



**CIVIL AVIATION AUTHORITY**  
Secretary and Legal Adviser's  
Office

**MINUTES OF 408<sup>th</sup> BOARD MEETING HELD ON WEDNESDAY  
16 APRIL 2008 AT 10.00 AM**

**Present:**

**Sir Roy McNulty      Chairman**

**AVM Anderson**

**Mr J R D Arscott**

**Dr C Bell**

**Mr M J Bell**

**Dr H Bush**

**Mr R T R Jackson**

**Miss C Jesnick**

**Mr J Keohane**

**Mr R P Mountford**

**Capt R O Whitefield**

**Mr R J Britton      Secretary & Legal Adviser**

**In Attendance:**

**Miss C Brown**  
**Director Corporate Communications**

**Mrs N Hastings**  
**Head of HR**

**Mr M Smethers**  
**Director European & International Strategy**

**Mr R Taylor**  
**Head of Air Traffic Standards Division, SRG      For Item VII**

## **I Minutes of the Previous Meetings and Matters Arising.**

1. The Minutes of a meeting of a quorum of the Board held on 18 March to approve documents required to implement the new APC scheme and the meeting held on 19 March were approved and signed. On the action points arising:

- Consumer Policy Paper – Mr Jackson confirmed that the Paper had been supplied to the AUC.
- Airport Regulation – Mr Britton confirmed that the response to Lane & Partners had been circulated to Members.
- BA 777 Accident at Heathrow – Mr Bell reported that there had been an AAIB de-brief on 3 April. It was re-confirmed that the position remains that no evidence has so far emerged from the accident investigation to require regulatory action by CAA.
- TCSW – Mr Britton confirmed that proceedings had now been served on CAA. It had been agreed between the parties that NATS would respond to the Claimant's pre-action letter by 15 April. The Claimant would have until 30 April to file his statement of grounds and facts. CAA and NATS then have 21 days from the date of service of this statement to file its acknowledgement of service.
- Charges for Air Services – Mr Britton confirmed that the CAA (Navigation Services Charges) Specification 2008 had been published in the London, Edinburgh and Belfast Gazettes at the end of March.
- CAA Budget 2008/09 and Contingency Plan – Agenda Item.
- High Level Group Update – Agenda Item.
- CAA Corporate Plan 2008/09-2012/13 – Miss Jesnick confirmed that the Plan had been completed and was ready for submission to the Secretary of State.

## **II(i) Chairman's Opening Remarks.**

2. The Chairman reported on the following highlights:

- bmi Meeting – Nigel Turner, Chief Executive of bmi, requested a meeting to discuss airport matters.
- Secretary of State Meeting – Ruth Kelly MP was very interested in the T5 situation. The Chairman explained that the CAA's role was limited to setting prices every five years and implementing the Competition Commission's public interest findings and monitoring BAA's implementation thereof. Other matters discussed included

progress by CAA on its passenger experience report together with EASA and Single European Sky.

- DGCA Meeting – the airline reaction to CAA's Heathrow and Gatwick price cap decisions was discussed.

**(ii) CAA Strategic Review – Oral Update by the Chairman.**

3. The Chairman reported that Sir Joseph's information gathering phase should be finished by the end of April. Responses to the 64 questions put to CAA are being prepared. May looks as though it will be a work intensive month for the Review. Sir Joseph is still aiming to complete the Review by mid summer.

**III Directors' Reports:**

**ERG – Doc 2008/40 by Dr Bush.**

4. Dr Bush reported on the following highlights:

- Bilaterals – bilateral talks with Nigeria have not resulted in further liberalisation. There is no prospect of lifting the frequency cap while Nigerian carriers are unable to use the frequencies they have to serve Heathrow. There is a possibility of a scarce bilateral capacity hearing.
- Airport Regulation – a letter before action has been received from solicitors acting for easyJet threatening to challenge the Gatwick decision. A full response to the allegations made has been sent. easyJet's solicitors have responded that it is their clients' intention to issue proceedings.
- T5 Issues – ERG has kept in touch with both BAA and BA. It is not entirely clear whether the baggage problems lie with the system or the operation of it. There would be concerns if BA delayed its move from T4 to T5 beyond what has so far been announced. A period longer than a month could have a serious effect on other airlines and BAA's redevelopment programme.
- Stansted – the price cap set in 2003 is still in force. The reference to the Competition Commission has to be made by the end of April. The reference will be based substantially on the January document published by CAA with the further analyses done since then. CAA will continue to exhibit a range of options. There will no doubt be media interest in the reference as there are a number of sensitivities associated with Stansted.
- Competition Market Inquiry – the Commission is expected to publish its emerging

thinking on 22 April.

