

CIVIL AVIATION AUTHORITY



FOR PUBLICATION

**CIVIL AVIATION AUTHORITY
MINUTES OF 431st BOARD MEETING HELD ON
WEDNESDAY 19 MAY 2010 AT 9.00 AM**

Present:

Dame Deirdre Hutton

Chair

Mr A Haines

Chief Executive

Dr C Bell

Ms G Burrett

Dr H Bush

Mr D Gray

Mr R T R Jackson

Miss C Jesnick

Mr M Medicott

Mr R P Mountford

AVM B North

Mr M Swan

Capt R O Whitefield

Mr R J Britton

Secretary & Legal Adviser

In Attendance:

Mr M Smethers

Director European & International Strategy

Mrs N Hastings

Head of Human Resources

Dr D Hillson

Consultant

(for item I)

Mrs L Rich

Head of Corporate Services

(for item I)

Mr A Alsop

Head of Internal Audit

(for item I)

Mr N Fincham

Director, Economic Regulation and Competition Policy

(for item II)

Mr K Cheong

Head of Price Control Regulation

(for item II)

Mr R Toal
Senior Regulatory Policy Adviser

(for item II)

Mr M Goodliffe
Senior Regulatory Policy Adviser

(for item II)

Mr R Cowle
Senior Regulatory Policy Adviser

(for item II)

Mrs A-M Hopcroft
Minute Taker

I. Board Risk Workshop– Doc 2010-71 by Miss Jesnick

1. Dr Hillson was introduced to the Board as the facilitator for this section of the Board meeting.
2. Dr Hillson provided an introduction to risk and his thoughts following review of the CAA's risk register. The importance was noted of establishing a system where the organisation manages business risks while the Board considers strategic risks. The key to identifying strategic risk was whether the risk directly related to an organisation's strategic objectives.
3. Board members separated into Groups to consider risks against each of the strategic objectives that had technical, management, commercial and external causes. These risks were then presented back to the Board.
4. Whilst considering the risks identified, the Board discussed alignment of duties, objectives and expectations. In addition, consideration was given to the reputational impact of some of the risks.
5. The Board thanked Dr Hillson for his facilitation expertise. It was agreed that post workshop processing would be required to analyse the risks identified, with the resulting risk register having an accountable individual and an actionable response against each risk. It was agreed that the Chair, Chief Executive and Mr Swan would take this forward. The importance of reviewing the risk register on a regular basis was also recognised.

Action: Chair / Mr Haines / Mr Swan

II. NATS Price Control Review Presentation by Dr Bush

6. A number of declarations of interest were declared by Board Members:
 - Messrs Mountford and Jackson left the meeting for this item due to their role as Trustees of the CAA Pension Scheme.
 - AVM North declared an interest in relation to the Ministry of Defence / NATS contract
 - Ms Burrett declared an interest as her partner is an employee of NATS
7. Dr Bush outlined the procedure for dealing with the Review and highlighted the difference in approach to airport price control process where the Competition Commission (CC) makes recommendations to the CAA. It was noted that, for the NATS price control process, the CC is

the appeal body. Dr Bush introduced Ken Cheong and Robert Toal who would be presenting the material to the Board supported by Nick Fincham, Mike Goodliffe and Robert Cowle.

8. The presentation included the CAA's initial proposals on the scope and structure of the price controls that would apply in the next control period (commencing in 2011), a summary of the February consultation responses, and the main elements of the price control proposals due to be published in May.

9. The Board discussed the financial resilience elements of the price control and it was noted that although a number of regulators use a credit rating and Special Administration mechanism to ensure resilience it was recognised that credit ratings reflect the interests of creditors rather than consumers, whose interests are more akin to creditworthiness after the fulfilment of the regulatory contract. It had therefore been agreed to propose a gearing cap of 65%, which is some 5% more than NATS was itself targeting in its Business Plan over CP3. It was acknowledged that, from a Better Regulation standpoint, the gearing cap was at the more intrusive end of regulating finance. However, the Board considered that the importance of NERL's financial resilience justified such CAA involvement particularly as this approach ensures that users will receive the degree of financial resilience that they pay for through the price control. In response to a question regarding the Government view on the use of a gearing cap, it was agreed that the issue would be raised with the Department for Transport.

