery/">http://www.gatwickairport.com/business/performance/baggage-delivery/</a>   |
| 10  | CAA Consumer Research by Accent (2010 unpublished)   |
| 11  | "Which?" magazine press notice 2 June 2010 "Air New Zealand and Swiss soar in passenger survey But UK airlines fly low compared to foreign rivals" <a href="http://www.which.co.uk/news/2010/06/air-new-zealand-and-swiss-soar-in-passenger-survey-215804/">http://www.which.co.uk/news/2010/06/air-new-zealand-and-swiss-soar-in-passenger-survey-215804/</a>   |

## Evidence Base

### Annual profile of monetised costs and benefits\* - (£m) constant prices

|                                  | Y <sub>1</sub> | Y <sub>2</sub> | Y <sub>3</sub> | Y <sub>4</sub> | Y <sub>5</sub> | Y <sub>6</sub> | Y <sub>7</sub> | Y <sub>8</sub> | Y <sub>9</sub> | Y <sub>10</sub> |
|----------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-----------------|
| <b>Transition costs</b>          | -              | -              | -              | -              | -              | -              | -              | -              | -              | -               |
| <b>Annual recurring cost</b>     | 0.65           | 0.90           | 0.62           | 0.62           | 0.62           | 0.90           | 0.90           | 0.62           | 0.62           | 0.62            |
| <b>Total annual costs</b>        | 0.65           | 0.90           | 0.62           | 0.62           | 0.62           | 0.90           | 0.90           | 0.62           | 0.62           | 0.62            |
| <b>Transition benefits</b>       | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ              |
| <b>Annual recurring benefits</b> | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ              |
| <b>Total annual benefits</b>     | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ             | NQ              |

\* For non-monetised benefits please see summary pages and main evidence base section

## Evidence Base (for summary sheets)

### Overview of Problem

1. The current aviation regulatory framework was established under the 1982 Civil Aviation Act. The Government has identified intervention is required to update legislation because the CAA lacks powers to provide the information passengers need (and do not have) to make informed decisions about purchasing air travel.

### Overview of Options

2. Option 0: "Do nothing"
3. Option 1: Empower the CAA to ensure data are published on service standards and environmental performance of airlines and airports to help consumers make more informed choices about purchasing air travel.

### Consultation

4. The previous Government consulted on these proposals in December 2009<sup>1</sup>. The policies have been reviewed in light of the consultation responses and the changes made following the consultation are set out, where appropriate, in this impact assessment. When this policy was consulted on late in 2009, consumer groups supported the proposals, but it met with mixed responses from businesses in the aviation industry, which recognised the benefits but had concerns about the burden that could be placed on them. In response to these concerns, we have amended the way in which the policy would be implemented to ensure that the burden on industry is proportionate to the benefits (see paragraph 37 for details).

### Assumptions

5. In calculating CAA resource costs, a Full Time Equivalent (FTE) employee is assumed to cost £80,000 per year, incorporating non-salary costs such as tax and national insurance. This figure is drawn from CAA estimates of the typical employee cost in the industry. Net Present Value (NPV) calculations are performed over a period of 10 years using a real discount rate of 3.5%. A real discount rate of 3.5% is in line with Government guidance. Ten years was regarded as a reasonable period over which to calculate the NPV of these proposals.
6. Cost information from the Administrative Burdens database, adjusted for inflation (assumed to average 3.5% p.a. since 2005) has been used as the basis for labour calculations for industry costs. This gives a labour cost of £21.38 per hour, equivalent to a salary of just under £41,700 p.a. This labour cost is then uplifted by 30%, as per the Admin Burden database, to give an all-inclusive labour cost rate.
7. Industry costs have been calculated by multiplying the per-airline estimate by 75. The largest 75 airlines operating in the UK, by passenger numbers, were responsible for 95% of passenger movements in 2010, according to CAA data. The CAA believes that this will be the average number of firms they will ask to comply with the request.

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<sup>1</sup> As part of a wider consultation, available at <http://webarchive.nationalarchives.gov.uk/20110202210710/http://www.dft.gov.uk/consultations/closed/regulatingairtransport/>

## Problem under consideration

8. An airline ticket is a complex product with many characteristics that the passenger may consider when deciding on which airline and airport to travel with. For several of these characteristics, the passenger has sufficient information allowing for a direct comparison between different airlines and airports. These characteristics could include the price; time and duration of flight; several aspects of the airline's service quality (e.g. on board entertainment) and the range of passenger facing airport services (e.g. shops and restaurants). A lot of information is already available to the passenger through price comparison websites; airlines and airports own websites and consumer media materials such as a June 2010 report by *Which?* magazine into airline service quality<sup>2</sup>. The policy options outlined below in this impact assessment are not designed to replace these sources of consumer information (or to have any impact on them) but are designed to provide additional information only where the market fails to provide information that would help customers to make informed choices about purchasing airline tickets.
9. For some characteristics of air travel there is currently information held by airlines and airports, but less or no information available for passengers. If this information was available to passengers, it may help to inform decisions on which airport and airline they want to purchase their ticket for. For example, this information could include the average baggage reclaim waiting times both by airport and airline or the environmental performance of the airline or airport and the environmental impact of the way that an airline or airport operates its services. In addition, a requirement to disclose this type of information, where it is already held by airlines and/or airports, may provide incentives for these businesses to improve their performance in these areas. In particular, because air travel can be a relatively infrequent purchase for some customers, and some information can be difficult to observe at the time of purchase, provision of additional information may deliver benefits to consumers.
10. Information may not currently be made available by industry for commercial reasons, either because of the cost of collating and analysing it, because it is commercially sensitive or because there is no requirement to publish it and competitors do not do so. In particular, businesses can be reluctant to provide data that may indicate performance relative to their competitors, especially where they believe that the published data could omit explanation and context. An example of such information is delays to and loss of baggage. Some companies may not wish to publish information that shows poor performance relative to the competitors, and some may feel that they perform less well because they operate many complex transfer flights and would only wish to see their data published and directly compared to those of its competitors if this is explained.
11. Because air travel for most passengers is infrequent<sup>3</sup>, passengers do not have the opportunity to learn from their own or others' regular consumption of air travel. Such experience could provide an alternative to published information so that the passenger can learn through "trial and error", which airports and airlines best meet their requirements. However, this would not provide a solution for characteristics that remain unobservable such as environmental performance.

## Rationale for intervention

12. Intervention by Government in a specific market is generally justified on the basis that a market failure has been identified, which prevents the market maximising individuals' economic welfare. However, intervention must be proportionate and only made when the

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<sup>2</sup> Press notice at <http://www.which.co.uk/news/2010/06/air-new-zealand-and-swiss-soar-in-passenger-survey-215804/>

<sup>3</sup> Data from the CAA's 2010 Passenger Survey of a number of UK airports shows that the average passenger took 2.2 flights (5.2 for business passengers and 1.2 for leisure passengers) over the previous 12 months in 2010.

benefits of intervention outweigh the costs. Careful consideration should also be made of the possibility of unintended consequences.