5. In discussion, the Chairman referred to the issues involved in the current controversies in airport regulation. There was misunderstanding about CAA's role which was limited to setting price controls at five yearly intervals, setting conditions to address the Competition Commission's public interest findings and appropriate monitoring of BAA's implementation thereof. The airlines clearly objected to large price increases but demanded better facilities which had to be paid for. Tension between airlines and large airports was not uncommon across the world. Assertions of bias in favour of BAA were not sustainable as can be seen from BAA's strong opposition to CAA's position on cost of capital. CAA accepted that the regulatory framework needed reform as it had been urging for some time. Primary legislation would be required to amend the Airports Act 1986 and the Government's legislative priorities had to be recognised. The problems associated with the opening of T5 were unhelpful to everyone.

6. The Board noted the Report.

**CPG – Doc 2008/41 by Mr Jackson.**

7. Mr Jackson reported on the following highlights:

- Consumer Policy – data is currently being processed particularly on complaint handling and consumer interest matters.
- Air Travel Trust Fund – the finance and insurance documentation were completed on 31 March enabling the new scheme to come into force on 1 April. £300 million insurance cover is now in place which satisfies the Government's requirement.
- ATOL Renewals – despite previous prophecies of collapse, the March ATOL renewal round was successfully completed with 144 firms out of a total of 1148 failing to renew their licences by the deadline. The total of ATOL protected seats has risen slightly to 26 million which is satisfactory for income purposes.
- Silverjet – Mr Jackson updated the Board on the company's current financial situation.

8. The Board congratulated the CPG team on its efforts in implementing the change to ATOL Protection Contributions.

9. The Board noted the Report.

**SRG – Doc 2008/42 by Mr Bell.**

10. Mr Bell reported on the following highlights:

- EASA:

*Extension of Scope to Operations and Licensing* – the new Basic Regulation extending the scope of EASA to operations and licensing came into force on 8 April 2008. Implementing Rules had to be put into place by 8 April 2012 which is a tight timetable given the amount of work to be done.

*Proposed Extension of Scope to Aerodromes* – a meeting was held with the Commission on 12 March to discuss the EASA Opinion on aerodrome regulation. There are a number of contentious issues surrounding the basis of designation.

- Single European Sky ATM Research – the project definition phase will close in May 2008. SESAR will then move into its development phase from 2008 to 2013 under the governance of the SESAR Joint Undertaking. CAA is pressing strongly for a direct regulatory interface with the National Supervisory Authorities.

- Operations:

*BA Management Changes* – formal clearance had to be given at short notice to BA's change of Director of Ground Operations.

*Fatal Accident to Cessna Citation at Biggin Hill on 30 March 2008* – shortly after take off the pilot reported severe engine vibration and requested a return to land at Biggin Hill. As the aircraft was positioning for Runway 21 it crashed into a house on the edge of Broadwater Gardens in Farnborough. All five occupants of the aircraft were killed and the unoccupied house severely damaged. Both AAIB and police are investigating the accident.

*Shoreham Airport* – the operator, Erinaceous, went into administration on 14 April. The Administrator sold the company the next day to Albemarle and the relevant licences were renewed. Disruption of operations was kept to a minimum.

*Mobile Communications on Board Aircraft* – following Ofcom's decision to issue licences for mobile communications on board aircraft, applications for approval from airlines are awaited.

11. The Board noted the Report.

**DAP – Doc 2008/43 by Mr Arscott.**

12. Mr Arscott reported on the following highlights:

- Single European Sky:

*UK/Ireland FAB* – reaction from both Governments to the regulatory advice on the FAB is awaited. Discussions are being held with the Irish Aviation Authority about the form of regulatory engagement.

*SESAR* – together with the French and Spanish NSAs a meeting was held with Patrick Ky, the SESAR Executive Director, who acknowledges the need to engage with regulators.

- UK Activity:

*NATMAC* – changes have been made to the format to stimulate greater debate and revitalise the meetings.

*Mode S* – the Phase 2 consultation continues but the response rate has been very slow. DAP staff visited Lasham on 4 April to present the consultation to the gliding community. Almost 400 people attended and responses to the proposals were robust.

*Spectrum Trading and AIP* – DAP is represented on the three working groups that have been established to address issues of inter-departmental agreements, finance and band management arrangements.

13. The Board noted the Report.

#### **IV Legal Report – Doc 2008/44 by the Secretary.**

##### *Judicial Reviews*

14. Mr Britton updated the Board on the current position. The Chairman asked for guidance on how to deal with on-going business and the litigation issues.