Action: Dr Bush

10. The incorporation of a flight efficiency metric and service quality levels were also discussed. It was highlighted that the flight efficiency metric was still under development but that proposals will be published for consultation later in the year. It was noted that the service quality levels were derived from past performance but also took into account technological advancements that would be implemented over the price control period. It was also noted that service quality performance in 2009 stands out as a year with exceptionally low levels of delay as a result of reductions in traffic and also an unusually low number of technical failures. As a consequence the proposed targets for CP3 are at a level that NATS is currently exceeding. The Board discussed this at length and agreed that the proposed levels were appropriate given the unusual circumstances prevailing in 2009 and noting that the average flight delay target would reduce to 12.5 seconds compared to 45 seconds in CP2. The dead band of +/- 2.5 seconds means that NATS would only earn bonuses if it achieved an annual delay performance better than 10 seconds per flight. The specific proposals were also further discussed with respect to the impact of traffic growth and also potential impacts of the Single European Sky II proposals and whether this would lead to a normalising process across Europe. The next steps in the process were discussed and it was noted that the proposals would be published for consultation by the end of May.

11. The Board noted that service quality should be considered alongside the approach to projecting operating costs. In that regard, the CAA's proposals were also more challenging than

those proposed by NATS. The Board endorsed the direction of the proposals and thanked the Price Control Review team for their hard work and the quality of the resulting analysis.

III. Volcanic Ash – Update and Risks to the CAA – Doc 2010-72 by Mr Haines

12. Mr Haines updated the Board on the further work that has been undertaken in response to the volcanic ash event and briefed on the CAA / Industry Volcanic Ash Contingency Conference that was held on 13 May. It was noted that the feedback from Conference attendees suggested that they had found the event useful.

13. The Met Office model was discussed and it was noted that this has been recognised as the best model available but, as with any model, it is dependent on the questions asked and the input assumptions used. It was noted that the Ministry of Defence also supports the use of this model. The importance of validating the model with test flight data was highlighted as well as seeking assurances from manufacturers as to what level of ash can be tolerated by the airframe and engines. The US model of avoidance of visible ash was further discussed and it was recognised that this has limitations with respect to night, poor weather operations and the crowded airspace over the UK.

14. It was noted that the analysis had focused on the impact of volcanic ash on the airframe and engines but not the internal aircraft environment and that this should be an area of future research.

15. The Time Limited Zone was further discussed and the assurances that would have to be provided to the CAA by both operators and their airframe / engine manufacturers in order for airlines to operate under specific conditions in zones. It was noted that Flybe was the only operator to have met this criteria thus far.

16. It was questioned whether the longer term exposure of ash on aircraft had been considered, given that this may be of interest to leasing companies. It was felt that operators would be keeping their lessors informed of the situation.

17. The financial impact of the volcanic ash situation on both industry and the CAA was discussed. It was recognised that there will be commercial pressure to keep aircraft flying with higher densities of volcanic ash present but it was agreed that the CAA should remain robust in ensuring that any extension to the existing arrangements was only allowed on a sound safety basis.

18. The impact of the volcanic ash situation on the CAA was further discussed. It was recognised that, due to the nature of the work, it could only fall to a small number of specialists and that sufficient working arrangements had been put in place. The possibility of seconding from other organisations was suggested and it was noted that this was being considered. The reduction in the CAA's airworthiness resources as a result of EASA taking responsibility in this area was also acknowledged and it was suggested that a pool of flexible resource might be created to provide extra capability. It was agreed that these suggestions would be given further

consideration.

Action: Mr Haines

19. It was noted that the CAA's presence in central government discussions in this area was limited and the Board agreed that this should be pursued with the Department for Transport.

Action: Chair / Mr Haines

20. It was highlighted that anecdotal evidence suggested the public supported the CAA's actions in response to the volcanic ash situation but it was agreed that a means of establishing a more informed understanding would be investigated.

Action: Ms Youngman

21. The European aspects of the volcanic ash situation were further discussed and it was felt that EASA's response to the situation had been disappointing but that the CAA should continue to work in partnership with EASA to support it as it becomes a higher performing regulatory establishment. It was recognised that there is a desire for a European wide policy on how the volcanic ash situation is dealt with and noted that the CAA should continue to support the Department for Transport and work with other European States active in this area.

22. The Board agreed that the Forward Work plan was appropriate for addressing the outstanding ash related activities and noted the material provided to the CAA industry conference on 13 May.

IV. Minutes of the Board Meetings held on 20 and 21 April 2010.

23. The minutes of the previous meeting were approved and signed.

V. Chair's Opening Remarks

24. There were no opening remarks

VI Chief Executive's Report – Doc 2010-73 by Mr Haines

25. Mr Haines reported that a Senior Management Conference would be held on 21 May to brief on the way forward following the Business Review.