13. In the case of the market for air travel, a problem of “asymmetric information” has been identified. Airlines and airports hold information that would help passengers to make informed choices about purchase of air travel, but that is generally not provided to consumers. As explained above (see paragraph 10), consultation responses have indicated that information that is useful to the passenger when deciding which airport and airline to buy their ticket from may not be made available by these firms. A further consequence is that, as specific information is not published by all airlines and airports, airlines that perform better in attributes that passengers’ may use to inform their purchase decisions, and so would have incentives to make this information available, may not benefit from increased sales and those that perform worse may not suffer from decreased sales. This is because there is a lack of comparative information that allows consumers to compare between competitor businesses. Because of asymmetric information, the market does not reward good performance and standards do not increase as they could. Requirements for airlines and airports to disclose information that they already hold to consumers could increase the economic efficiency of the market.
14. In particular this information failure can have two adverse impacts:
  - 1) The passenger does not always choose the flight that they would if they had access to more complete information; and
  - 2) Airports and airlines focus on gaining a competitive edge on characteristics that are observable to the passenger at the point of purchasing the airline ticket and not on those characteristics that are unobservable because of a lack of information. However, these characteristics that consumers cannot currently easily observe may be important to consumers in making informed purchase decisions.
15. There is evidence to support the existence of asymmetric information in the aviation sector, and that passengers would benefit from information, already held by airlines and airports, being made available to them. The Civil Aviation Authority (CAA) has undertaken an in-depth programme of research to examine what information passengers consider, and would find useful, in purchasing air travel. A large scale, statistically representative, survey conducted as part of this research<sup>4</sup> found that the second most important reason for not choosing the cheapest flight (behind better flight times) was superior airline service quality. However, the survey found that only 35% of passengers were satisfied that they had the information that they needed to compare the service quality of airlines when buying a ticket. Passengers were four times as dissatisfied with this as they were with understanding the final price and almost three times as dissatisfied with this as they were with understanding the cost of additional options offered. Furthermore, the aspects of service quality customers were found to be most dissatisfied about include those where it is most difficult for customers to currently compare performance between operators because figures are not published. For example, the survey found that passengers were generally less satisfied with their arrival experience than other aspects of their journey. This was particularly true of the waiting time at baggage reclaim.
16. CAA commissioned further survey research<sup>5</sup> in 2010 investigating how consumers chose their airport and airline, the importance of airline service quality, passenger rights and environmental considerations in consumers' decision-making processes when booking airline tickets. As with the previous survey, this survey was also statistically representative of consumers of air travel in the United Kingdom. The research found that respondents traded-

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<sup>4</sup> [http://www.caa.co.uk/docs/33/ORC\\_CAA\\_report.pdf](http://www.caa.co.uk/docs/33/ORC_CAA_report.pdf). As part of this research, 1,619 interviews were conducted between August and September 2008. The overall data is accurate to +/- 2.4% at the 95% confidence interval.

<sup>5</sup> Unpublished research by the CAA. As part of this research, Accent on behalf of the CAA surveyed 2,226 respondents.

off across the range of characteristics presented to them to choose the flight that they expected would best suit their needs. The survey found that almost two fifths (38%) of consumers thought that having 'access to information about the environmental impact of the flight you are booking' was very or quite important, a result consistent across passengers who had travelled for either business or leisure purposes on their previous trip. However, almost one third of consumers (30%) thought access to environmental information relatively unimportant, implying that some consumers would, and others would not, use environmental information if it was offered to them. This suggests that, in the case of environmental information, different consumers place relatively different weights on different characteristics of air travel when making purchase decisions.

17. The airline service quality attributes identified as important to consumers by the CAA (2010) research were: punctuality, baggage allowance, online check-in availability, number of lost bags and on board service (i.e. catering). The research found that consumers identified improved punctuality (measured in percentage points), and less lost bags, as important attributes. These results were generally evident across all the subgroups. Availability of on-line check-in was also found to be important to consumers, although more conclusively in some groups than others. Generally the baggage allowance and on-board service (i.e. catering) had a less material impact on the choices respondents made.
18. The survey found that consumers also valued access to information about their rights during disruption or if their bags were lost. The survey found that around three-quarters of consumers (78%) considered information on their rights during flight delays/cancellations or if they lost their bags was very or quite important. This proportion was fairly similar across the passenger subgroups. Just over a third of passengers (37%) were found to consider that it was important to have information about rights to assistance for disabled or reduced mobility passengers.
19. It is not possible to quantify the level of detriment that currently exists for consumers as a result of a lack of information. However, the programme of research implemented by the CAA found that passengers are not satisfied with the level of comparative information that is currently available to them and that some of them would use additional information, if it was available to them, in making choices between services.
20. Although this evidence indicates that passengers want additional information in order to make informed decisions about purchasing air travel, the research did not provide evidence that passengers would act on this information and change their behaviour. The response of consumers to the availability of more information will be important to determining whether this regulatory proposal will deliver benefits from more informed consumer choice.
21. A statistically representative survey undertaken for the Air Transport Users Council (AUC) in 2010<sup>6</sup> asked passengers about their experience in relation to a number of specific issues, including the reporting of performance information by airlines. The survey found that:
  - For 63% of consumers, performance league tables would influence their decision on which airline to use by a great deal or fair amount; and
  - 84% of consumers agree, or strongly agreed, that performance league tables should be made generally available.
22. The survey concluded that *“...performance reporting is an incentive to underperforming airlines to improve service quality. It also has a side effect of providing consumers with information to help inform their choice of airline... The results of the survey provide evidence of strong public support for performance reporting”*.

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<sup>6</sup> Available at <http://www.auc.org.uk/docs/306/AUC%20report%20on%20passenger%20survey.pdf> . This is a survey of 2072 passengers undertaken by Ipsos Mori on behalf of the AUC.



## Policy Objective

23. The Coalition Government has a stated aim to improve transparency of information and encourage, support and enable people to make better choices for themselves<sup>7</sup>.
24. The objective of the policy considered in this impact assessment is to reduce problems from asymmetric information between airlines/airports and consumers in the aviation industry by enabling the CAA to:
- (a) ensure better and more easily comparable information is made available to consumers on aspects of customer service and environmental performance to help passengers make more informed choices when purchasing air travel; and
  - (b) provide guidance to industry in order to enable best practice to be shared; but
  - (c) to only undertake these activities where the benefits of doing so clearly outweigh the costs.
25. The research cited at paragraph 15 above found that passengers are often unclear about service quality and environmental performance, as well as the division of accountability between, for example, airlines and airports. Well-informed consumers can be more effective in influencing airline and airport performance to deliver a service that consumers demand.

## Policy Options

### Do Nothing

26. The CAA already analyses and publishes a large amount of data in support of its regulatory functions. However, because of the constraints currently provided by the legislative framework, the CAA does not go beyond what is explicitly allowed for, and could be challenged as to the propriety of its actions if it did. The CAA therefore often finds it is unable to publish or require the publication of information that airlines and airports hold and that its research programme has found passengers would like to have to inform their purchase decisions. This problem would continue under the “do nothing” option.

### **Option 1 (Preferred Option): To grant the CAA the legal remit to require the publication of information**

27. This option would give the CAA the legal remit to (i) work with the aviation industry towards the aim of publishing information in a consistent way, and (ii) use its experience and expertise to provide guidance and advice to industry. This would be limited to information on customer service and environmental issues, and would include the ability to undertake research to support these aims. Furthermore, the CAA would be required to demonstrate that the benefits of publishing the data justify the costs before carrying out these activities. This cost-benefit test will be written into the legislation to implement this regulation.
28. This option would provide the CAA with powers to obtain information held by industry or under its control that it reasonably requires for the purpose of carrying out its new publication, guidance and advice functions. It would give the CAA the power to impose civil sanctions for non-compliance. The enforcement regime would be in keeping with those of other regulators, such as the communications regulator (Ofcom). It would include a right of appeal to the Competition Appeal Tribunal, with financial limits on the amount of any penalty which the CAA would be able to impose for failure to comply with an information request without reasonable excuse. The Department for Transport, as the sponsor for the CAA, will monitor the use of this power as part of our review of this provision.