##### **Action: Mr Britton**

##### *Consumer Protection Policy Committee – Terms of Reference*

15. Subject to substituting 'BERR' for 'DTI', the Board approved the revised CPPC Terms of Reference.

16. The Board noted the Report.

#### **V CAA Quarterly Performance Report – Doc 2008/45 by Miss Jesnick.**

17. Miss Jesnick presented the key issues arising from the Report. The HR section included a year-on-year comparison of new joiners and sickness data. It was noted that the number of sick days per employee at 6.4 was somewhat less than 10.5 for the

Government services average. 44% of CAA staff took no sickness absence.

18. Miss Jesnick drew attention to progress against Corporate Plan objectives. 94% of all deliverables for 2007/08 have been met which is an improvement. In response to questions, Miss Jesnick said that the judgement on deliverables was the result of a combination of the Group Directors' assessment and the Corporate team critiquing it. The Board's interest in the rigour of the challenge function was recognised.

19. The Report did not include finance figures since year end numbers are still being finalised. A draft Finance Report will be presented to the May meeting with the appropriate performance data. Account would have to be taken of the cost to the CAA of defending the Judicial Review challenges.

20. The Board noted the Report.

#### **VI European and International Strategy Report – Doc 2008/46 by Mr Smethers.**

21. Mr Smethers drew attention to the EU-ICAO symposium on regional organisations. Mr Arscott commented that it is unlikely that the Chicago framework will change. The sovereignty of States was a fundamental principle of Chicago. The EU, as a regional organisation in Chicago terms, had to reach an accommodation with States on Single Sky issues. The best way of doing this was engaging with regulators.

22. The Board noted the Report.

#### **VII European ATM Issues – Commission Proposals for SES II and High Level Group Report – Doc 2008/47 by Mr Arscott.**

23. Mr Arscott reported that the purpose of the Paper was to consider the key areas of the HLG Report the Commission appeared to be intending to take forward as well as the areas they do not appear to be addressing. The UK's response is to be considered at a meeting arranged for 29 April to be attended by the Chairman, DGCA, the Chief Executive of NATS and MoD.

24. Mr Taylor, the Joint Chairman of the Single European Sky Working Group with Mr Roberts, set out the developments since the Paper was presented to the Board in March. The Commission is now referring to all the various components as the SES II package. This is now expected to have four elements:

- Performance – the introduction of a performance framework amending the four high level SES Regulations.
- Technology – endorsement of the SESAR master plan and the transition to the

development phase.

- Safety – extension of EASA's competence to cover all links of the aviation safety chain, including airports and ATM.
- Capacity – proposals to tackle capacity shortages in the air and on the ground.

25 The Commission has not responded directly to the High Level Group Report published in summer 2007 but the Communication published in December indicated the Commission's early thinking.

26. The key issue is that there is no sense of developing an overarching strategy to address the scale of the changes and put them together. In CAA's view, an Aviation System Co-ordinator (which might be a small group of people) capable of influencing both at a political and technical level needs to be appointed to drive change and ensure that all stakeholders are working collectively towards the same goal. This would be in addition to the proposals the Commission are making for a network management function to consider the efficiency of the ATM system as a whole. Eurocontrol are keen to take on this responsibility.

27. Detailed proposals will be emerging in the next couple of months.

28. AVM Anderson commented that the meeting on 29 April would be useful in aligning the UK's position on the number of gaps in the Commission's proposals on matters such as the environment. The Chairman said that a short session in preparation for the 29 April meeting would be useful. The Board was welcome to submit any additional points that could be deployed to influence the Commission.

**Action: Chairman**

29. The Board took note of the update and agreed that the CAA should, as a matter of priority:

- Continue to press for the creation of the Aviation System Co-ordinator role to facilitate the programme of change.
- Seek clarity and try to influence proposals for a network management function and for the unbundling of air navigation services.
- Continue to engage in the debate to influence the shape of formal NSA co-ordination.
- Continue to track the HLG Report against the development of SES Package II, in particular for analysing the detailed proposals once they come forward later in 2008.

**VIII Any Other Business.**

**(i) Agenda Plan Update.**

30. May 2008 – the Board was likely to need some time on the Strategic Review. Add JANSC Report from April and BAA Competition Inquiry from June. Delete update on SESAR.

**(ii) IT Services.**

31. Miss Jesnick reported that the selection process had narrowed the preferred suppliers down to two for the desktop support service and the applications support and enhancement service. The due diligence phase of the project will be commencing on time. Further work has to be done on the TUPE process. Anne Wallace is to be retained to help the transition process.

**The next Meeting of the Authority will be at 10.00am on Wednesday 21 May 2008 in Conference Room 1, CAA House**