



CIVIL AVIATION AUTHORITY
Secretary and Legal Adviser's
Office

**MINUTES OF 407th BOARD MEETING HELD ON WEDNESDAY
19 MARCH 2008 AT 10.00 AM**

Present:

Sir Roy McNulty Chairman

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 S Baker
Head of Finance and Corporate Services For Item VI**

**Mr N Coules
Chief Executive, CAA International Limited For Item VI**

Ms S Richards
Senior Project Manager, Corporate Centre **For Item VI**

Mr P Roberts
Assistant Director, DAP **For Item IX**

Miss C Abbott
Head of Policy, CPG **For Item X**

Apologies for absence were received from AVM Anderson.

I Presentation by the Chairman and Chief Executive of the AUC.

1. Ms Tietjen and Mr Evans gave a presentation on the functions and current issues facing the AUC including in particular complaints about denied boarding compensation.

2. In response to Mr Evans' question, the Chairman agreed that a copy of CPG's Consumer Policy Paper should be given to the AUC.

Action: Mr Jackson

3. A copy of the presentation is attached to these Minutes.

II Minutes of the Previous Meeting and Matters Arising.

4. The Minutes of the Meeting held on 20 February 2008 were approved and signed.

On the action points arising:

- Single European Sky – the Chairman confirmed that he had discussed the need for NATS to produce sufficient evidence to justify the UK/Ireland FAB with Paul Barron.
- Consumer Policy – Agenda item.
- DfT Environment Presentation Follow Up – the Chairman confirmed that he had discussed with Mr Griffiths the need for DfT and CAA to make meaningful inputs on this topic to the Strategic Review.
- Air Transport White Paper – the Chairman confirmed that the letter had been sent to Simon Webb.
- Eddington Report – May Agenda item.
- Airspace Changes – DfT are considering whether a revision to the ATWP is required.
- Stansted G2 Planning Inquiry – Mr Britton confirmed that planning Counsel were being instructed.

III(i) Chairman's Opening Remarks.

5. The Chairman reported on the following highlights:
- European Meetings – it had been a very busy month for European meetings. The Chairman had met the French DGAC M Gandil. There was little difference in approach on SES and SESAR. The Chairman had taken the opportunity to talk to Commissioner Barrot on SES and SESAR at the T5 opening.
 - Meeting with Secretary of State – the Chairman had a meeting with Ruth Kelly MP to brief her on the Heathrow and Gatwick price review decisions. The airlines had also met the Secretary of State.
 - GDSR Recruitment – the advertisement for Mr Bell's successor had now appeared in the press. It will shortly be followed by an advertisement for Mr Arscott's successor.

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

6. The Chairman reported that there had been a Board workshop on 18 March. Sir Joseph's key lines of inquiry should emerge in the period late April/early May when the pace of work will accelerate.

IV Directors' Reports:

ERG – Doc 2008/25 by Dr Bush.

7. Dr Bush reported on the following highlights:
- Charging Regulation – ERG is continuing to work with DfT on preparation of a consultation document on implementation of the Charging Regulation for Spring publication. The Commission is organising a workshop in April which ERG will attend.
 - Transport Select Committee Inquiry into Freight Transport – Ms Watson and Mr French gave evidence to the Committee on aviation policy aspects such as the current traffic distribution rules limiting access of cargo only flights to Gatwick and Heathrow at peak times and the treatment of cargo in bilateral discussions.
 - Airport Regulation:
Heathrow and Gatwick Airports – the final price cap decision for Heathrow and Gatwick Airports including price control conditions and conditions relating to the public interest was published on 11 March following clearance by the Panel on 5 March. The press coverage had been extensive. Where the view was expressed that CAA was simply bailing out Ferrovial, a letter had been sent to explain that this