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<sup>7</sup> Set out in the Coalition Programme at [http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition\\_programme\\_for\\_government.pdf](http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf)  
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29. The CAA would have a legal duty to publish and consult on the policy which it intended to adopt when performing its new functions and as explained in paragraph 27 must demonstrate that the benefits of applications of the policy justify the cost. In doing this the CAA have committed to following best practice, including:
- Considering various options against the 'do nothing' option;
  - Assessing likely costs and benefits of the various options;
  - Discussing potential options with stakeholders, where relevant, to discuss: additionality, commercial sensitivity, precedents etc;
  - On a short-list of options undertaking detailed cost-benefit analysis using Government guidance (e.g. Green Book, Impact Assessment guidance);
  - On proposed options, demonstrating how the benefits outweigh the costs, drawn from our evidence base; and
  - Consulting on the proposed options taking into account Cabinet Office guidance.
30. Furthermore, when the CAA makes use of this power, the CAA anticipates that there would be two distinct stages:
- an assessment stage, in which the CAA evaluates on a case-by-case basis, which pieces of information to investigate or request; and
  - an information-gathering and presenting stage, in which the CAA and industry collaborate to provide information to stakeholders.
31. This distinction is applied in the sections below discussing the benefits and costs.
32. A key underlying assumption of the following analysis is that the first stage of the CAA's screening process will work effectively, and information will only be requested where the benefits of providing information would demonstrably justify the costs of publishing it. In practice, the CAA will be expected to provide evidence that show this. This impact assessment therefore reflects the expectation that the option will result in no additional costs to the aviation industry other than the cost of information provision to passengers (which includes some data analysis and publication costs), and these will not outweigh the benefits to (i) consumers in securing better services as a result of information driving up standards and (ii) the environment. Research on market segmentation shows significant individual and group differences in people's preparedness to internalise environmental messages so the impact of this information on behaviour will be greater for some people<sup>8</sup>.
33. The CAA would not have new powers for the purpose of publishing information on safety performance across the industry. There are already strictly enforced standards for aviation safety, which would continue after the reforms come into effect.
34. In addition to the requirement that the CAA consults and undertakes a comprehensive cost-benefit analysis, the CAA is also required to have regard to the five principles of good regulation and the Regulator's code of practice when exercising these new functions. The principles are that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent; and they should be targeted only at cases in which action is needed. The requirement to act proportionately and only in cases where action is needed should ensure that the CAA would not seek to exercise these powers if the information is readily available or could be obtained elsewhere.

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<sup>8</sup> For example the 2001 OECD paper at <http://www.oecd.org/dataoecd/46/19/1895757.pdf>, pages 17-21

35. The CAA would be open to challenge in the courts through judicial review if it failed to perform its new functions in strict accordance with its legislative remit and public law. The CAA also consults each year on its charges (and from 2013 will be required to do so) and so any company subject to regulation by the CAA would have regular opportunities to voice concerns that the power was not being used appropriately.
36. This policy is for implementation of an enabling power. It is not possible, at this stage, to specify exactly the information the CAA will use this power for. More particularly, the CAA will be required to consult before using the power, so the scope of how they use this power will depend on responses to this consultation. However, examples of the sorts of information that the CAA could be able to have published by this provision are: comparative consumer information on baggage handling times, flight cancellations or delays; and environmental performance data such as carbon dioxide emissions per flight or per passenger kilometre, waste recycling rates, and noise and air quality information (particularly important to local residents). The CAA have provided two examples of how they expect to use the power and the costs to industry associated with this power (see from paragraph 60). These examples are based on immediately recognisable consumer issues. The CAA has provided two further examples of how they may use the power. The CAA expects to use the power approximately four occasions every five years.
37. As explained above in paragraph 4, this option was consulted on<sup>9</sup> in late 2009. Consumer groups supported the proposals but the proposals were met with mixed responses from the aviation industry, which recognised the benefits but had concerns about the burden that could be placed on them. To ensure that there is a limited burden on industry, the CAA would be, under the scope of this proposal, limited to either publishing information industry already possesses or facilitating the flow of information from the aviation industry to consumers; and, through the provision of guidance, to support industry in making service improvements. The CAA will not be able to compel industry to provide information or documents that industry could not be compelled to provide in evidence in civil proceedings before the court. The CAA's existing role of ensuring consistent and beneficial provision of information would also be developed through the provision of best practice guidance to industry, for example on flight procedures or airport energy efficiency, and through commissioning technical reports which support the development of this guidance.
38. Primary legislation is required to implement this option because the CAA's current information collecting powers can only be exercised where this is necessary to support an existing regulatory function. The CAA does not therefore have the power to collect and use information on aspects of performance that they do not regulate, but which may be relevant to the making of informed decisions by consumers. This legislative change would make information collection and dissemination to consumers a CAA function, and is predicted to influence consumer behaviour. For this reason, the objective can be achieved in no other way than through primary legislation giving CAA a power to collect such information.

## Discounted Options

39. Non-regulatory alternatives have previously been considered in detail in the consultation impact assessment<sup>10</sup>. The previous impact assessment considered an option to widen the scope of information that the CAA could seek beyond its existing regulatory functions, but without the power to compel industry to provide it. This permissive power was considered to be insufficiently strong and to be ineffective. The CAA already has experience of working with the aviation industry to publish information that would be useful to passengers and the wider public. Because such information was sensitive or could show that a specific business

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<sup>9</sup> Available at [http://webarchive.nationalarchives.gov.uk/\\*/http://www.dft.gov.uk/consultations/closed/regulatingairtransport/](http://webarchive.nationalarchives.gov.uk/*/http://www.dft.gov.uk/consultations/closed/regulatingairtransport/)

<sup>10</sup> Available at <http://www2.dft.gov.uk/consultations/archive/2010/regulatingairtransport/>.

performs poorly against some service criteria, the CAA had not been able to convince the aviation industry to publish this information voluntarily.

40. A permissive power would have the increased scope of Option 1 but would not in practice be expected to achieve more than the “do nothing” option. It could therefore involve some increased burden on the CAA in assessing the potential costs and benefits of a particular piece of information, but with little actual impact on information provision. Therefore, Option 1 is preferred. For further detailed analysis of the non-regulatory option, see the consultation impact assessment<sup>11</sup>.
41. Because of the constraints provided by the legislative framework, the CAA cannot go beyond what is explicitly allowed to publish information on and could be challenged as to the propriety of its actions if it did. The CAA often finds it is unable to publish or require the publication of information that its research suggests passengers would find useful. There are therefore no other alternatives available other than the option presented in this impact assessment and the consultation impact assessment,

### **Benefits of Option 1**

42. We believe that this option has the potential to provide significant benefits to consumers from reducing problems of an asymmetry of information between aviation businesses and consumers. This option could both increase passenger welfare by providing consumers with access to information that allows more informed choices in purchase of air travel and by increasing transparency of service quality and performance. The latter impact could encourage airports and airlines to offer products that better meet the needs of consumers.
43. In preparation of this impact assessment, several approaches were considered for monetising the benefits of this option. However, it has not been possible to robustly monetise the benefits associated with the CAA’s potential use of this power and the associated increase in the provision of information to consumers because:
- the information that the CAA may request when it uses the new power is not prescribed in advance; the use of the power is subject to consultation by the CAA and is therefore currently unknown; and
  - many factors and incentives influence, for example, airport waiting times and airline environmental performance, and therefore it is difficult to isolate the impact of information provision on performance as mediated through the market in comparable examples in other sectors or countries.
44. However, as explained above the CAA will have a legal duty, included within the legislation, to demonstrate that the benefits of each specific use of this power would justify the costs. Furthermore, the CAA’s charges which will fund the use of these reforms are scrutinised by industry who are well placed to ensure that the benefits will justify the costs. The combination of legislative requirements, and scrutiny from the aviation industry should prevent the costs of this policy outweighing the benefits.
45. Whilst it is not possible to monetise the benefits of this option at this stage, qualitative evidence is available regarding the potential benefits of this option. CAA research<sup>12</sup> has reported that industry performance is often worse where passengers cannot identify who is responsible for delivering a service and how well they are performing, and therefore cannot make informed choices between services (see paragraph 15 for further details). Although competition, for example between airlines, can be strong; there may be some areas where

