

**CIVIL AVIATION AUTHORITY**



**FOR PUBLICATION**

**MINUTES OF 434<sup>th</sup> BOARD MEETING HELD ON WEDNESDAY 15 SEPTEMBER 2010 AT 11.30 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 R P Mountford**

**Mr M Swan**

**Capt R O Whitefield**

**Mr R Allan**

**Deputy Secretary & Legal Adviser**

**In Attendance:**

**Ms M Boyle**

**(for item III)**

**Chief Executive Officer, Air Safety Support International**

**Mr K Cheong**

**(for item VII)**

**Head of Price Control Regulation**

**Mr C Hemsley**

**(for item VIII)**

**Head of Competition Economics**

**Ms A Jardine-Goad**

**(for item VIII)**

**Senior Competition Policy Adviser**

**Mrs A-M Hopcroft**

**Minute Taker**

Apologies for absence were received from AVM North, Mr Medicott and Ms Staples.

**I. Minutes of the Board Meeting held on 21 July 2010**

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

## **II. Chair's Opening Remarks**

2. The Chair invited the Board to approve the appointment of Ms Staples as the CAA Management Trustee of the CAA Pension Scheme to 30 September 2013. This appointment was approved by resolution.

3. The Chair briefed the Board on a very constructive meeting with Richard Hatfield at the Department for Transport (DfT) concerning the organisational changes at the Department and the ways in which these changes might impact on the CAA. Reference was also made to the Secretary of State's speech on sustainable transport, which was delivered to the IBM START Conference on 10 September 2010. It was agreed that a copy of this speech would be circulated to Board Members.

### **Action: Chair**

4. The Chair also took the opportunity to highlight that the Board would be undertaking a Question & Answer session with CAA staff at the October Board meeting, which would have both formal and informal elements.

## **III. Air Safety Support International Update – Doc 2010-118 by Capt Whitefield**

5. Ms Boyle attended the Board for this item and highlighted a number of key points in this paper, namely:

- the unique role of Air Safety Support International (ASSI), which is defined in Civil Aviation Authority (Overseas Territories) Directions 2003.
- the significant cultural issues faced by ASSI

ASSI's primary stakeholders, which are the Department for Transport, the CAA, the Foreign & Commonwealth Office (including the Governors of the Overseas Territories (OTs)), the OTs' Directors of Civil Aviation and the industries within the OTs.

6. Ms Boyle outlined ASSI's biggest challenge, which related to resources. It was highlighted that the organisation has a broad remit but has limited resources available to it. The main source of funding to date has been the DfT but it is recognised that cost recovery from the OTs will need to be pursued. Work is already underway to establish a formula for cost recovery of ASSI's core costs that takes into account ICAO guidance and the need to acknowledge the differing financial situations in each OT. It was highlighted that some OTs, such as the Cayman Islands and Bermuda, benefit from income related to significant offshore registers whilst also benefiting from the association with the UK and its regulatory reputation. It is anticipated that cost recovery could be phased in late in 2011. In response to a question about alternative funding sources, it was noted that the Foreign & Commonwealth Office has stated that it is not in a position to provide funding to ASSI.

7. The mature engagement process between ASSI and OT Governors was discussed and it was noted that, where the OTs have in-house regulators they are responsible for addressing any

shortcomings identified through regulatory oversight but otherwise the responsibility lies with ASSI. Capt Whitefield drew the Board's attention to the progress that had been made against the findings that resulted from the ICAO Audit of ASSI and the OTs. It was noted that the most significant finding related to a lack of resource in all technical areas. Whilst these findings are being addressed through a Corrective Action Plan, the resourcing issue is outside of the control of ASSI itself and falls under the responsibility of the DfT.

8. The Board felt that it was important to identify what resources were required in order for ASSI to carry out its role effectively and the safety risks and liability issues that could result should its budget be reduced. It was recognised that each of the OTs would have to be assessed individually and that this assessment would also need to take into account safety risks, traffic volumes and the amount of resource that should be assigned to each. It was felt that the practical impact of a reduction, or deficit, in the funding situation should also be assessed in terms of safety and reputational liability. The ultimate liability for the OTs lies with the DfT and the Board agreed that it was important to be able to provide the DfT with a good analysis of the safety risks coupled with an assessment of the financial position, including the potential for cost recovery. It was agreed that there was now an opportunity to review the ASSI model and that a working group should be established, which would report back to the Board by the end of the year.