was not the case. CAA's views had been made very clear at the time of the take over in 2006 and CAA had adhered to them. There was good coverage of CAA's input to the Competition Commission about reforming the current economic regulation regime. While BAA had indicated that they could work with the decision, the airlines were up in arms. A Letter Before Action had been received from solicitors acting for easyJet in respect of the Gatwick decision. It was alleged that CAA had failed to have proper regard to the findings of the Competition Commission, failed properly to scrutinise the evidence and properly to consult, failed to apply public interest findings of the Competition Commission and that the CAA had displayed systemic bias in favour of BAA. Judicial Review proceedings were threatened. Mr Britton confirmed that Leading Counsel had been instructed and that a reply would be sent confirming that the CAA was satisfied that both its decision and the process which led to it were entirely lawful. The Chairman asked that the correspondence be circulated to Members.

Action: Mr Britton

In summing up the discussion, the Chairman commented that CCD and ERG had done a good job in ensuring that the issues had been taken up by the press. Everything now depended on BAA delivering the investment and better service standards that all stakeholders demanded and which had to be paid for.

Stansted Airport – the consultation on options for price controls at Stansted Airport closed on 17 March. The responses to the options would now be considered in full. The reference to the Competition Commission is planned for 29 April.

Competition Commission's Market Inquiry into BAA – ERG are attending a formal hearing on 27 March. It is understood that the Commission will publish for consultation its "emerging thinking" towards the end of April.

8. The Board noted the Report.

CPG – Doc 2008/26 by Mr Jackson.

9. Mr Jackson reported on the following highlights:

- Implementation of APC – considerable progress had been made as follows –
 - DfT had confirmed that the provision of a Government guarantee does not constitute State Aid.
 - DfT had received approval from HM Treasury on the new guarantee. The Barclays credit facility had been signed by the Trustees of the Air Travel Trust.
 - A variation to the Air Travel Trust Deed had been executed by the Secretary of

State and the Trustees.

- Substantial progress was being made on the AIG insurance contract.
- The CAA/ATT Agreement had been signed. The Agreement contains an indemnity from CAA to the Trustees against any loss or liability they may incur as a result of any negligence or wilful default on the part of the CAA arising out of the performance of the Agreement and all actions, claims, demands and expenses arising out of anything done or caused to be done by them in the exercise or purported exercise of the powers vested in them by the Trust Deed including for the avoidance of doubt any claim or demand on the Trustees under or in relation to any borrowing facility entered into by the Trustees.

The Board Panel appointed at the February meeting comprising Mr Keohane, Mr Mountford, Mr Jackson and the Legal Adviser had met on 18 February to approve the documents. A copy of the Minutes of that meeting are annexed to these Minutes.

- Unfair Commercial Practices Directive – the Directive will come into force on 26 May. CAA will be a competent authority for the purposes of enforcing the Directive.
 - Silverjet – Mr Jackson updated the Board on the latest financial situation.
10. The Board noted the Report.

SRG – Doc 2008/27 by Mr Bell.

11. Mr Bell reported on the following highlights:

- BA 777 Accident at Heathrow – Mr Bell reported that the AAIB have had meetings with both Boeing and Rolls Royce. The position is still that no evidence has so far emerged from the accident investigation to require regulatory action by CAA. In response to Members' questions, Mr Bell confirmed that he will keep the Board abreast of any developments.

Action: Mr Bell

- EASA:
Extension of Scope to Operations and Licensing – in response to concerns, EASA set up bilateral meetings with France, Germany and the UK which invited the Dutch and Swedish representatives. The meeting covered issues such as the timetable for transition and the proposed structure of the Implementing Rules.
Proposed Extension of Scope to ATM – the CAA has accepted an invitation from EASA to help produce the comments response document for the Notice of Proposed Amendment. The process is subject to very short timescales set by the Commission

for EASA to deliver the Opinion. The Commission has confirmed that EASA's role in ATM regulation will be confined to safety.