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<sup>11</sup> Available at [http://webarchive.nationalarchives.gov.uk/\\*http://www.dft.gov.uk/consultations/closed/regulatingairtransport/](http://webarchive.nationalarchives.gov.uk/*http://www.dft.gov.uk/consultations/closed/regulatingairtransport/)

<sup>12</sup> [http://www.caa.co.uk/docs/33/ORC\\_CAA\\_report.pdf](http://www.caa.co.uk/docs/33/ORC_CAA_report.pdf)

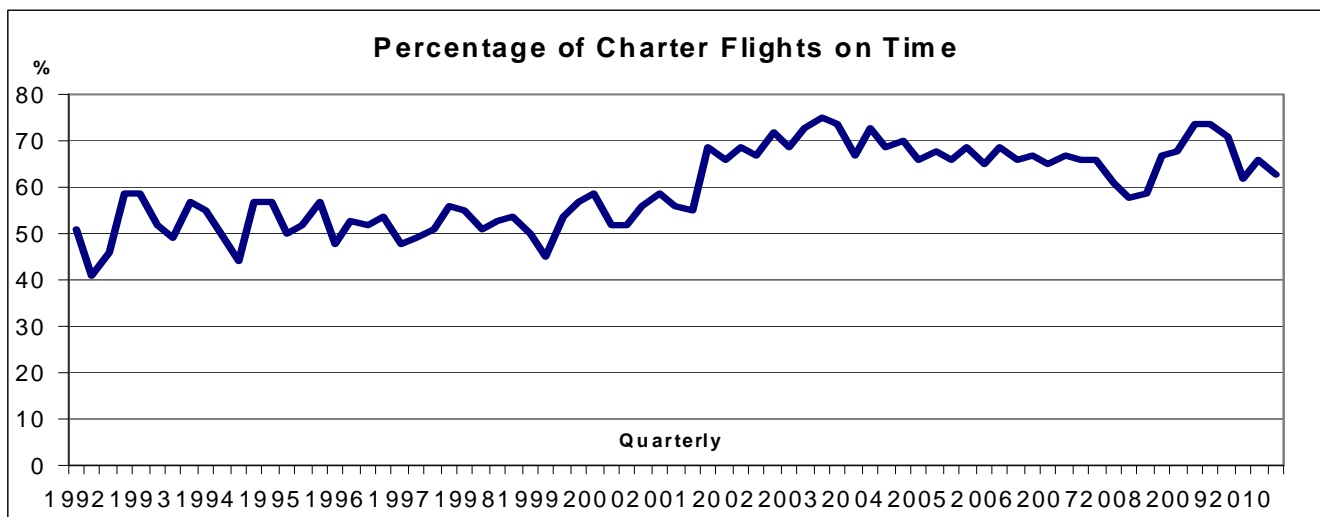
operators could have limited incentive to improve the service they provide, and so the interests of passengers and the airlines are not aligned.

46. While there are currently incentives for aviation businesses to make improvements in, for example, environmental performance via measures such as lowering fuel costs by reducing fuel use (and therefore emissions), research has found that greater customer awareness, facilitated through the provision of information, can enhance these incentives and make environmental issues more visible. For example, a comprehensive assessment of three years of the 'Choose Another Way/ Learn to Let Go' campaign in Scotland showed some 8% of the population considered changing behaviour as a result of the nation-wide campaign and significant improvements in the awareness of a variety of travel initiatives over the period, although this was not sufficient on its own to change behaviour<sup>13</sup>. One often cited limitation to environmental information is that it is not always credible or transparently produced<sup>14</sup>. The involvement of the regulator in this information initiative should help to overcome this credibility gap.
47. Once passengers have the information they need to make more informed decisions, airlines and airports will then have an increased incentive to raise standards, in areas where they perform below competitors, in order to attract passengers. AUC research cited and described at paragraph 21 above found that passengers are prepared to change their behaviour in this way.
48. There is also evidence from specific examples of how data collection and publication have given consumers more information on which to base their decisions. For example, the CAA have been collecting punctuality statistics at airports since 1992, but initially only published data by airport split by scheduled (S) and charter (C) flights. In 1997, the Air Transport Users Council (ATUC) began publishing a 'league table' of charter airline punctuality for the summer season based on the punctuality statistics.
49. The graph below shows what has happened to On-Time performance (percentage of charter flights less than 15 minutes late) in subsequent years. Charter performance has been on an upward trend from about 1998, after the ATUC started publishing league tables, and shows a marked increase in 2001, which coincides with the publication of the statistics in a national newspaper. While it is difficult to establish causality and it is uncertain what role other drivers have played, it does appear that comparative performance data can be one of a number of factors that influence future performance.

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<sup>13</sup> Reported in the DfT's "Review of public attitudes to climate change and transport" reported at [http://www2.dft.gov.uk/pgr/sustainable/areviewofpublicattitudestocl5731\\_pge\\_6-.html?page=6](http://www2.dft.gov.uk/pgr/sustainable/areviewofpublicattitudestocl5731_pge_6-.html?page=6)

<sup>14</sup> See for example the 2001 OECD paper at <http://www.oecd.org/dataoecd/46/19/1895757.pdf>, page 5



Source: The CAA

50. The benefits of information provision were also highlighted by the Environmental Audit Committee (EAC) in their 2009 report<sup>15</sup>, which discussed the merits of environmental information provision and environmental labelling. Their key findings were that, *'one of the most powerful ways in which individuals can bring about social and environmental change is through ethical consumer choice.'*
51. In terms of the evidence that the EAC collected, it was noted by Tesco how *'labelling, when accompanied by appropriate information and incentives, had significantly influenced consumer choice....'* Because many UK airlines are now providing environmental information to their customers, and some are providing White Goods type 'A-G' ecolabels, it is probable that airlines are using this information to influence consumer choices. The proposed power could enable the CAA to perform a useful role in providing standardised information to consumers and ensuring that this information is impartial and accurate. Information collection and publication powers might also support the analysis of events that disrupt passengers - such as the recent snow event in December 2010. Greater transparency over the performance of airlines, airports and other service providers during such events might also enhance the commercial incentives faced by industry to improve resilience and work alongside the enforcement measures also proposed in the legislation and subject to separate published impact assessments.
52. It is also possible that Industry itself could benefit from better and more co-ordinated information in the form of best practice guidance which could help industry find the most cost-effective ways to improve standards. An individual business would not have the incentive to expend resource to improve the efficiency of its sector overall. But initiatives aimed at improving operational procedures or publishing guidance on best practice may potentially benefit all businesses by reducing costs, as well as the performance of the industry as a whole.
53. In the first instance, the CAA would use the data it already possessed, including consumer research, to assess the benefits and costs of requesting specific pieces of information. This would reduce the risk of costly attempts to gather information that would bring limited benefits. The CAA will have a legal duty to only seek additional information where there were significant net benefits to doing so.
54. Given that the way in which the CAA could make use of its publication powers has not been prescribed, the CAA would have a wide range of options available to it in practice, and would be expected to prioritise its efforts based on the evidence it is able to gather. This is

<sup>15</sup> Environmental Audit Committee (March 2009), *Environmental Labelling*, available at <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmenvaud/243/24302.htm>

expected to lead to general improvements in the transparency of the industry, enabling consumers to make more informed decisions that support the functioning of a competitive market, and to the provision of valuable guidance to industry.

