

Fingleton insights

Unlocking better regulatory results through
effective customer engagement

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Insights from aviation

A business' success or failure can hinge on its understanding of customer needs, and the corresponding service levels and investment requirements it sets out to implement.

For regulated companies, customer engagement can be mandated as part of a regulatory process, such as through a price control process or ongoing processes around investment. It helps mirror the commercial engagement that takes place in a competitive market and ensures customer views inform key regulatory decisions. This is the case in aviation where the regulatory frameworks for airports and Air Navigation Service Providers (ANSPs) mandates periods of engagement with their airline customers both when setting the price control and throughout the regulatory period.

At Fingleton, we have seen first-hand how adopting a strategic approach to customer engagement can help keep the time, cost and complexity of regulation to a minimum and result in the development of innovative solutions. For example, customer engagement has resulted in airports and airlines introducing innovative volume sharing arrangements or incentive structures which had not been considered by the regulator.

In this article we consolidate our direct experience in the aviation sector and set out our recommendations for companies going through an engagement process mandated by regulation, with a view to minimising the regulatory burden and fostering innovation.

Recommendations

1. Engage in good faith

Engagement only works when there is trust between stakeholders, in the case of aviation this is often between airports / ANSPs and airlines. This requires stakeholders to approach the process with clear, reasonable positions which have been agreed across all levels of the organisation. Senior sponsorship of positions is important to ensure that engagement at all levels is consistent and can unlock agreement.

Before engagement:

- Develop and agree a strategic narrative within your organisation, setting out your objectives for the price control process as a whole. Doing this will help you approach engagement with clear positions, agreed across all levels of the business, which are pragmatic, defensible and aligned to your broader regulatory strategy.
- Test and challenge your objectives to ensure they are reasonable, aligned to the interests of consumers and in line with the broader context of the sector and the approach to regulation within it. This will help to build trust across all levels of engagement and avoid the business coming across as unreasonable, which might stifle agreement and erode trust in the engagement as a whole.

2. Put the consumer at the heart of what you do

Airports, airlines and air navigation service providers, like other businesses, all have a wealth of insight into the needs of consumers. Ensuring the right outcomes for consumers

based on this shared insight should be the focus of engagement. Adopting this approach will provide a shared purpose and develop solutions that work for the businesses, consumers and the regulator.

Before engagement:

- Develop a robust strategy for gathering and understanding the wants and needs of consumers alongside a process to ensure that the outputs of this research are reflected in your broader strategic narrative.

During engagement:

- Use these research outputs as the focus of engagement, acting as your 'north star'. This will help to ensure you are all pulling in the same direction.

3. Be realistic and look for common ground

It's unlikely that you will agree on everything, but that's OK. Even small areas of agreement are a success and can lead to a better outcome for all parties.

During engagement:

- Seek to agree upfront the areas that have the most scope for productive discussions and potential agreement, likely the win-win areas, and focus on these through the engagement process.
- Agree to disagree on issues where you cannot reach agreement to avoid wasting time.

After engagement:

- Be clear with the regulator on issues that couldn't be agreed and why, with evidence for your position. This will help it to identify where intervention is necessary and understand the relevant stakeholder views.

4. Work with the regulator to ensure your engagement is set up for success

Experience from aviation frameworks shows that good outcomes are more likely where the regulator has clarified (i) how the outcome of engagement will be used in the price control process, (ii) the expectations on companies throughout engagement and (iii) the regulator's own role in the engagement process. Having a strategy which allows you to work with the regulator to ensure it provides the right levels of support, but also the freedom for the companies to engage on a wide range of issues, is key to ensuring engagement can be successful.

Before engagement:

- Consider the guidance you need from the regulator to make the engagement a success. Factor these asks into your engagement strategy with the regulator leading up to the start of the engagement process.
- Engage with the regulator on your principles for engagement and how you intend to use the process.

During engagement:

- Bring the regulator on the engagement journey with you. Continue to engage with them throughout, asking for any needed

guidance, checking that your approach aligns with their expectations and, where relevant, demonstrating how the engagement will inform your business planning.

Concluding comments

Commercial agreements between suppliers and customers are often challenging, so it should not be surprising that regulated companies and their customers do not always easily and quickly agree on price, investment and quality in the context of a regulatory process. But the opportunity to strike win-win agreements that are likely more innovative than any regulator would develop is a prize worth striving for.

Profile



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Lucy helps clients identify key regulatory risks and develop pragmatic mitigation strategies, whilst establishing strong relationships with regulators. She has cross-sector expertise working within regulated businesses and as a regulator, particularly in aviation and transport sectors. Formerly Head of Regulatory Strategy at Heathrow Airport, where she led the development of regulatory strategy and policy for the H7 price control process and work on capacity expansion. She has also held regulatory positions at the Office of Rail and Road and easyJet, where she focused on competition, consumer policy and worked on price control issues in the UK and across Europe.