**Action: Mr Haines / Ms Burrett / Ms Boyle**

9. The Board noted the content of the paper and felt that ASSI as an organisation had made significant improvements in recent history. Ms Boyle was praised for her efforts in this regard and thanked for an informative paper.

#### **IV. CAA Strategic Objectives – Doc 2010-119 by Mr Haines**

10. The paper outlined the CAA's Strategic Objectives and associated strategy maps, which had been revised following discussions by Executive Directors.

11. Mr Haines highlighted that further comments on the objectives had been received from Non Executive Directors and senior managers within the CAA. It was therefore agreed that the objectives would be subject to further revision before being circulated to the Board for agreement.

**Action: Mr Haines**

12. The Board noted the content of the paper.

#### **V. Lessons Learnt From Q5 Price Control Process and Improvements for Q6 – Doc 2010-120 by Dr Bush**

13. The paper outlined the results of a review of the process for setting Q5 price controls in order that lessons learned can be incorporated into the process for setting price caps for Q6. Dr Bush stated that the process for Q6 envisaged by the paper was significantly different from that used in Q5. In particular, lessons already learned from Q5 had been translated into the NATS Customer Consultation Working Group process and various elements of that had informed the

CAA's proposed response to the review.

14. It was highlighted that the Constructive Engagement (CE) process was the key focus of comments received through the review. The importance of understanding the purpose of CE was emphasised and noted that while it was intended to be encouraging of agreement between airports and airlines, value was also added to an Airports Review from greater clarity on the differences between airport and airline views on capital expenditure requirements.

15. It was noted that the two key issues raised by stakeholders related to the extent of CAA involvement in, and the scope of, CE. With regard to the former, it was recognised that the level of CAA involvement in CE could impact the dynamics of the discussions and also run the legal risk of appearing to prejudge regulatory outcomes. However, the NATS process had involved reporting back to the CAA and chairing arrangements that might have lessons for airport reviews. There was a range of views expressed as to the proper extent of the CAA's involvement in CE and it was agreed that this question would be further considered through the consultation process. In relation to the scope of CE, it was felt that while more opportunities for airlines and airports to discuss operational efficiencies through workshops should be provided, the CAA was still likely to be best placed to lead the scrutiny of an airport's cost base. However, it was important that airports identified the retail income and operational expenditure consequences of capital expenditure projects in the CE process.

16. The contribution that could be made to the price control process from a passenger perspective was further discussed. It was felt that neither airlines nor current airport consultative committees would be able to fully represent passenger views and that the paper should make stronger reference to the need for passenger engagement. It was noted that CPG were working with the DfT to develop guidelines for airport consultative committees that would incorporate greater emphasis on passenger interest but that the Q6 work would need to go beyond this.

17. Mr Cheong noted that the review had also considered whether there were to be lessons learned from other regulators and whilst the Board recognised that the CAA had been a leader in this area, it was felt that there was merit in ensuring we had captured any best practice.

18. The Board noted the contents of the paper and approved the consultation document subject to the incorporation of the comments raised during the meeting and those provided to Dr Bush following the meeting.

## **VI. Developing Competition Guidelines – Doc 2010-121 by Dr Bush**

19. Following a series of stakeholder working groups, the CAA's emerging views on the issues faced when assessing airport competition have been outlined in a draft 'Issues' document. The paper outlines the major policy issues that have been identified during this process and/or those that may attract significant stakeholder interest.

20. Mr Hemsley highlighted that the Developing Competition Guidelines project has been

subject to significant consultation over recent months and the draft 'Issues' document has also been peer reviewed by four external regulatory and competition economists who agree with the principles it contains.

21. It was noted that the major policy issues relate to:

- defining 'markets' for airports and the need to be clear about the role of a market definition
- estimating the 'competitive' price level, which has sensitivities as a price cap could be below this level
- whether airports should be analysed as operating in a 'multi-sided' market, which could have significant implications for a competition assessment and represent a departure from the approach adopted by the Competition Commission in its recent Market Investigation
- how to treat capacity scarcity, which is an area of increasing importance given the Government's decision not to support additional runways in the South East.