55. To better understand the potential benefits to consumers of air travel from publication powers, the existing powers granted to other regulators and consumer advocacy bodies provide useful insight. For example, Consumer Focus publishes information on energy suppliers' performance against complaint handling standards, obtained through the use of powers granted under The Consumers, Estate Agents and Redress (CEAR) Act 2007. These powers can also be used with regard to postal services. Consumer Focus state that through the provision of visible complaints performance information they aim to empower consumer choice and encourage energy suppliers to improve performance<sup>16</sup>. In a similar way, the Consumer Council for Water (under the Water Act 2003) publishes information on complaint handling in the water industry<sup>17</sup>.
56. Under the Railways Act 1993 the Office of the Rail Regulator (ORR) has the power to collect information and to include duties to provide information into licences both Network Rail and Train Operating Companies. License holders are subject to a duty to provide information when served with the appropriate notice. Key ORR publications include the Network Rail Monitor<sup>18</sup> which reports on licence obligations and National Rail Trends (NRT)<sup>19</sup> which has data on punctuality, rail usage, freight, amongst other indicators. In addition to the NRT, information regarding safety is also published annually under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR).

## Costs of Option 1

57. As noted above in paragraph 30, assuming that the CAA chooses to make use of its wider remit, two forms of cost would be incurred as a direct consequence of the proposal. In the first instance, the CAA would dedicate resources to identifying information gaps, assessing the costs and benefits of requesting information on a case-by-case basis, and working with industry to build support for information dissemination (which includes a consultation period). In the second, the industry could incur some costs in analysing and disseminating that information and providing the information to passengers. However, the costs on industry would be limited since the CAA would not have the power to compel any changes in behaviour and the collection of new information that industry does not already possess.

## Costs to CAA

58. For the first stage costs, in terms of the cost of assessing the costs and benefits of a specific information request, it is not possible to say with certainty at this stage how the CAA will pursue its new power. For the best estimate, the CAA has estimated that they would dedicate 1.5 full-time equivalent staff (FTE) to assessing the costs and benefits of specific pieces of information. This cost would primarily cover the staff time necessary to draw conclusions from existing customer research and carrying out additional primary research to determine which areas to focus on. The cost of 1.5 FTE over the ten years of the standard appraisal period is estimated to amount to £1.0 million in PV terms. For the low estimate, it is assumed that the requirement of 1.5 FTE only applies in the first two years after enactment and that from the third year onwards the resource requirement can be scaled back to 1 FTE once the scoping of the use of the power has been completed. For the low case, it results in an estimated cost of about £0.7 million in PV terms. For the high estimate, it is assumed that the CAA must instead dedicate 2 FTE, at an estimated cost of £1.3 million in PV terms.

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<sup>16</sup> <http://www.consumerfocus.org.uk/files/2011/09/Energy-supplier-performance-against-Complaint-Handling-Standards.pdf>

<sup>17</sup> [http://www.ccwater.org.uk/upload/pdf/Complaint\\_Handling\\_in\\_the\\_Water\\_Industry.pdf](http://www.ccwater.org.uk/upload/pdf/Complaint_Handling_in_the_Water_Industry.pdf)

<sup>18</sup> <http://www.rail-reg.gov.uk/server/show/nav.293>

<sup>19</sup> <http://www.rail-reg.gov.uk/server/show/nav.2026>

59. The CAA has stated that it does not expect the licence fees that it charges aerodromes, airlines and personnel to increase because of the costs arising from the use of these information and publication powers. The CAA is expected to be able to absorb these costs within its existing charging scheme.

### Costs to industry

60. In terms of the second stage costs, industry will incur costs in data analysis and disseminating the relevant information when the CAA chooses to use this power. Industry will not incur costs for data collection as they are likely to already have this information available. The CAA has developed two examples of where they will consider using these powers in the first year they receive the power. These are based on immediately recognisable consumer issues where it is believed that information exists but is not available to the public. The consequence of this information availability is that the cost of collection of the data is zero, as is shown below. The CAA consider this as representative of the case for many future information requests that might be made – the raw data is already collected and analysed, but is not made available to the public in an accessible and understandable way. These two examples form the basis for estimating the future costs on industry.

61. The costing examples are based on information and estimates provided by the industry and the CAA. We have estimated an upper range of the costs using a 100% uplift in labour required and for a low case using a 25% reduction in labour required. These are to allow for the uncertainty in estimating resource requirements without a detailed task specification.

62. The two examples below indicate the costs of complying with different types of information request. Over the first 10 years of the existence of the powers, the CAA may have a number of ongoing information requests which may be in effect at any one time. The burden calculation assumes that:

- four requests, similar to those costed below<sup>20</sup>, are brought are in during the first two years (two each year) following the commencement of the information powers; and
- these requests are each replaced once during the first 10 years in the 6<sup>th</sup> and 7<sup>th</sup> years.

#### Example 1: Baggage handling times at airports

##### *The consumer issue*

63. Prompt delivery of baggage from arrived aircraft to the carousel is an important part of the passenger's experience of a journey. The CAA considers this may be an issue in which it would use the information powers within the first 18 months of their coming into force. Gatwick Airport has recently started publishing information allowing consumers to compare the performance each month of the busiest airlines and their baggage agents. The CAA is not aware of any other UK airport, or any UK airline, currently publishing the information.

##### *Current availability of information to industry*

64. The CAA understands that contracts between airlines and their ground handling suppliers (who provide customer check-in, baggage handling and other services on their behalf) routinely include requirements to provide management information on baggage handling performance (lost and damaged bags, time of first and last bag to carousel, etc). These are used to determine whether performance is compliant with service level agreements. Airlines

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<sup>20</sup> We assume that of the four requests, two of the requests generate the costs of example 1 and two of the requests generate the costs of example 2. Furthermore, when these requests are replaced, they are replaced with requests that have the same set up costs and the same on-going costs.



that self-handle also usually measure this type of information. It is understood that this information is collected and reported in a consistent manner across airlines and airports.