- EC Regulation on the Rights of Persons of Reduced Mobility – the second part of the Regulation comes into force in July 2008 and includes matters such as assistance at airports and assistance by air carriers. SRG has been working closely with DfT on updating the DfT's code of practice on access to air travel for disabled people.
- Flyglobespan – the company has yet to submit its ETOPS application. Absence of an ETOPS approval will affect their Summer schedule.
- Effect on Flight Crew of Security Search Measures – there is a groundswell of disquiet on this matter as evidenced by the reports to CHIRP. Crews say they are being subjected to unacceptable stress levels by security personnel which is not conducive to safety. BALPA have been to see the Aviation Minister, Jim Fitzpatrick MP. However there is no firm evidence of safety concerns as yet. In response to questions, Mr Bell said that complaints originated mainly from regional airports. In discussion, Capt Whitefield commented that, from his experience, long haul flight crews lived all over the UK and indeed abroad and travelling a long distance to come on duty gave them an opportunity to rest overnight which could well be less stressful than driving to the airport on the day of the flight.

12. The Board noted the Report.

DAP – Doc 2008/28 by Mr Arscott.

13. Mr Arscott reported on the following highlights:

- Heathrow Consultation – the formal consultation closed on 27 February with some 20,000 responses received. The process continues to attract media criticism.
- Airspace Changes:
Terminal Control South West – the decision was published on 29 January. A pre-action protocol letter indicating commencement of Judicial Review proceedings had been served on CAA on 19 March. The letter alleged that the decision was perverse, in breach of the statutory duty to refer the matter to the Secretary of State, there had been failures in consultation and failure to take into account material considerations. The claimant asked that the CAA reconsider its decision and pay its costs. Leading Counsel had been instructed by the Legal Adviser and grounds of resistance will be prepared.

Action: Mr Britton

Terminal Control North – NATS have launched their consultation on the arrangements for TC North, the scope of which is very significant.

- Spectrum Trading – DfT are now fully engaged in the spectrum trading and AIP debate and are co-ordinating policy across all transport modes. The Aviation Department will have lead responsibility. Ms Liz Duthie has been appointed for this purpose. There are concerns that financial pressures on MoD may influence their decision.
14. The Board noted the Report.

V Legal Report – Doc 2008/29 by the Secretary.

CAA International Limited – Appointment

15. The Board, in its capacity as sole shareholder of CAA International Limited resolved –
- To appoint Padhraic Kelleher, Head of Airworthiness Division SRG, to be a director of the company for the period 19 March 2008 to 31 March 2011. A copy of the Resolution is attached to these Minutes.

Charges for Air Services

16. The Board approved the making of the CAA (Navigation Services Charges) Specification 2008 which –
- continues the current London Approach Services charge at Heathrow, Gatwick and Stansted Airports. The charge is now payable to NATS (En Route) plc rather than NATS (Services) Limited. Charges are no longer payable for aerodrome navigation services provided by NSL at these Airports after 1 April 2008;
 - continues the current aerodrome charges for Aberdeen, Edinburgh and Glasgow Airports payable to NSL;
 - increases the Shanwick Oceanic Control Area charge payable to NERL in accordance with the price cap for 2008/09 from £55.68 to £55.73;
 - increases the Northern North Sea helicopter charge payable to NERL from £207 to £217 and increases the Southern North Sea helicopter charge payable to NERL from £78 to £101.

The Specification will be published in the London, Edinburgh and Belfast Gazettes as required by the Transport Act 2000.

Action: Mr Britton

17. The Board noted the Report.

VI Finance:

11 Months Ended 29 February 2008 – Doc 2008/30 by Miss Jesnick.

18. The operating profit for the 11 months to 29 February 2008 was £2211k as compared to the budgeted profit of £77k. After accounting for taxation and borrowing costs the CAA's net profit was £2763k as compared to a budgeted loss of £133k. Income was holding up reasonably well with new aircraft coming on to the register. The year end results might turn out to be better than the forecast 4.7%. However, the situation was very tight. There were a number of risks and uncertainties as set out in the Board Paper. However CAA was not so vulnerable to volume changes as in the past.

19. The Board noted the Report.

CAA Overdraft/Temporary Borrowing Facilities – Doc 2008/31 by Miss Jesnick.