22. The capacity scarcity issue was further discussed. It was noted that while scarcity can result in a high degree of market power and the need for regulatory intervention, this has to be balanced by a recognition that scarcity can also be a normal part of a well functioning market. It was also highlighted that capacity scarcity could provide a greater focus on airport slots and the value for incumbent airlines. It was felt that the paper would benefit from referencing the impact on the airport market of hub competition from overseas and an example was given of airports taking positive action to attract traffic away from other airports.

**Action: Dr Bush**

23. The 'multi-sided' market issue was also further discussed and it was felt that passengers are customers of both airlines and airports. It was suggested that passengers would not travel to an airport unless they were subsequently taking a flight with an airline. However, it was recognised that there are instances, such as some international hubs, where passengers may make a conscious decision to use a particular airport due to its facilities.

24. It was also highlighted that the Issues document would subsequently be followed by additional stakeholder workshops and a consultation on the final proposed Competition Guidelines.

25. The Board agreed that the right issues were raised in the document and, subject to the incorporation of the comments raised at the meeting, remitted approval of the full draft paper to the CAA Executive Committee.

**VII. Report from the Remuneration Committee – Doc 2010-122 by Dr Bell**

26. The paper outlined the Remuneration Committee (RemCo) activity since the annual report, which was discussed at the June Board meeting.

27. The Board discussed the Senior Salary Review Body's recommendation relating to RemCos

overseeing remuneration arrangements for all those receiving pensionable pay of £100,000 or above per annum. Disclosure practices with regard to expenses were also discussed but it was agreed that this should form part of the Transparency work due to be presented to the Board in October.

28. Reference was also made to new tax legislation relating to pensions and the potential impact on the Board Member remuneration packages.

29. The Board noted the report.

#### **VIII. CAA Charging Proposals for 2011/12 – Doc 2010-123 by Miss Jesnick**

30. The paper outlined the proposed Charging Proposals for the CAA Groups, which have been presented in a unified approach for the first time, prior to their consultation on 16 September.

31. Miss Jesnick highlighted that there had been a 3% underlying increase in costs. This was primarily due to increased rate for Value Added Tax and National Insurance contributions as well as a small increase in pension costs funding and transfer of additional tasks from Government.

32. It was noted that the SRG charges had been discussed at the Safety Regulation Finance Advisory Committee (SRFAC). This discussion had raised the issue of cross subsidies and it was acknowledged that these had not been eradicated but had been significantly reduced and efforts would continue to reduce these as much as possible. The SRFAC also had an opportunity to contribute towards the Strategic Review of Safety Regulation by discussing values. It was also noted that ERG charges had been discussed with airports.

33. The Board approved the 2011/12 draft consultation document for onward presentation to industry for consultation on 16 September.

#### **IX. Finance Report – 5 Months Ended 31 August 2010 – Doc 2010-124 by Miss Jesnick**

34. This paper provided financial results for the 5 months to 31 August 2010. The CAA's operating profit, after accounting for net borrowing costs, was £2,666k compared with a budgeted profit of £683k.

35. Miss Jesnick drew the Board's attention to the risks associated with the volume related income and the factors behind the higher than anticipated operating profit, which primarily relate to lower than expected manpower levels and cost containments. It was felt that the manpower levels, particularly in SRG, had fallen to a low level, which could impact the work undertaken on behalf of EASA. It was questioned who would carry out the EASA work if the UK could not provide full support and it was noted that there are relatively few Member States in a position to contribute. Proposals about using a network of specialists would be discussed with other Member States and further related work was being undertaken as part of the Strategic Review of Safety Regulation. The Board recognised this as a very strategic issue and looked forward to hearing feedback at the October Board.

36. It was highlighted that a letter had been sent to EASA with regard to its debt situation.

37. It was noted that work had ceased on the Consumer Protection System (CPS) project. The impact on related projects was also discussed and it was noted that Off The Shelf packages were being reviewed to see whether they would be suitable for use.

38. The Board noted the contents of the report.

**X. Chief Executive's Report – Doc 2010-125 by Mr Haines**

39. Mr Haines highlighted that a number of the issues in his report could be picked up under the Directors report in agenda item XII.

40. The Board noted the report

**XI. Annual ERG Review – Doc 2010-131 by Dr Bush**

41. The paper outlined the strategic issues and challenges affecting ERG together with a summary of ERG's progress against the CAA's objectives in 2009/10.