*Estimated administrative burden imposed*

Data Collection

65. Airlines are likely to already have this information available, and the CAA will not be able to compel airlines to provide information that they do not already hold or cannot reasonably be expected to provide. Therefore, no extra costs should be incurred for collection.

|  |           |
|--|-----------|
| <b>SET-UP COSTS</b>  |           |
| Total industry set-up cost   | <b>£0</b> |
| <b>ONGOING ANNUAL COSTS</b>  |           |
| Total industry cost of collecting and analysing baggage handling times | <b>£0</b> |

Data Analysis

66. An individual airline may have different performance data across several airports. Any one airport would have to collate data from a number of airlines. There would therefore be some analytical effort for any one company to provide the information required. The CAA estimates this work to be:

- approximately one day's work to establish data feeds, build spreadsheets and set up presentation formats on a one-off basis;
- approximately four hours for a middle-manager / analyst, per month, if monthly reporting was required, as ongoing costs.

|  |               |                |                 |
|--|---------------|----------------|-----------------|
| <b>SET-UP COSTS</b>  |               |                |                 |
| Per airline, analytical work to set up reporting process and models, spreadsheet, format etc | £21.38 / hour | 7.5 hours      | £ 160           |
| Administrative overhead estimate   |               | 30%            | £ 48            |
| Set-up cost per airline  |               |                | <b>£ 208</b>    |
| Total industry cost  | X 75 airlines | <b>0.3 FTE</b> | <b>£15,600</b>  |
| <b>ONGOING COSTS</b>   |               |                |                 |
| Per airline, cost per airline of estimated analytical work                                   | £21.38 / hour | 48 hours p.a.  | £1,026          |
| Administrative overhead estimate   |               | 30%            | £ 308           |
| Cost per airline   |               |                | £1,334          |
| Total industry cost  | X 75 airlines | <b>1.2 FTE</b> | <b>£100,050</b> |

Data Publication

67. The costs to industry of publication would be impacted by the form and frequency of publication that the CAA would require. Publication costs would not be incurred if the CAA or another body were going to publish the data.

68. In this example, it might be appropriate for airports to publish the data for the airlines operating there, as currently happens at Gatwick.

69. One-off costs would be incurred in setting up web-page in the first instance: design, development, test and approval. Ongoing uploading of monthly data has also been calculated.

| <b>SET-UP COSTS</b>  |               |                |                |
|--|---------------|----------------|----------------|
| Per airline, analytical work to set up reporting process and models, spreadsheet, format etc | £21.38 / hour | 22.5 hours     | £ 481          |
| Administrative overhead estimate   |               | 30%            | £ 144          |
| Set-up cost per airline  |               |                | £ 625          |
| Total industry cost  | X 75 airlines | <b>0.9 FTE</b> | <b>£46,875</b> |
| <b>ONGOING COSTS</b>   |               |                |                |
| Per airline, uploading cost  | £21.38 / hour | 12 hours p.a.  | £ 257          |
| Administrative overhead estimate   |               | 30%            | £ 77           |
| Cost per airline   |               |                | £ 334          |
| Total industry cost  | X 75 airlines | <b>0.5 FTE</b> | <b>£25,050</b> |

### Example 2: Environmental Impacts of Flights

#### *The consumer issue*

70. Evidence from other industries suggests that consumers change their buying behaviours when useful environmental information is made available, and schemes to reflect this now exist in the markets for residential property, “white” goods and new cars. Airlines’ environmental performance does vary but this information is not available to the public.
71. In this example, the CAA have estimated the costs of provision of information regarding the climate change impacts of flights.

#### *Availability of information to industry*

72. Since the inclusion of aviation in the EU Emissions Trading System (EU ETS), all airlines operating in the UK and emitting over 10,000 tonnes CO<sub>2</sub> per annum have been required to record the actual fuel burned on each flight originating in the EU. This would be the key base information needed for any analysis of the carbon emissions arising from flights (the actual airlines required to provide/publish information is assumed to be 75 in this example). In consultation with the industry about any proposed information request under the powers, the CAA would consider whether the information provided under EU ETS would be sufficient for the purposes of informing consumers, which would avoid the need for effort to normalise the information, or whether further analysis would be required.
73. For EU ETS reporting purposes, fuel burn information is only recorded as far as the first destination point outside the EU. For example, a flight from London to Sydney via Singapore would only record fuel burn data as far as Singapore. This may pose an additional requirement if full comparability is required, but has not been included in this example.

#### *Estimated administrative burden imposed*

#### Data Collection

74. All the core information is already collected by industry. The CAA would seek to use existing data and formats as far as possible, to avoid additional burden.

| <b>SET-UP COSTS</b>  |  |  |    |
|--|--|--|----|
| Cost to industry of setting-up collecting relevant information |  |  | £0 |
| <b>ONGOING ANNUAL COSTS</b>                                    |  |  |    |
| Cost to industry of collecting relevant information            |  |  | £0 |

### Data Analysis

75. The CAA have assumed that some further analysis of the information would be required in order to make it self-explanatory and easily understood at the point of publication.

| <b>SET-UP COSTS</b>   |               |                |                 |
|---|---------------|----------------|-----------------|
| Per airline, analytical work to set up analysis models, information flows etc | £21.38 / hour | 22.5 hours     | £ 481           |
| Administrative overhead estimate  |               | 30%            | £ 144           |
| Set-up cost per airline   |               |                | £ 625           |
| Total industry cost per annum   | X 75 airlines | <b>0.9 FTE</b> | <b>£46,875</b>  |
| <b>ONGOING ANNUAL COSTS</b>   |               |                |                 |
| Per airline, cost per airline of estimated analytical work                    | £21.38 / hour | 48 hours p.a.  | £ 1,026         |
| Administrative overhead estimate  |               | 30%            | £ 308           |
| Cost per airline  |               |                | £1,334          |
| Total industry cost per annum   | X 75 airlines | <b>1.9 FTE</b> | <b>£100,050</b> |

### Data Publication

76. The costs of publication would be impacted by the form and frequency of publication required. Publication costs may not be incurred if the CAA or another body is going to publish the data. The CAA recognises that it may not be meaningful to directly compare the carbon emissions of airlines operating different route patterns and will consider this when consulting on any particular proposed information request in the future.

77. Assuming the requirement was for each airline to publish the data monthly on its website:

- Design, development and test of the web page
- Monthly upload of new data.

| <b>SET-UP COSTS</b>                                      |               |                |                 |
|--|---------------|----------------|-----------------|
| Per airline, design, test and implement reporting format | £21.38 / hour | 75 hours       | £ 1604          |
| Administrative overhead estimate                         |               | 30%            | £ 481           |
| Set-up cost per airline                                  |               |                | £ 2,085         |
| Total industry cost per annum                            | X 75 airlines | <b>3.0 FTE</b> | <b>£156,375</b> |
| <b>ONGOING ANNUAL COSTS</b>                              |               |                |                 |
| Cost per airline of estimated analytical work            | £21.38 / hour | 24 hours p.a.  | £ 513           |
| Administrative overhead estimate                         |               | 30%            | £ 154           |
| Cost per airline   |               |                | £ 667           |
| Total industry cost per annum                            | X 75 airlines | <b>1.0 FTE</b> | <b>£50,025</b>  |

## Further examples of how the new powers may be used

### Example 3: Average fleet age

#### *The consumer issue*

78. At the point of purchase when choosing between airlines, consumers are not aware of the average age of the aircraft fleet. Some airlines do make this information available to passengers once on board (in on board company literature for example) but at this point the information cannot be used by consumers to inform their purchase choice.
79. The availability of information regarding the average aircraft fleet age will give consumers a better understanding of which airlines are investing in new and more efficient aircraft. For example. Information could be collected regarding the age, model and type of aircraft, and then banded in a consistent manner across airlines allowing consumers to compare fleet mix and performance. In order to ensure performance bands reflect efficiency as closely as possible further analysis will be required, and airlines would be consulted on any proposals.
80. Publishing average fleet age to aid understanding of aircraft efficiency should also present the information in a clear manner and facilitate quick decisions at the point of purchase. Aircraft efficiency, indicated by fuel burn, should also be come available from the EU ETS but this information may be too complex for some passengers to make timely and informed decisions.

#### *Availability of information to industry*

81. The CAA anticipates that the information necessary to publish data on the average fleet age is already held by airlines and the cost of providing fleet mix information to be minimal.