20. Miss Jesnick reported that each year the CAA made arrangements for an overdraft facility with its bankers which was underwritten by HM Treasury. The facility is used to fund short term working capital deficiencies that may occur in any one month up to a maximum of £5 million. No recourse has been made to the facility in the current financial year.

21. The Board unanimously adopted Resolution No 151 to seek the consent of the Secretary of State as required by Section 10 of the Civil Aviation Act 1982 to secure overdraft or temporary loan facilities up to a maximum of £5 million during the period 1 April 2008 to 31 March 2009. A copy of the Resolution is attached to these Minutes.

CAA Treasury Policy, Principles and Procedures – Doc 2008/32 by Miss Jesnick.

22. Miss Jesnick presented the annual Paper setting out the CAA's Treasury policy, principles and procedures. The Paper contained a list of the current CAA Bank accounts, signatories and authorisation levels. The Paper also set out a Table of loans from the National Loans Fund. There had been an amendment to the procedures whereby two signatures are required for large payments to minimise the risk of collusion.

23. The Board confirmed it was content with the Paper.

CAA Budget 2008/09 and Contingency Plan – Doc 2008/33 by Miss Jesnick.

24. Miss Jesnick presented the CAA budget proposals for the 12 months to 31 March 2009. The budget set out the financial objectives and constraints in the forthcoming financial year and sought general approval from the Board of management's intentions for the forthcoming year, specific approval of the budget and authorisation to proceed with

the underlying plans.

25. In discussion of contingencies, Miss Jesnick said that the CAA had over-recovered some £995k from previous years. If necessary she will approach DfT and HM Treasury for this over-recovery to be taken into account in achieving the required 6% rate of return for 2008/09 (which amounts to £1.8 million). However it was too soon at present to see how the numbers would work out. The burden on CAA charge payers of the costs of defending the Judicial Reviews in the Courts was noted. In discussion, it was noted that these costs should fall on the relevant sector. The Chairman requested a paper to the Board on this matter.

Action: Miss Jesnick, Dr Bush, Mr Arscott, Mr Britton

26. Employment costs would be difficult this year as inflation was going up above the forecast in the 2008/09 budget. An assumption of 1.6% pay progression had to be built in to any pay award. The trend towards mergers and consolidation such as easyJet and GB Airlines and MyTravel and Thomas Cook was not likely to be helpful to CAA's income. Nevertheless, income based on volumes was better protected than it used to be.

27. The Chairman said that this would be a difficult year from a financial point of view. It was important that each of the Policy Committees kept a watchful eye on progress against budgets during the year and claw back costs where necessary.

28. The Board approved the 2008/09 budget and contingency plan.

HR/Finance Systems – Phase 3 Business Case – Doc 2008/39 by Miss Jesnick.

29. Miss Jesnick presented the Paper which set out the business case for the third and final phase of the implementation of the new HR/Finance systems. The Paper had been endorsed by the CMC. The CAA needed to replace the existing 12 year old systems which were reaching the end of their life and wished to introduce significant improvements in the business process and management of information. The new solution was based on the SAP "all in one" product. This should enhance productivity and provide a single set of best practice standardised processes which should provide much more user-friendly benefits to desktops. The system will support CAA's e-business platform. DfT already use SAP and EASA are heading that way. The system will support CAA's objective of being a high performing organisation.

30. The costs set out in the Board Paper are the best and final offers. All of the contractors have been seen. As the main impact of the programme will be on SRG, Capt Chapman, Head of Flight Operations Division, will be a member of the project board as a senior user representative.

31. Ms Richards informed the Board that the project was in good shape. Nevertheless, there were always risks in particular in the choice of implementation partner, “scope creep” and lack of business buy-in. As these were known risks, CAA had taken extreme care to mitigate them. Through competitive tender and thorough evaluations CAA had selected Atos Origin which is an organisation with significant experience and knowledge of SAP implementations for mid-sized organisations. The company has won the customer nominated satisfaction award nine times out of ten in the last ten years.

