

CIVIL AVIATION AUTHORITY



FOR PUBLICATION

CIVIL AVIATION AUTHORITY

MINUTES OF THE 453rd BOARD MEETING HELD ON WEDNESDAY 16th MAY 2012 at 10.30 AM

Present:

Dame Deirdre Hutton

Mr Andrew Haines

Dr Catherine Bell

Mr David Gray

Mrs Gretchen Haskins

Mr Richard Jackson

Miss Chris Jesnick

Mr Michael Medlicott

Mr Roger Mountford

AVM Barry North

Mr Iain Osborne

Mr Mark Swan

Capt Roger Whitefield

Mrs Kate Staples

Chair

Chief Executive

Secretary & General Counsel

In Attendance:

Dr Stephen Rooney
Director of Corporate Communications

Mr David Owen
Director, Human Resources

Mr Stephen Baker
Minute Taker

Mr Nigel Coules
CEO, CAA International Limited

For item I

Mr Andrew Sayers
Partner, KPMG, Member of the CAAi Tiger Team

For item I

Mr Matt Buffey
Senior economic & policy adviser

For item VI

Mr Chris Hemsley
Director, Consumers & Markets

For item VI

Mr Andrew Garner
London 2012 Director for BAA

For item VII

I. CAA International strategic issues – Doc 2012-62 by Miss Chris Jesnick

1. The Chair welcomed Mr Sayers to the Board meeting, noting that Geraldine Peacock, the fourth member of the Tiger Team was unable to be present. Miss Jesnick outlined the purpose of the discussion paper, noting that the Board would be receiving a detailed paper on strategic issues concerning CAAi prior to the Autumn PIE and that in the present instance ideas and suggestions were sought from the Board for input into that paper. She invited Mr Sayers to present the Team's findings.

2. Mr Sayers explained that the Team had been asked to look at CAAi's draft business plan and test its robustness, with detailed findings being fed into the plan for the CAAi Board, leaving a number of broader, strategic findings for consideration by the CAA Board, as outlined in the Team's formal report which had been delivered at the previous Board meeting. The latter findings related principally to the future shape and direction the Board wished CAAi to take, in particular the rate at which the Board expected CAAi to grow, what financial contributions were required, what strategic objectives the Board expected the company to fulfil, and whether the Board wanted an exit strategy for the company. Without directions from the CAA Board on such matters it would be difficult for CAAi to deliver the Business Plan.

3. The Chair thanked Mr Sayers for his presentation and asked the Board for comments. She noted that the company was a well-based business with solid clients that contributed circa £8.5 million to the CAA's accounts and, if that was the case, any change would have to be justifiable and not impose undue risks to the CAA. Mr Sayers was asked to comment on the typical scenario in which the commercial arm of an organisation such as the CAA became too large for the parent. Mr Sayers replied that typically this occurred when the capital requirements and financial risks of the subsidiary outgrew the parent company's capacity to bear these but that this was less of an issue in the case of CAAi, given its consultancy activities.

4. Mr Mountford observed that the financial relationship with CAAi was his particular concern, in relation to pensions and accrual rates, whether there should be full cost recovery or not and CAAi's capital requirements. In relation to the latter, the bigger CAAi became the more important it would be

for CAAi to have its own capital, in order to absorb risks, which raised questions about how this should be funded, for example through profit retentions. Mr Sayers observed that pensions were certainly an issue but so far as capital requirements were concerned, CAAi was largely self-funding and had a high degree of operational resilience.

5. Mr Osborne said there was an issue concerning the extent to which CAAi existed to support CAA's Strategic Plan or was more of a financial necessity for CAA.

6. Mr Gray said the Board had to consider whether it wanted an exit strategy or not. This was the critical issue, in his view, as all further considerations flowed from the answer to that question. If an exit strategy was not contemplated, this would largely determine the future shape of the company. However, the more CAAi grew, the more likely it became that an exit strategy would be required, as increased growth meant higher risk. Mr Haines, however, thought this was the wrong approach and that first of all CAA had to decide what CAAi's strategic objectives should be and how they should be achieved through the 5 year plan, with CAAi focusing on low risk work. Dr Bell thought defining the points that might trigger the consideration of an exit would, nonetheless, be useful for the autumn PIE.

