

**CIVIL AVIATION AUTHORITY
MINUTES OF THE 478th BOARD MEETING HELD ON
WEDNESDAY, 15 OCTOBER 2014,
AT AVIATION HOUSE, GATWICK**

Present:

Dame Deirdre Hutton	Chair
Mr Peter Drissell	
Mr David Gray	
Miss Chris Jesnick	
Mr Michael Medlicott	
Mr Iain Osborne	For items I – V and VII - XVI
AVM Edward Stringer	
Mr Mark Swan	
Mr Graham Ward	For items VII-XVI
Mrs Kate Staples	Secretary & General Counsel

In Attendance:

Dr Stephen Rooney	
Mr Peter Gardiner	
Mr Stephen Baker	Minute taker
Mr Stephen Gifford	For items VII - IX
Mr Ian McNicol	For items VII -&VIII
Mr Will Webster	For item VII & VIII
Mrs Abigail Grenfell	For item VII
Mr Ian McNicol	For items VII – IX
Mrs Manisha Aatkar	For item XII
Mrs Norma Hastings	For item XII
Mr Jay Bevington, Deloitte	As an observer

I Apologies

1. Apologies were received from Andrew Haines, David King and Richard Jackson.

II Previous Minutes and Matters Arising

2. The minutes of the September Board meeting were approved subject to an editorial amendment to paragraph 48. A redaction was requested of paragraph 14.
3. On matters arising, Mr Gardiner and Mr Swan were requested to arrange a brief for the non-executive directors on the SARG Covalent system at a future PIE meeting.

Action: Mr Gardiner

III Chair's Update – by Dame Deirdre Hutton

4. The Chair reported on her activities during the previous month.
5. She had attended a number of the CAA Roadshows presented by the CEO, including one held at the Stirling office. She felt the receptions from the various audiences had been markedly more positive in tone, compared to the previous year's Roadshows, with some encouraging feedback from attendees after the events.
5. The Chair reported on her visit to Manchester Airport and on the annual CAA/DfT Board to Board meeting. It had been an interesting meeting and a wide range of topics had been discussed.
6. The Chair reported that she and Mr Haines had visited the offices of Flybe to meet the new Flybe Chairman and CEO. She noted that the company had a new business strategy which was being effectively implemented by the new management team. The company was, the Chair was happy to note, retaining the Flybe Training Academy.
7. The Chair finally noted that she had hosted a visit by Lord Tugendhat, Chairman of the CAA between 1986 and 1991, to Aviation House.

IV Project Bermuda

8. Mrs Staples briefed the Board on Project Bermuda.

V. Chief Executive's Report - Doc 2014-117 by Andrew Haines

9. The Chair invited Mr Swan to brief the Board on salient matters arising from the report.
10. Mr Swan gave the Board a report on the current Heathrow and Gatwick Airport airspace trials. Due to concerted local opposition – he had attended a panel

last week at which 1,000 local people and the local M.P. had attended – the trials would be halted by Heathrow and NATS earlier than planned, at the end of November rather than in January next year. The strength and extent (geographically) of local opposition to the airspace trials had been unforeseen and the CAA and NATS needed to review the trials with the DfT. Mr Swan said the CAA was working closely with Heathrow and NATS to see how the trials could be safely halted sooner and how the trials strategy could be re-aligned for any future airspace changes.

11. The Chair voiced the Board's concern at what was a difficult issue for the CAA and noted that Ministers needed to be kept informed and that CAA ensured its airspace change processes were water-tight.
12. Mr Swan briefed the Board on the planned closure by Virgin Airways of the Virgin Little Red short-haul services next year.
13. The Board noted that a new Chairman to the NATS Board, Dr Paul Golby, had recently been appointed.
14. Mr Swan gave the Board an update on the roll-out of training in the use of the new emergency breathing system by offshore oil and gas workers, with some 62,500 workers now trained. All offshore helicopters were equipped with the new system and there had been good feedback from industry. Mr Swan noted that the mitigation of the risks to survival in emergencies had been further strengthened by this measure.
15. Mr Drissell gave the Board a briefing on an aviation security matter.

VI CAA Guidance on its competition, consumer, licence enforcement and prioritisation principles for economic regulation - Doc 2014-119 – by Iain Osborne

16. Mr Osborne invited Mr Webster and Mrs Grenfell to present the report.
17. Mr Webster explained that a consultation on draft guidance on competition and consumer enforcement was being issued for a number of reasons. In some cases there was a legal requirement to issue guidance but, that aside, it also helped the CAA in its interpretation of the legislation when making decisions and therefore strengthened the CAA's position if it was challenged. It also assisted industry in knowing how the CAA would interpret and apply the legislation.