32. In response to questions, Miss Jesnick confirmed that the ultimate accountability remained with her. The main savings would come from Corporate Centre and SRG and therefore Capt Chapman’s involvement was particularly important.

33. Mr Keohane commented that this was a high quality business case.

34. The Board approved the business case for the implementation of new HR/Finance systems based on the SAP product set.

VII European and International Strategy Report – Doc 2008/34 by Mr Smethers.

35. The Board noted the Report.

VIII Slot Trading Policy Update – Doc 2008/35 by Dr Bush.

36. Dr Bush presented the update on regulatory developments in airport slot trading legislation and the latest thinking in the Commission and the UK. The Slot Allocation Regulation came into force in 1993 and has long been a concern for the UK. It puts into law the long-standing principle of grandfather rights to existing slots, the IATA rules governing the use and rescheduling of slots and the creation of a slot “pool” into which are placed newly created slots. This has caused potentially unhelpful distortions in the primary allocation of slots and the legality of secondary slot trading is ambiguous. Nevertheless, the value of slots increases all the time. The Commission needs to legalise this grey market. If there is a big increase in capacity following the introduction of mixed mode for example, there must be a better way of allocating slots. Any progress in this area is very slow indeed and nothing is likely to happen until a new Commission is in place. In the UK the problem is essentially confined to Heathrow. There is a risk that “green slots” could be introduced focusing on local environmental issues but CAA needs to ensure that this does not give rise to other inefficiencies or distortions in slot allocation. There are better tools available to tackle environmental problems.

37. The Board noted the Report.

IX European ATM Update – Doc 2008/36 by Mr Arscott.

38. Mr Arscott said that there was a great deal of work going on in a relatively tight timescale. M Barrot had highlighted 2008 as the year of ATM. The pace was being driven by the Commission because they see a window of opportunity, missing which would cause a two year delay.

39. Mr Roberts, on behalf of the European ATM Issues Steering Group and the Single European Sky Working Group presented the three key themes as follows –

- Single European Sky – pace had slowed in the initial package of proposals. There were two main areas for the UK namely the Charging Regulation in respect of which the contestability assessment had now been completed and was with DfT for consideration and interoperability where there is concern about the impact on legacy systems. The High Level Group report issued at the end of 2007 made ten recommendations plus a road map for change. The Commission responded by publishing its communication on 24 December. It briefly cross-referenced the HLG recommendations but its main purpose was to provide a triennial report to the Council and Parliament on the implementation of the first package of SES proposals. An outline indication of what SES II package might include was given. Precise detail is still not available but the package is likely to focus on improving ATM performance, dealing with the fragmented way ATM services are provided across the EU, the environment and greater use of sub-committees to deal with particular issues. However, there would not be a separate military sub-committee as ATM issues are largely civil/military in most areas. The Commission is to develop proposals for submission to the Council and Parliament during the summer. Progress will be tracked by the SESWG.
- Extension of EASA Competence to ATM Activities – the Notice of Proposed Amendment was published in late 2007 with a deadline for responses in January. This is much shorter than the normal time and as a consequence the process has been very rushed. The UK response supported the principle of extension of EASA competence in safety regulation but raised a number of fundamental issues on the scope and detail of the proposals. The proposals attracted very critical comments at the January Single Sky Committee meeting. CAA has accepted an invitation to

participate in the assessment of comments received in order to create the comments review document which in due course will be used to inform the EASA Opinion. CAA has until 4 April to respond to this.

- SESAR – this is approaching the end of the project definition phase. There are six deliverables overall. This is a potentially vast European project costing some €300 million every year for eight years but it had equally large potential to deliver significant benefits. The CAA was involved in a consortium in a limited way looking at safety and regulatory issues. The JU Admin Board is now being formed and there are 15 potential organisations including Eurocontrol, NATS and five other ANSPs bidding for places. Recruitment is now under way for posts in the JU by the Executive Director who expects to have about 30 staff in place by the middle of next year. Following much lobbying by CAA, the need for regulatory involvement early in the process is now accepted by both the Commission and SESAR.