8. Mr Osborne reflected that the question had sometimes been put to him that CAAi traded on the CAA brand and had no value without the CAA. He wondered if that was correct and thought it was probably not. Miss Jesnick pointed out that even if there was a disposal of CAAi, CAA might have to re-invent a similar company in order to be able to fulfil the Leadership beyond Authority role. Mr Haines replied that the issue was what role did CAA want CAAi to fulfil and how did CAAi fit into the CAA Strategic Plan. Mrs Haskins said that CAAi was essential for fulfilling the role of a qualified entity in relation to the EASA contracts.

9. The Board discussed the current mix of products offered by CAAi after receiving a briefing from Mr Sayers of what they were. Mr Sayers explained they broke down into: Training (low risk/high margin/high growth); Technical Advice and Assistance (high risk/low margin/low growth); the EASA Framework Contract (less risk than Technical Advice and Assistance) and Exams (low risk/high margin/high growth). Mr Sayers said it was important not to over focus on the technical advice and assistance although, of the 4 products, the latter and the EASA Framework contract encapsulated Leadership beyond Authority.

10. Mr Haines asked to what extent the CAA had ownership of the intellectual property in the CAA exam question banks. Mr Coules answered that the flight crew question bank was based on the EASA flight crew question bank which was jointly owned by the former JAA states but the maintenance engineers' exam question bank was owned solely by the CAA. However, he pointed out that other companies offered their own exams. Mrs Haskins said that all companies claimed to own the products they were offering and the safety management system development was an area where the CAA could provide Leadership beyond Authority. Miss Jesnick added that there was scope for growth of £3m per annum in non-core products.

11. Captain Whitefield thought that Leadership beyond Authority was inherent in all of CAA's activities and work but it had to ensure its work was properly monitored and quality assured. Mr Medicott said there were two types of risk posed by CAAi's activities: operational risk (the car crash scenario) and financial risk (lack of capital, cash flow and liquidity). CAAi needed therefore to raise its risk management and mitigation measures so that CAA could be comfortable with the level of risk.

12. Dr Bell pointed out that the proceeds of any sale of CAAi would most likely go to HM Treasury and that as CAA was not a commercial organisation, it was not a question of maximising commercial value. CAAi's objectives should be aligned with CAA's. Mr Mountford agreed: CAA had a thought leadership role and CAAi could be the vehicle for the delivery of this. There was a case for considering whether work should sometimes be undertaken at low margins or even at cost, so that CAAi's services were affordable to organisations that required assistance. CAA was not a venture capital fund and it was not a question of maximising profits although some of the profits could be used in discretionary spending by CAA in a thought leadership role. Miss Jesnick replied that the Business Plan was not about maximising profits and that CAAi already carry out work for fees which barely covered the cost because it was the right thing to do.

13. AVM North thought there seemed to be no common story and that CAA needed to ask itself what it was doing now, how had it got to that position, what it would be doing in 5 years time, what CAAi was doing and what was the delta between them. Mr Jackson said thought needed to be given to what the implications were of an expansion of the Leadership beyond Authority role.

14. The Chair concluded the discussion. The key question was what does the CAA want to do and what it thinks is its future role, and then the Board could address the question of what role CAAi should have and how it should contribute to CAA's strategic objectives for Leadership beyond Authority. There needed to be a better definition of the CAAi product mix, more clarity over how CAAi would be financed, the CAA overhead and transparency of costing and better definition of the reputational risks that CAAi's business posed to the CAA. The Board would want to have more information about which business propositions posed significant risks and which did not, what the risks were in financial and liability terms, as well as in human resources terms, and how such risks could be managed. There seemed to be no appetite for an exit strategy at this stage and this did not need to be addressed directly but even if an exit strategy was not required now, the Board would want to have some visibility of what were the things that might force CAA to have to consider an exit at a future date.

15. The Board noted the report and the progress made in relation to products and delegations.

II. Apologies

16. No apologies were received.

III. Minutes of the Board Meeting held on 21st March 2012

17. The minutes of the previous meeting were approved and signed. On actions arising,
- item 34: Mr Osborne asked the Board to note that the Minister had now directed the CAA not to refer the designated airports' price control to the Competition Commission; the Chair thanked Mrs Staples and Mr Osborne's team for their work on this matter
 - item 51: Mrs Haskins briefed the Board on aircraft evacuation procedures; all the indications were that the Virgin cabin crew had followed best practice but some work was being done to see if there were any lessons to be learnt and whether there was any better alternative means of communicating to passengers in such circumstances.