26. The Board noted the report

VII CAA International Business Plan and Budget 2010/11 – Doc 2010-74 by Miss Jesnick

27. The paper set out the CAA International Business Plan for the two year interim period 2010/11 to 2011/12. This included CAA International's interim strategy and related recommendations, which were agreed at the March Board.

28. Miss Jesnick outlined the year end position which was better than had been budgeted and the future areas of development. It was highlighted that the position outlined in the Plan was consistent with that presented to the Board in March.

29. During discussion, a number of points were raised about the economic costing model used and the policy with regard to accumulated reserve and dividend position. It was agreed that these would be further considered. In addition, further clarity was provided with respect to the CAA's position on parent company guarantees (which the CAA cannot legally undertake) and liability accountabilities.

30. It was questioned whether any SRG staff that should have been assigned to the volcanic ash work had been unavailable due to CAA International contract commitments. It was noted that this had not been the case but that the potential could exist for such a situation. It was acknowledged that this gave further support for a pool of flexible resource raised during an earlier discussion.

31. The Board recognised the excellent contribution made by CAA International and congratulated it on its year end position. The CAA International Business Plan and Budget were endorsed.

VIII Directors' Reports

ERG – Doc 2010-75 by Dr Bush

32. Dr Bush drew the Board's attention to the airport regulation issues outlined in his report particularly relating to seeking to put the EU Airport Regulators Group on a more formal basis and seek participation from the European Commission.

33. In addition, the Review of Economic Regulation Bill was discussed and it was noted that the advice sought by the Department for Transport, under Section 16 of the Civil Aviation Act, on the drafting of the initial airport licences had been circulated separately to Board members for comment.

34. The Board noted the contents of the paper

CPG – Doc 2010-76 by Mr Jackson

35. Mr Jackson highlighted the difficulties of forward predicting in the current market environment and how CPG was continuing to work with the Association of Independent Tour Operators and the Association of British Travel Agents.

36. The Legal Adviser informed the Board that the Divisional Court would be giving judgement in the Travel Republic appeal on 20 May. In the event that the CAA was unsuccessful, the Board agreed that permission to appeal should be sought.

37. It was questioned whether any analysis had been undertaken with respect to the financial impact of the volcanic ash situation on airports and it was agreed that this would be considered.

Action: Mr Jackson / Dr Bush

SRG – Doc 2010-77 by Ms Burrett

38. Ms Burrett drew the Board's attention to the extension of the timescales associated with the EASA Notice of Proposed Amendment related to Flight Time Limitations. Reference was also

made to discussions with the US Federal Aviation Administration regarding US registered aircraft resident in the UK.

39. The Board noted the contents of the paper

DAP – Doc 2010-78 by Mr Swan

40. Mr Swan provided a brief progress report on the Future of Airspace Strategy and agreed to provide biographies on the Challenge Team to Board Members.

Action: Mr Swan

41. The Board noted the contents of the paper.

European and International Strategy – Doc 2010-79 by Mr Smethers

42. The Board noted the contents of the paper

IX Legal Report – Doc 2010-80 by the Secretary

43. This paper provided information on recent prosecutions and civil litigation and particular mention was made of the appearance at the Concorde trial of a retired member of CAA staff, who had appeared to give evidence for the defence.

44. The Board resolved to appoint Mr Michael Medlicott as a Non Executive Director to the CAA International Board. This resolution is attached to the minutes.

45. The Board noted the contents of the report.

X Draft Finance Report – 12 Months Ended 31 March 2010 – Doc 2010-81 by Miss Jesnick

46. Miss Jesnick presented the financial results for the year ending 31 March 2010 although stated that these were still subject to the outcome of the external audit.

47. The Board noted the contents of the paper.

XI Finance Report – 1 Month Ended 30 April 2010 – Doc 2010-82 by Miss Jesnick

48. Miss Jesnick presented the financial results for the first month of the new financial year and noted the significant reduction in income against budget, primarily due to the effects of the volcanic ash situation.

49. It was clarified that the debtor analysis would be included in the next finance report to the Board in June.

50. The Board noted the contents of the paper.

XII Any Other Business

51. None raised.

The next meeting of the Authority will be on Wednesday 23 June 2010 at 10.30 in

Conference Rooms 1&2, CAA House