18. The CAA was, moreover, a competition regulator in its own right; therefore it was important for industry to know how the CAA would regulate under general competition law as well under the Civil Aviation Act. Mr Webster noted this was expected of the CAA by the CMA. Mrs Grenfell remarked that the CAA already issued guidance to industry in relation to other areas of regulation and that the CAA would be open to criticism if it did not do the same for competition.
19. The CMA had reviewed the draft guidance and had commented, as had other regulators to whom the drafts had been circulated. The guidance was also relevant to the process of how the CAA should conduct a market power determination in the future.
20. The draft guidance consolidated a number of previous guidance materials and the opportunity had been taken to update statutory references. Further draft guidance was also being worked on, for example in relation to complaints made to the CAA under the Airports Charges Regulations. Guidance would also be required in the event the CAA wished to delegate elements of any enforcement decision to an external panel. This was under discussion at ExCo and a paper would be presented on this to the Board in December.
21. The Board noted that issuing guidance to industry was established good practice but there was a risk that the regulator got drawn into issuing guidance that was too detailed, and if it did this the guidance could just become a checklist for industry. The Board was assured, however, that in drawing up the current draft, CAA had looked at guidance issued by other regulators and that a broad approach had been adopted in relation to the draft material.
22. In relation to the prioritisation principles, Mr Webster remarked that these had been taken from the CAA's consumer enforcement guidelines and would become the over-arching principles for economic and consumer regulation and enforcement by the CAA. Some minor changes had been made, such as to introduce accelerated enforcement procedures in certain circumstances, but the draft guidelines were otherwise broadly consistent with previously issued guidance material.
23. It was noted by the Board that the draft material did not feature any European context or refer to Europeanisation. Mr Osborne agreed that this should be fitted into the material.

Action: Mr Osborne

24. The Board confirmed that it was content with consultation on the draft consumer and competition guidance and prioritisation principles.
25. Mrs Grenfell presented the draft guidance on licence enforcement guidance and explained that the draft followed closely published guidance on ATOL, consumer and airspace enforcement guidelines. An escalatory approach had been taken, with an emphasis on prevention and self-regulation. It also contained a walk-through of the CAA's powers under the Transport Act 2000 and the Civil Aviation Act 2012. The material was written at a fairly high level, so as to give the CAA the maximum scope for manoeuvre.
26. The Board asked if the draft had been through the Better Regulation Gateway. Mr Osborne replied this would be done prior to consultation.

Action: Mr Osborne

27. The Board confirmed that it was content with consultation on the draft enforcement guidance.
28. The Board delegated authority to Mr Osborne to approve the final wording of the draft consultation document for publication, emphasising the need for careful drafting and for retaining a broad approach in the guidelines, and with a consideration of there being some reference to Europeanisation in the document.

VII Lessons learned from Market Power Determinations and Q6 price reviews and associated work plan- Doc 2014 – 120 by Iain Osborne

29. Mr Osborne invited Mr Webster to present the paper. He noted that the key lesson learned was the pressure that having three simultaneous market power determinations (MPDs) and Q6 price reviews had imposed on his department's staff and the consequential human resources issues this had created.
30. Mr Webster said that the paper identified ten recommendations, split into three groups.
31. For MCG, the key issue was how to manage the individual projects and consultations and engagements processes and he noted that a dedicated project manager was one of the recommendations to address this. The use of external consultants had also been reviewed and the danger of over-reliance on them identified; consequential changes to the process of handling them during a review had therefore been recommended.

32. The Board agreed that over-reliance on external consultants could create risks and that the CAA had to 'own' the views it expressed in its consultation documents and try to do as much work itself as it could.
33. The Board was struck by the pressure felt by CAA staff involved in the projects, created by having simultaneous MPDs and price reviews, and recognised that the sequencing of this work was important although it noted that this might not always be within the CAA's control. Nonetheless, managing expectations of the timing of MPDs and price reviews would be beneficial.
34. The Board discussed the merits of the CAA indicating an initial view on significant market power and recognised this had created some potential difficulties during the last determination. However, an initial view did have advantages, in flushing out objections to a particular view and, in terms of enabling the taking of a view on market power assessment in the round when making a MPD, allowed for the sign-posting of intentions which was important to this process.
35. The Board also pointed out that having a standing Counsel to the Board during the MPD and review process had been very helpful to the Board and thought it would also be helpful to have an independent competition economist fulfilling a similar role for the Board. Mr Osborne agreed to look at this.