40. The Chairman circulated a note on SES II/SESAR, the Commission's agenda and other issues. With regard to the latter –

- Some 40% of the work of the High Level Group had not been picked up. There is a lot of good work still requiring attention.
- The scale of the agenda could not be underestimated. Each item is a huge exercise. Taken together it is an enormous agenda.
- The risk particularly to SESAR development and implementation is correspondingly large. This is a project that must be undertaken but stakeholders need to be aware of the sums of money and resources involved.
- The whole approach to managing risk needs proper attention. There is currently not a complete project definition. Effective safeguards are required.
- Approach to managing change – institutional and legislative. Most Member States are not involved in any real sense. Trade Union issues will be difficult. Without a strategy the project could simply burn money.

At the suggestion of Dr Bush, the Chairman agreed to add “managing expectations” as another item to the list.

41. The Chairman said that the CAA should incorporate these themes in its strategy in particular realism, risk and managing change. He felt it would be helpful to the project if the High Level Group could be kept in regular session. The Chairman said that he would make sure that both Simon Webb and Robert Devereux were aware of the issues. In

discussion it was noted that any security issues would heighten the need for Ministerial focus. The Chairman asked for another update at the April meeting.

Action: Mr Arscott

42. The Board noted the Report.

X Consumer Policy – Doc 2008/37 by Mr Jackson.

43. Mr Jackson presented the Paper which set out a summary of research that, with the approval of CPPC, CPG has undertaken on consumer issues in aviation. It is timely that a review of CAA's consumer policy should be undertaken in view of the Government's objective to strengthen the UK consumer policy regime by 2008, the implementation of the Unfair Commercial Practices Directive which will add to CAA's consumer protection role and increased Government and political interest in improving the air passenger experience. ERG was also undertaking work commissioned by the DfT relevant to the air passenger experience. In addition, the Strategic Review of the CAA may well make recommendations on the CAA's consumer policy role.

44. Paragraph 37 of the Board Paper set out the initiatives in detail. Indepen Consultants have been retained to check the work. Phase 1 should be completed in September. The report will be submitted to DfT with a view to entering into a funding agreement for this work.

45. It is intended to submit the Paper to Sir Joseph Pilling by 28 March. Members were invited to send detailed comments to Mr Jackson by 26 March.

46. In discussion, the importance of handling the Paper so as to manage the expectations of consumer bodies was emphasised.

XI CAA Corporate Plan – Doc 2008/38 by Miss Jesnick.

47. Miss Jesnick reminded the Board that the draft Corporate Plan had been presented to its January meeting. Since then, each Group Director had been consulted to make sure that he was content with what has to be delivered. Following comments made at the January Board, there has been some re-writing of the Plan to cover the CAA's balanced objectives. In discussion of the consumer protection issue, Dr Bush commented that the reference should be to consumer policy rather than "passenger experience". To avoid misunderstanding, it should be made clear on page 4 that the functions listed were the main "statutory" functions of the CAA. The risks section of the report would be updated

after the Board Risk Workshop. Members should submit detailed comments by e-mail to Chris Jesnick by Friday 4 April. Subject to detailed comments, the Board approved the CAA Corporate Plan 2008/09-2012/13 for publication and forwarding to the Secretary of State by mid-April.

Action: Miss Jesnick

XII Any Other Business.

(i) Agenda Plan Update.

48. April 2008 – add High Level Group update.

May 2008 – add Eddington Report (from April) and update on SESAR.

(ii) IT Services.

49. Miss Jesnick reported to the Board that the overall status of the Steria replacement project is green with milestones being achieved. An exit strategy for Steria has been agreed but nevertheless there are still financial issues. A transition project manager has been appointed to oversee the exit strategy.

The next Meeting of the Authority will be at 10.00am on Wednesday 16 April 2008 in Conference Room 1, CAA House