### Example 4: Seat pitch of seats on aircraft

#### *The consumer issue*

82. Seat pitch is the distance between a row of seats measured from the back face of the seat they are sitting in to the same point on the back face of the seat in front. Passengers are likely to find this information valuable as it can affect the comfort of their flight. This space can vary considerably, particularly between classes of travel, with more leg room available in first and business class. Within the same class the pitch can also vary, for example between 28 and 33 inches in economy class. Seat pitch information is not typically available during the booking process and may only be available once a passenger is on board an aircraft. Some airlines do allow passengers to purchase seats with extra leg room, but do not specify the amount of extra legroom.
83. The ability to access clear information on seat pitch would allow passengers that value space on board the aircraft to incorporate this into their purchasing decision and more effectively compare across airlines. It would also facilitate a more accurate valuation of any additional leg room purchased.

#### *Availability of information to industry*

84. Information regarding seat pitch across aircraft models and configurations should be known by airlines and the CAA anticipates the cost of providing seat pitch data to be minimal.

#### *Estimate administrative burden imposed*

85. The CAA expect the costs of collecting, analysing and publishing data regarding average fleet age and aircraft seat pitch to be similar to those of baggage handling times and the environmental impact of flights. Therefore, for the purposes of calculating the total costs to industry, examples 1 and 2 are included below to illustrate eight requests being brought forward by the CAA (the expected number of requests over the ten year appraisal period, see paragraph 62).

### Total costs to industry

86. Putting these assumptions of costs for examples 1 and 2 together with the assumptions on the number of requests the CAA is likely to bring forward (see paragraph 62) we derive the total costs to industry. The table below provides a summary of the best estimate of the costs annually as well as the costs for request over the appraisal period:

| £m                                    | Y <sub>1</sub> | Y <sub>2</sub> | Y <sub>3</sub> | Y <sub>4</sub> | Y <sub>5</sub> | Y <sub>6</sub> | Y <sub>7</sub> | Y <sub>8</sub> | Y <sub>9</sub> | Y <sub>10</sub> |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-----------------|
| <b>Request 1 (Example 1)</b>          | 0.16           | 0.09           | 0.09           | 0.09           | 0.09           | -              | -              | -              | -              | -               |
| <b>Request 2 (Example 2)</b>          | 0.37           | 0.16           | 0.16           | 0.16           | 0.16           | -              | -              | -              | -              | -               |
| <b>Request 3 (Example 1)</b>          | -              | 0.16           | 0.09           | 0.09           | 0.09           | 0.09           | -              | -              | -              | -               |
| <b>Request 4 (Example 2)</b>          | -              | 0.37           | 0.16           | 0.16           | 0.16           | 0.16           | -              | -              | -              | -               |
| <b>Request 5 (Example 1)</b>          | -              | -              | -              | -              | -              | 0.16           | 0.09           | 0.09           | 0.09           | 0.09            |
| <b>Request 6 (Example 2)</b>          | -              | -              | -              | -              | -              | 0.37           | 0.16           | 0.16           | 0.16           | 0.16            |
| <b>Request 7 (Example 1)</b>          | -              | -              | -              | -              | -              | -              | 0.16           | 0.09           | 0.09           | 0.09            |
| <b>Request 8 (Example 2)</b>          | -              | -              | -              | -              | -              | -              | 0.37           | 0.16           | 0.16           | 0.16            |
| <b>Total annual costs to industry</b> | <b>0.53</b>    | <b>0.78</b>    | <b>0.50</b>    | <b>0.50</b>    | <b>0.50</b>    | <b>0.78</b>    | <b>0.78</b>    | <b>0.50</b>    | <b>0.50</b>    | <b>0.50</b>     |

87. The total industry costs in present value terms for our best estimate are £4.9m (over 10 years). Applying our assumptions for high and low labour costs (see paragraph 58) we estimate the costs have a range between £3.7m and £9.7m (in present value terms over 10 years). It is possible that there could be economies of scale from multiple information requests since industry could share costs across different requests. However, we have taken a conservative approach in these calculations since it is possible that industry would not be able to realise such savings given the requests could be wide ranging across different aspects of the airline/airport business and different airlines/airports may be covered by different requests. Furthermore, this would require making further assumptions regarding the proportion of shared costs, which could generate spurious accuracy in the calculations.

### Costs of appealing sanctions

88. The increased use of newly-available sanctions could result in appeals to such decisions, and these would be heard by the Competition Appeals Tribunal (CAT). It is difficult to anticipate in advance: the extent to which stakeholders would not comply with requests for information; any sanctions that would in practice be applied (up to the statutory limit of £50,000); and the number of appeals that would result. Given the expectation that the CAA assesses the costs and benefits of all potential information requests in advance, and consults with stakeholders, it is assumed for the purpose of this impact assessment that there is compliance in all cases and that there would be no appeals. However, if an appeal was launched, the Department for Transport would expect the costs per appeal to be less than £0.25 million (including costs to the CAA, CAT and the appellant). This is based on the view of the CAT, who has found that the majority of their cases cost below £0.5 million with a third of cases costing below £0.25 million. Because these cases should be less complex compared to, for example, cases of economic regulation that the CAT already deals with,

these cases are more likely to be within the third of the CAT's caseload that cost below £0.25 million.

## Summary

89. In total, our best estimate of the costs is estimated to amount to £5.9m in PV terms. As explained earlier the CAA believes it should be able to absorb its costs. The costs to industry will place a burden that equates to less than 0.04 pence per passenger carried<sup>21</sup>. Should the CAA and industry require additional (less) resources we estimate that the costs could be as high (low) as £11.1m (£4.4m) in present value terms.
90. We believe there are substantial benefits that could result from implementing option 1. Despite these benefits not being monetised, given the costs are relatively small (less than 0.04 pence per passenger) compared to the potential benefits, we believe this policy should deliver benefits to consumers whilst placing limited burdens on industry and potentially providing benefits to aviation businesses by allowing more transparent comparison of performance.
91. As the CAA will have a legal obligation, included in the legislation, to demonstrate that the benefits outweigh the costs before using this power; because the CAA also does not intend to raise its charges to cover the costs of assessing each case and because the CAA cannot oblige industry to collect information it does not already possess the additional costs to the aviation industry are expected to be small, and only generated where the benefits are shown to outweigh the costs. **Therefore our preferred option is option 1.**

## One In Two Out

92. The Government is committed to cutting regulatory red-tape with the One In Two Out (OITO) approach to regulation, whereby new regulation with a direct impact on business cannot be introduced without an equivalent cut in regulation elsewhere. This policy will place a net burden on business and hence is considered an IN. **For the preferred option, the best estimate is that the Equivalent Annual Net Cost to Business (EANCB) is £0.55m with a range of £0.41m to £1.10m.** Note, as in line with the OITO guidance, the estimates presented here (and in the summary sheets) are in 2009 prices and have a 2010 present value base year.
93. As explained in paragraph 59, the CAA is expected to be able to absorb these costs within its existing charging scheme. Therefore, the calculations above only include the direct costs to industry as set out in paragraphs 86 and 87.

## Microbusiness Impact

94. The Government has stated that it will impose a moratorium between 2011 and 2014 on further domestic regulation on micro businesses. Since (i) the CAA has stated that it does not expect any increase in licence fees to result from the use of the publication powers, and (ii) the power will not be used until consultation has taken place on a statement of policy with regard to its use and this is expected to take place in 2013; no costs are expected to fall on microbusinesses during the moratorium period as a result of the creation and use of this power.

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<sup>21</sup> £620k annual costs divided by 180 million (95% of passengers) passengers movements in 2010.