42. Dr Bush highlighted the confluence of work being faced by ERG in areas such as the Q6 airport price control, the Airport Charges Directive and compliance work.

43. The Board took the opportunity to pay tribute to the ERG team, who have continued to work well in quite difficult circumstances amidst uncertainty over future developments.

44. The Board recognised the resource intensive nature of the compliance work undertaken by ERG as well as the valuable expert analysis work undertaken, which provides a key input into policy making and could be of great benefit to the DfT.

45. It was questioned whether there should be greater cross-CAA coherence on influencing strategy in Europe. It was recognised that an informal approach provided benefits in terms of flexibility although it was agreed that there could be greater discussion about future developments and how these should be addressed across the CAA.

46. The Board thanked Dr Bush for a very interesting paper and noted its contents.

**XII. Directors' Reports**

**CPG – Doc 2010-126 by Mr Jackson**

47. Mr Jackson outlined a number of issues relating to the Air Travel Trust and it was acknowledged that the barriers to entry to the Air Travel Operator industry were low. Further discussions on the future of the Air Travel Trust would be held in the CAA Policy & Information Exchange in October.

48. The Board noted the contents of the paper

**SRG – Doc 2010-127 by Ms Burrett**

49. Ms Burrett drew the Board's attention to the latest presentation of the safety performance information. It was noted that the latest analysis work supported the identification of the existing significant seven safety risks and that SRG is working with industry to address these. With respect to General Aviation (GA) safety it had been recognised that there should be a GA forum that clearly identified the risks it faces and a dedicated section with the next Safety Plan.

50. Ms Burrett also outlined a number of continued airworthiness and manufacturing and maintenance concerns, which are being taken forward with EASA through the use of a joined up risk register.

51. The challenging timescales associated with the conversion of national Flight Crew Licensing licences to EASA licences was discussed. It was clarified that the CAA would be issuing the licences to EASA standards although EASA would issue some licences itself.

52. During discussion on a number of airline specific items, the benefits of the Accountable Manager course were highlighted. It was suggested that consideration should be giving to providing a similar course to Accountable Managers of tour operators.

53. The Board noted the contents of the paper

**DAP – Doc 2010-128 by Mr Swan**

54. Mr Swan highlighted the modification to the Standard Instrument Departures at London City Airport, which has been fast tracked through the Airspace Change Proposal process, as it is based on safety considerations, and will come into effect on 23 September 2010.

55. Mr Swan also noted that the Release of Controlled and Segregated Airspace initiative was gaining momentum.

56. Volcanic Ash developments were discussed and it was noted that risk assessment methodologies are being taken forward through an ICAO Task Force and a Volcanic Ash conference is currently being held in Iceland. It was noted that work is underway to establish how to share responsibilities for crisis management between EASA and Eurocontrol should a further Volcanic Ash situation develop.

57. The Board noted the contents of the paper.

**ERG – Doc 2010-130 by Dr Bush**

58. Dr Bush briefed the Board on Single European Sky developments, presentations to the Transport Select Committee, the recent UK / Egypt Scarce Capacity Hearing and the issues surrounding timetabling for the Q6 price control process.

59. With regard to the Q6 timetabling, it was recognised that the delays to the Airport Economic Regulation Bill could have a significant impact on the approach to be taken to Q6 and the resulting uncertainty for stakeholders. It was agreed that it would not be possible to be more definite about options for the handling of Q6 until there was more information from the DfT about Bill timing. Discussions would be taking place with the DfT and with airports / airlines which needed to be alerted to the issue.

60. The Board noted the contents of the paper

**XVI. Legal Report – Doc 2010-129 by the Deputy Secretary**

61. The paper outlined recent prosecutions, civil litigation and other cases of interest.

62. The Board noted the contents of the report.

**XVII. Any Other Business**

63. Health & Safety training – The Board discussed the training that they had received earlier in the day. It was agreed that the next session should take place in January 2010 and focus on the CAA's Health & Safety Strategy.

64. Extraordinary Board Meeting – It was highlighted that an extraordinary Board meeting would be required to discuss the NATS price control process and this would be scheduled for 6 October 2010.

The next meeting of the Authority will be on Wednesday 20 October 2010 at 10.00 in Diners 1&2, Aviation House