Action: Mr Osborne

36. Mr Webster outlined the work programme over the next 24 months which included consultation on revised MPD guidance.
37. Mr Osborne requested Mr Gifford to present the findings of the review on the consultation and engagement process. Mr Gifford explained the review had looked at two topics and that, in relation to the first topic, industry stakeholders had been asked for their views on how the process had worked. The first topic examined was the consultation and constructive engagement process with industry stakeholders and the second, the CAA Board engagement process.
38. In relation to the first topic, there had been differing views but overall the view had been that the process was constructive and had added value. There were criticisms however: the documentation was considered to be too long and complicated and it was felt there should be more incentives on the airlines to engage in the bilaterals.

39. In relation to the second topic, the process had worked better than during the previous quinquennial price review and there had been distinct Board ownership of the review and its conclusions. The length and complexity of the supporting documentation had, however, been an issue and a challenge but there was overwhelmingly the feeling that the current model of Board engagement should be continued. This was an additional reason to manage better the interaction between the project teams and the Board, perhaps through having a standing competition economist to the Board and by informal as well as formal engagement with the project teams.
40. The Board noted the recommendations and agreed these would be helpful in future MPDs and reviews. The Board engagement in the process had generally worked well, despite the risks and it was recognised that it was important for the Board to be seen to be fully engaged in order for the industry to feel the process had been fair and judicious. The CAA Board to industry Board engagement process had allowed this to be observed. Moreover, it removed the risk that the CAA Board might be accused of not being in a position to understand the issues properly.
41. The Board noted and approved the recommendations contained in the paper, noting that better briefing and more preparation of the Board ahead of the Board engagements with industry would be helpful in future reviews. The Board also noted that a consultation on a revised industry engagement process would take place in the first quarter of 2016. The Board noted that the process had been more akin to engagement than consultation and this could be usefully reflected in the language used in the paper. The Board also noted and approved the work plan.

VIII Economic regulation of new capacity – draft policy - Doc 2014-121 By Iain Osborne

42. Mr Osborne noted that the paper proposed three principles to underpin any future regulatory decisions regarding new runway capacity: risk should be allocated to those who can best manage it; commercial negotiations should be encouraged; capacity could be paid for both before and after it opens.
43. During the pre-planning phase, airports would have to bear their own costs. During the planning phase, the proposed principle was that costs of up to

£10,000,000 could be passed through to the passengers but any costs above this limit would have to be shown to be fair and reasonable and could be clawed back if the project did not actually proceed to construction. For the construction phase no cost recovery formula was proposed, as this could transfer risk to the passengers, but instead a framework of principles was proposed for cost recovery by the airport and investors.

44. The CAA would play an active role in any project to ensure it was built efficiently. The CAA would have the option of falling back to a Regulatory Asset Base (RAB) pricing approach if this was necessary.
45. The Board discussed the issue of pre-funding and suggested the paper could explain better how this might benefit passengers by helping to smooth out the project costs over the life of the project and by limiting excessive back-ending of the project funding costs. Mr Osborne agreed to look at the text on this again.

Action: Mr Osborne

46. The Board noted that one risk not addressed in the paper was of a project being discontinued following a change in the cost-benefit analysis underlying the economic rationale for the project, so that it was no longer viable. Mr Osborne noted there would have to be a very significant escalation of costs for this to happen but it was an issue that could be discussed with the Chairman of the Airports Commission.

Action: Mr Osborne

47. The Board approved the proposed policy lines and delegated authority to Mr Osborne to finalise the wording of the consultation document.

IX. Safety and Airspace Regulation Group (SARG) Safety Issues Report - Doc 2014 - 122 by Mark Swan

48. Mr Swan briefed the board on the BA A320 fuselage crack. He remarked it was highly unusual and SARG was keeping a close watch on the situation. SARG was content with the actions being taken by Airbus.
49. Mr Swan reported that Gretchen Haskins had been appointed CEO of Helicopters Offshore Limited, the newly established trade association body for the offshore helicopter operators.
50. Mr Swan reported that following a Regulation 6 hearing a Board panel had supported SARG's proposal to revoke the ATO and RTF approvals held by Mr

Murgatroyd. These were therefore now revoked. He noted that Roissy Aircraft Maintenance Limited had suspended its own maintenance approval following audit findings by SARG. This was quite an unusual event. The 'Red Triangle' work done by SARG had proved effective in concentrating SARG on the top risks and the Covalent and Q-Pulse systems were also becoming effective tools.