IV. Chair's Update

18. The Chair briefed the Board on her lunch with John Devaney, Chair NATS, during which the more commercial approach being taken by NATS had been discussed, her meetings with Jo Causon, Chief Executive of the Institute of Consumer Service and with Ian Rawlinson, Executive Chairman of Monarch. The Chair also reported on the Regulatory Chairs Group meeting, where the new Competition Authority's powers had been discussed, the Alvarez and Marsal Dinner she had attended, where the guest speaker had been Ed Balls and her meeting with Lord Curry, Chair Better Regulation Executive, who she had briefed on the progress of the Civil Aviation Bill.

V. Chief Executive's Report – Doc 2012-63 by Mr Andrew Haines

19. Mr Haines updated the Board on the progress of the Civil Aviation Bill, noting that it would proceed shortly to a first reading in the House of Lords. Mrs Staples was invited to outline for the Board the time-table for the Bill in the House of Lords. Mrs Staples said the Bill would receive its third reading in the House of Commons on 22 May, its first and second readings in the House of Lords on 23 May and 13 June but was unlikely to go to committee stage before the summer recess.

20. Mr Haines reported on the meeting of the Heathrow Leadership Group which the Secretary of State had attended. The debate had been constructive and the Secretary of State had been well received apart from on the issues of the UK Border Agency and aviation capacity and Heathrow.

21. Mr Mountford raised the issue of BMI Baby and what implications the closure of the company might have in relation to BA's dominant position at Heathrow. Mr Osborne replied that CAA had no statutory role in relation to the regulation of the use of BMI's slots by BA at Heathrow airport.

22. Mr Haines invited Mr Jackson to update the Board on an ongoing airline licensing matter. Mr Jackson briefed the Board on the airline's re-financing.

23. Mr Haines reported that CAA was taking forward constructive airline proposals to involve them in handling airspace disruption around the Olympics, but that no concrete proposals (both lawful and practical) on allocation of priority had been developed. The issue had largely been resolved.

24. On PPI, Mr Haines reported that unfortunately Philip Langsdale, CIO BAA, was now unable to chair the Risk Assurance Board due to his recent appointment as Head of Information at the DWP.

25. Mr Haines reported that the Performance Review Board, which had been considering the State Plans as part of RP1, had submitted its recommendations to the Commission and that the assessment looked, overall, to be positive for the UK.

26. Mr Haines informed the Board that the research and data collection part of the Total Reward Benchmarking Review had now been completed. The results were being analysed. The results would be circulated to Group directors.

27. Mr Haines requested the Board to approve the re-appointment of Simon Baker and Maria Boyle for further terms of 3 years each as directors of the Board of Air Safety Support International Limited. The Board approved the re-appointments.

28. The Board noted the report.

VI. Annual Consumer Issues Panel Report – Doc 2012-64 by Mr Iain Osborne

29. Mr Osborne introduced the paper, noting that CIP had decided to prioritise compliance with EC261 given the number of complaints it generated. In this context CIP was considering, with CAA's Office of General Counsel and external Counsel, whether there were grounds for formal enforcement action against certain airlines in relation to their refusal to re-route passengers on other airlines, as required by EC216. An enforcement policy would be published at the end of June. The airlines had had not yet fully digested the emphasis now being given by CAA to the enforcement of consumer rights.

30. Mr Hemsley was asked whether CIP had a communications plan. He replied that the emphasis to date had been on bilateral negotiations with airlines although there had been some public awareness on the work with the large carriers. Dr Rooney thought there was scope for public communications but there needed to be clear rules of engagement established with airlines first. Mr Osborne advised that communications issues would be considered, including possible "name and shame", and future papers would include pieces on this.

31. The Chair invited Mrs Staples to brief the Board on the airlines' Sturgeon appeal. Mrs Staples said the Advocate General's opinion had been published yesterday and that it supported the original ECJ decision from March 2011. The ECJ usually followed the Advocate General's opinion in delivering its decision which was expected in October or November this year. The effect of the decision was expected to be retrospective, meaning that there would be a large backlog of cases for the national courts to decide.