## **Change to impact assessment resulting from the Regulatory Policy Committee opinion**

95. The Regulatory Policy Committee opinion on the impact assessment of CAA governance was made on 30 September 2011 (RPC11-DFT-0645(4)). The comments related wholly to the proposed publication functions. For greater clarity of what had and had not been changed and for ease of use by those considering the Bill, the section of the impact assessment relating to the publication functions was therefore separated out into this impact assessment document. Changes were made in response to the opinion of the Regulatory Policy Committee by the addition of paragraphs 6-7, 33, 55-6, 59, and 61-91.

# Annexes

## Annex 1: Post Implementation Review (PIR) Plan

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| <p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>The PIR plan represents a commitment to review the effectiveness of the proposed reforms after their effects have become clear. In most cases this can be done on an ongoing basis rather than at a pre-determined point in time.</p>  |
| <p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The objective is a proportionate check that the desired outcome is being achieved, and a test of whether any unforeseen problems emerge.</p>  |
| <p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>It will be appropriate for the review to include seeking the views of interested parties. In line with the proportionate approach, consultations are intended to be light-touch in nature, and in many cases can be carried out as part of regular informal interactions between the DfT, the CAA and other interested parties.</p>                             |
| <p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The baseline will reflect the do nothing scenario where the CAA have no powers to facilitate the publication of information.</p>   |
| <p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>The key criterion will be perceptions regarding the effect of the proposal. This could include assessments of the amount and quality of information provided under the publication powers proposal, for example. In addition, the cost burden of the publication powers proposal and the impact on staff retention of the governance proposal will need to be assessed.</p> |
| <p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p> <p>It is not anticipated that formal consultations or information gathering exercises will be needed, as the expense of these would be disproportionate. Rather, consultations and information gathering will be carried out as part of day-to-day activities.</p>   |
| <p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p> <p>N/A.</p>   |



## **Annex 2: Specific Impact Tests**

### **Statutory equality duties**

#### **Race**

96. The proposals relate to all passengers, therefore we do not anticipate that these reforms will lead to:

- Different consequences according to people's racial group;
- People being affected differently according to their racial group in terms of access to a service, or the ability to take advantage of proposed opportunities;
- Unlawful discrimination, directly or indirectly, against people from some racial groups;
- Different expectations of the policy from some racial groups;
- Harmed relations between certain racial groups, for example because it is seen as favouring a particular group or denying opportunities to another; or
- Damaged relations between any particular racial group (or groups) and the DfT.

#### **Disability**

97. The Equality Act 2010 now gives rights to disabled people in the area of access to goods, facilities and services. The proposals apply equally to all passengers, and so we do not anticipate any disadvantages or discrimination against disabled people, in line with this Act.

98. There may be specific opportunities based on the publication powers proposal for the CAA to collect and publish information related to access to goods, facilities and services for disabled people. Any specific impact would be indirect, and we would expect it to be positive.

#### **Gender**

99. The proposals will apply to all passengers. Therefore, we do not anticipate that these reforms will lead to:

- Different consequences according to people's gender;
- People being affected differently according to their gender in terms of access to a service, or the ability to take advantage of proposed opportunities;
- Unlawful discrimination, directly or indirectly, against genders; or
- Different expectations of the policy from between genders.

### **Competition**

100. The proposals do not:

- Directly or indirectly limit the number or range of suppliers; or
- Limit the ability of suppliers to compete.
- Only the proposal to permit the CAA to request and publish information potentially affects suppliers' incentives to compete. To the extent that this proposal affects competition, it should enhance it by improving the amount and quality of information on which customers base their decisions.

### **Small firms**

101. We do not anticipate that the proposals will affect the burden placed on small firms in particular. While the publication powers proposal could require industry to incur some costs in supplying information, in practice the information that is of most use is likely to come from the largest firms.

## **Greenhouse gas assessment**

102. The aviation sector already has targets and policies in place to ensure it plays its part in helping to reduce greenhouse gas emissions and thus achieve the UK's climate change targets. These proposals do not affect such policies or targets.
103. However, the publication powers proposal could enable the CAA to publish information or guidance related to greenhouse gas emissions (among other things), if there is sufficient evidence regarding the scale of benefits. As noted in the text, we expect any impact resulting from this to be positive. This expectation is supported by experience in the automotive sector, in which customers have been receptive to information on, for example, exhaust emissions and fuel efficiency.
104. It is not currently possible to quantify the effect of this proposal on CO<sub>2</sub> emissions because it is a matter for the CAA to determine whether or not it will apply the information function in respect of CO<sub>2</sub>. The CAA will not do so if it considers that the information already in the public domain is sufficient.
105. Other proposals are not expected to affect the production of greenhouse gases.

## **Wider environmental issues**

106. There are three wider environmental issues relevant to the aviation sector as a whole: noise pollution, air quality and impact on protected species and habitats. The publication powers proposal would enable the CAA to publish information and guidance related to wider environmental issues. To the extent that this leads to changes in the behaviour of consumers, airlines or other stakeholders, we expect the impact to be positive.
107. In relation to noise pollution, it is possible that some measures taken to limit greenhouse gas emissions could increase the amount of noise produced; alternatively, it is possible that CAA-provided research or information into noise pollution could lead to pressure to reduce noise pollution. At this stage, there is not enough certainty regarding the precise actions the CAA would take to be certain of the overall effect on noise pollution. We expect that this is one factor the CAA would take into account in developing its assessment of costs and benefits.
108. Other proposals are not expected to affect wider environmental issues.

## **Social impacts**

### **Health and well-being**

109. None of the proposals is expected to have a direct impact on health (other than the potential beneficial impact of the publication powers on local air pollution, noted above). There is no potential for any of the proposals directly to affect wider determinants of health such as income, nor is there any potential for the proposals to affect relevant lifestyle related factors such as physical activity or diet. There is no anticipated impact on the demand for health and social care services.

### **Human rights**

110. The proposals include provisions allowing for the imposition of financial penalties. To this extent the proposals will engage the Convention right to property (Article 1 of Protocol 1 to the Convention). The right to property is not an unqualified right. Deprivation of property in the public interest and subject to the conditions provided for by law is allowable. So, too, is the enforcement of laws to control the use of property in accordance with the general

interest. These proposals will empower the CAA as regulator to interfere with property rights in various ways. However, these powers are to be exercised in the public interest and in accordance with the relevant statutory duties.

111. The enforcement of these rules will be by the CAA and may engage the right to a fair trial (Article 6). The imposition of civil penalties by the regulatory body is part of the package and is a common feature of regulatory regimes. Penalties should be reasonable and proportionate and the CAA will be acting as a “public authority” for the purposes of the Human Rights Act 1998. Appropriate appeal rights will be in place.
112. The Government considers that the Civil Aviation Act is compatible with the European Convention on Human Rights.

### **Justice system**

113. A justice impact test has been undertaken and submitted to the Ministry of Justice (MoJ) to judge whether the proposals have the potential to impact on the justice system: changing the funding for prosecution powers; giving the Secretary of State power to grant the CAA civil sanctions; and civil sanctions accompanying new publication powers for the CAA (e.g. sanctions for failure to provide information under notice). MoJ have assessed that the changes to airport economic regulation will have a **negligible impact on the justice system**.

### **Rural proofing**

114. We do not believe that any of the proposals will have a different impact on people in rural areas because of their particular circumstances or needs.

### **Sustainable development**

115. Sustainable development entails the current generation satisfying its basic needs and enjoying an improving quality of life without compromising the position of future generations. The proposals do not affect the resources available to future generations, and are therefore compatible with sustainable development.