51. Mr Swan reported on the Thomson Airways Boeing 787 engine start failure. This was an unusual incident and SARG was waiting for the results of the engine strip inspection. The Board asked if there was an unintended trade-off in the compounding of risk being made by the engine manufacturers. Mr Swan agreed this was a question that SARG had not considered but ought to be looked at.
52. The Board noted the report.

X. Board Six Monthly Update on European Developments April to September 2014 - Doc 2014-123 by Iain Osborne

53. Mr Osborne noted that the new Transport Commissioner would be Violeta Bulc of Slovenia. He also noted that Jean-Claude Juncker had appointed an inner cabinet within the Commission which might suggest the new Commission would have an active programme.
54. The Board thanked Mr Osborne for the report and asked how CAA should operate viz a viz the Commission in future. Mr Osborne agreed to put a paper to the Board.

Action: Mr Osborne

XI. Human Resource Update – Doc 2014-16 – by Manisha Aatkar

55. Mrs Aatkar gave the Board a update on the progress made by HR in delivering the transformation programme and other HR work programmes, noting that the scope of HR's deliverables had increased. A Business Architect had therefore been recruited to support the various business projects.
56. The HR Transformation project was on schedule, including the design of a new pay model and the recognition scheme. The biggest delay was with the Business Engagement project which was two weeks behind schedule. A communications strategy was being developed by CCD to help to address some of the issues but there was only so much this could achieve. A more

fundamental shift in staff mindsets and attitude was what was really required. The programme should however be 'back on track' by the end of the month.

57. Noting that HR was delivering its own functional transformation whilst, at the same time, trying to support the business organisation plan, the Board agreed it needed to understand how the risks could be mitigated, perhaps through more investment in the engagement teams. In addition, whilst managers' superficial behaviours might change, underlying attitudes might not. Mrs Aatkar responded that her current budget was sufficient and that managers were being given training in how to cope with stress through an ACAS programme.
58. The Board noted the report and observed that a lot of good work was being done.

XII Report from the CAA Audit Committee- Doc 2014-127 – by Graham Ward

59. The report was taken as read and the Chair mentioned that the Integrated Reporting initiative could be very important.

XIII Draft Financial Results for the 6 months to 30 September 2014 and Financial Results for the 5 months to 31 August 2014 – Doc 2014-128 by Chris Jesnick

60. Miss Jesnick presented the draft financial results for the period April to end September and the financial results for the period April to end August 2014.
61. Miss Jesnick noted that the 6 months' results were looking better than anticipated although there had been no improvement in CAAi's results. CAAi was meeting with EASA in October to discuss the EASA work programme and the finance department was looking SARG resources and CAAi costs. The results were down compared to the previous three years but those had been very good years, so far as income was concerned, and CAAi was now concentrating on high quality work of strategic value rather than just income. She updated the Board on CAAi income streams and noted that CAAi was close to signing a contract with the Government of Brunei that would help to offset the fall in CAAi income.
62. CAA staff numbers had dipped slightly over the 5 months. The figure for salaries had increased slightly over the same period due to the CAA AvSec salary roll and some payments made to HRMC.

63. Her meeting with the CAAPS trustees, regarding the CAA proposal to move the basis of indexation from RPI to CPI, had now been moved to December.
64. The Board noted the report.

XIV Live Issues and Monthly Reports

CCD: Live Issues – Doc 2014 – 131 by Dr Rooney

65. Dr Rooney mentioned that CCD had been receiving a steady stream of enquiries regarding the Ebola scare. Although CAA Medical Department had been involved early on in the Government's passenger screening proposals. It was not a CAA responsibility and the enquiries were being referred to the DfT and Public Health England.

XIV Any other Business & Forward Planning

66. Mrs Staples asked the Board to note that, due to a change by the Office for National Statistics in its indexation reference month from February to January, CAAPS proposed to change the indexation reference month in the CAA section of the CAAPS trust deed and rules from February to January for the purpose of pension payments and deferred pensions. She emphasised that this would have no impact overall on payments to CAAPS members. She requested Board approval to make the change by a Deed of Amendment to the CAAPS Trust Deed and Rules. The Board resolved that Mrs Staples be authorised to execute the Deed of Amendment on behalf of the CAA.

Date and Time of Next Board Meeting: 19th November 2014, starting at 1pm, in the offices of the AAIB at Farnborough.