32. Mr Haines noted that the effects of the Sturgeon appeal, if the ECJ followed the opinion, would have to be considered by CIP and ExCo at a number of levels, including the attitude of the airlines given the emphasis placed on consumer protection, ensuring airlines managed DBC safely and the cost of enforcement. The Board might have to consider the reaction of the airlines to CAA's enforcement of a regulation which they regarded as unjust and the possible need to bring forward consideration of a formal communications plan in the event of any significant enforcement action.

33. Mr Osborne briefed the Board on the airlines' handling of the re-routing of passengers on cancelled flights. Some airlines preferred to re-route passengers on their own airline or using airlines with whom they had a reciprocal arrangement.

34. The Chair said the CAA could not just pursue the smaller companies. Mr Haines asked Mr Osborne at what point CAA would go public on any enforcement action. Mr Osborne replied that enforcement action would be a matter of public record and, to Dr Bell, asking what was CAA's role, that whilst enforcement was a matter for the CAA's discretion, it needed to exercise it consistently. Mr Haines pointed out that the CAA Strategic Plan was clear about CAA wanted to achieve in this area.

35. The Chair thanked the Board for a useful and interesting discussion, Mr Buffey for his paper and Mr Hemsley, who was shortly to leave the CAA, for energising the CAA's work on consumer issues.

36. The Board noted the paper.

VII. Presentation from Mr Andy Garner, London 2012 Olympics Director BAA - Heathrow Airport: Preparations for the Olympics

37. Mr Swan introduced Mr Garner to the Board.

38. Mr Garner gave a presentation to the Board on BAA's preparations for the London Olympics at Heathrow Airport. Mr Garner said that the Games Terminal was on schedule for completion, 300 staff accreditation applications had been received for the Village and 1294 TeamHeathrow volunteers were being trained. There had been two successful Paralympic test events for wheel chair rugby and Boccia athletes, involving wheel chair repatriation from aircraft, as well as a successful ISSF shooting test event.

39. Planning in case of mass disruption was well advanced and a Mass Disruption Planning Group had been established. A Compass Games Control Centre was being established and was due to be completed on 1 June. Special facilities had been installed to cater for the demands of the Paralympic athletes on their arrival, including additional toilets and hoists and lightweight aisle wheel chairs to assist in disembarkation. Mr Garner explained the arrival and departure procedures for the Games which would be done in the special Games Terminal under construction. Mr Garner said the busiest days would be the Olympics arrivals on the 16th and 26th July and Paralympic arrivals on 22nd and 28th August and the Olympic departures on 13, 14 and 15th August and Paralympic departures on 10th September.

40. Mr Garner answered questions from the Board.

41. The Chair thanked Mr Garner for an interesting presentation.

VIII. Preparedness for the Olympic and Paralympic Games – Doc 2012 – 65 by Mr Mark Swan

42. Mr Swan reported on the progress on cross-CAA preparations for the Games and the key risks. Commending the work of the COPSG to the Board, he observed that preparations had proceeded according to plan, all actions had been completed and nearly all risks on the COPSG and safety risk

registers mitigated to a manageable level. Great efforts to communicate the plans to GA and to industry had been made and the plans had received a favourable response, in particular GA seemed generally content with the restricted airspace and ATLAS Control arrangements. Work remained to be completed on the various issues around PRM reception/handling arrangements and RPG had a lead role in this area. Comments were sought from the Board on whether any other risks ought to be considered by the COPSG, not currently captured by the risk register.

43. Dr Rooney briefed the Board on the preparations for the Games' communications on airspace restrictions and his department's plans to send a letter from Mr Haines to all GA pilots. Dr Rooney agreed to circulate a copy of the letter to the Board.

Action: Dr Rooney

46. Mr Swan informed the Board that a paper on lessons learnt from the exercise would be written in autumn 2012.

47. The Board approved the paper.

IX. Current Safety Issues – Doc 2012-66 by Mrs Gretchen Haskins and Mark Swan

48. Mrs Haskins gave the Board a briefing on the recent ditching by a Bond helicopter in the North Sea. Preliminary investigations suggested a crack in the gearbox was the possible cause, possibly due to a manufacturing fault. EASA was trying to trace the batch although there appeared to be none other in the UK. The Bond crew had followed procedures correctly in making a ditching into the sea and SRG was holding discussions with Bond and Bristow and Eurocopter, the manufacturer. Bond was in the meantime conducting borescope investigations on all helicopters before and after each flight. SRG was satisfied with EASA's reaction to the incident.

49. Mr Whitefield requested an update on the FAME issue. Mrs Haskins explained to the Board that FAME was an aviation fuel contaminant caused by bio-diesel as a result of jet fuel transportation through shared systems such as multi-product pipelines, ships and tankers. The current allowable limit for FAME was 5 parts per million (ppm). Higher limits had not yet been accepted and with passenger numbers and hence fuel demand likely to increase during the Olympics, the chances of contamination also increased and airport closures during this period would have a significant impact.

50. The CAA Olympics committee was aware of the issue and the situation had been discussed with Operations and Aerodromes. SRG was working with EASA to produce a service information bulletin to allow continued operations with some level of FAME contamination in an emergency situation where the FAME contamination was at levels below 30ppm and below 100ppm, based on emergency protocols already issued by some manufacturers and a previous FAA bulletin. EASA was trying to get agreement with aircraft engine manufacturers on a Jet A1 100 ppm threshold but to date EASA had been unable to reach an agreement with the manufacturers.

X Report from the Audit Committee – Doc 2012-67 by Mr Roger Mountford

51. Mr Mountford presented the paper to the Board. He asked the Board to note that his

Committee was proposing an annual value for money element as part of the annual audit by KPMG in the light of the Secretary of State's Accounts Direction.

52. The Board noted the paper.

XI Live issues – CPG Director's Report to the Board Doc 2012-68 by Mr Richard Jackson, DAP Airspace Policy Items for the CAA Board Doc 2012-69 by Mr Mark Swan, Monthly Report: RPG Doc 2012-70 by Mr Iain Osborne, CCD: Key External Issues and Developments Doc 2012-71 by Dr Stephen Rooney, Delivering the People Plan – Quarterly Update Doc 2012-72 by Mr David Owen and Aviation Security Programme Quarterly Report Doc 2012-73 by Mrs Kate Staples

53. CPG – Mr Jackson briefed the Board on developments in ATOL reform.

54. DAP – Mr Swan briefed the Board on safety planning for the London 2012 Olympic Opening Ceremony airspace events: Wing Commander Dawn Lindsey would be providing operational control for safety reasons.

55. RPG - Mr Osborne briefed the Board on the results of the Heathrow Operational Freedoms Trial. The Trial had resulted in some modest improvements in capacity and phase 2 had been extended until 31 March 2013. He confirmed that the written Ministerial statement, confirming the publication of the Phase 1 report and design of Phase 2, had been made following the meeting between the cross-CAA team, NATS, BAA and the Minister earlier in May

56. CCD – Dr Rooney presented the report, which the Board noted.

57. Delivering the People Plan – Mr Owen reported that a good start had been made, with an improved PMR process implemented and good progress made in delivering key components of the Learning and Development Strategy. In relation to the PMR process, the performance ratings had been simplified by reducing the levels of performance from 6 to 4, to make managers distinguish between levels of performance more clearly. The on-line process for the PMR had also been simplified and made easier and quicker to complete.

58. Aviation Security Programme Quarterly Report – Mrs Staples reported that the decision to re-phase the programme and focus on the development of SeMS prior to rolling out OFRB had been agreed by the joint DfT/CAA Governance Board. CAA was pressing DfT for it to be involved in the development of the detailed OFRB concept. A submission to the Minister on the consultation response was being prepared and a communication plan, or core script, to inform industry of the decision to focus on SeMS prior to OFRB implementation was also being developed. CAA was pressing DfT for CAA Corporate Communications to be involved in this work too. Mrs Staples said CAA looking into the costs implementing a GSI compliant security system. The Board noted the report.

XII. Any Other Business

59. None.

XIII. Reflections and Forward Planning

60. Mr Medlicott was invited by the Chair to reflect on the Board meeting. He felt the energy levels had been high throughout the meeting, with contributions from all directors to the Board discussions. He was impressed by the lack of division and the harmonious approach taken to the discussions.

61. The Board reviewed the forward agenda.

The next meeting of the Authority will be on Tuesday 19 June 2012, at Tewin Berry Farm, near Welwyn Garden City