



CIVIL AVIATION AUTHORITY
Secretary and Legal Adviser's Office

FOR PUBLICATION

CIVIL AVIATION AUTHORITY
MINUTES OF 415th BOARD MEETING HELD ON WEDNESDAY
17 DECEMBER 2008 AT 10.00 AM

Present:

Sir Roy McNulty **Chairman**
Mr J Keohane **Deputy Chairman**
Mr J R D Arscott
Dr C Bell
Dr H Bush
Capt D J Chapman
Mr R T R Jackson
Miss C Jesnick
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 and International Strategy

Mr A Knill
Head of Surveillance &
Spectrum Management, DAP **For Item IX**

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

Apologies for absence were received from AVM Anderson.

I Presentation by DGCA.

1. The meeting opened with a presentation by Mr Peter Griffiths, Director General Civil Aviation on oil prices and future supplies and their impact on aviation environmental issues. These highlighted the need for an environmental duty for CAA to generate efficiency savings.
2. A copy of the presentation is attached to these Minutes.

II Minutes of the Previous Meeting and Matters Arising.

3. The Minutes of the meeting held on 25 November were approved and signed. On the action points arising:
 - DfT Review of Framework of Economic Regulation – the Chairman confirmed that he had pressed Simon Webb for a further high level meeting which is being arranged for January.

III(i) Chairman's Opening Remarks.

4. The Chairman reported on the following highlights:
 - Recruitment – Air Cdre Mark Swan, currently Director of Operational Capability MoD, has been appointed by the Secretaries of State for Transport and Defence to succeed John Arscott as Director of Airspace Policy with effect from 1 March 2009. The closing date for applications for the Chairman's post was 12 December. Short listing should take place during January. DfT will then direct their attention to the recruitment of the Chief Executive and a non-executive Member to succeed Mr Keohane. The Chairman confirmed that Peter Griffiths would be taking up a post with IATA as Regional Vice President Europe on 1 April 2009.
 - Heathrow Environmental Conditions – the Chairman reported that on 28 November he had written to Simon Webb responding to his request to give urgent consideration to CAA's additional involvement in environmental issues at Heathrow. While the CAA would be willing in principle to consider a role in the process, there were many important issues to be resolved including the decision making process, legal powers, resource implications, guidance and the policy framework. DfT had now produced a draft statement on a compliance mechanism. While there would be inherent difficulties it would probably be better for aviation if the task were led by CAA rather than the Environment Agency. While the compliance task could be accepted in principle, CAA needed to know a great deal more about how the issues raised in the 28 November letter would be dealt with. The response to the Department should therefore be couched in appropriate terms. Dr Bush said that there would be a connection with price controls set for Heathrow. Mr Mountford said it was vital that the need for transparency should be recognised.

The Chairman said that he would prepare a draft response and circulate it to Members for comment. CAA's response had to be with the Department by close of business on Thursday 18 December. It would be recommended that the assessments be led or commissioned or co-ordinated, rather than undertaken, by the CAA. References will be made in the response to slot allocation, safety and efficiency. If capacity was under further pressure, CAA must be assured about safety.

Action: Chairman

(ii) Strategic Review Implementation.

5. DfT were still considering a draft Bill to deal with reform of economic regulation of airports. Implementation of the Pilling recommendations was being dealt with by Sandra Webber at DfT and Miss Jesnick.
6. The Board noted the Report.

IV Directors' Reports:

ERG – Doc 2008/115 by Dr Bush.

7. Dr Bush reported on the following highlights:
 - Scarce Capacity – a hearing is arranged for 18 December to allocate scarce capacity on the route London-Kiev between the two applicants, BA and bmi.
 - Stansted Airport Price Control Review – the proposed price control and public interest conditions for Stansted Airport for the five years from 1 April 2009 were published on 9 December. Responses to the proposals are due by 3 February 2009. This will be followed by oral hearings with the main parties on 9 February before the CAA makes its final decision in early March. The proposals had been broadly welcomed by the low cost airlines.
 - Gatwick Airport Price Cap – the CAA's detailed grounds of resistance together with witness statements from Dr Bush and Mr Storey are ready for filing by the deadline of 19 December.
 - Review of Economic Regulation – ERG is still not seeing the papers in advance of project board meetings. The Chairman confirmed that he had taken this up with Mr Griffiths.

- Competition Commission's Inquiry into BAA – the CC this morning had published its provisional decisions requiring the sale by BAA of both Gatwick and Stansted Airports and Edinburgh Airport together with other remedies to resolve competition problems. A semi price control arrangement was proposed for Aberdeen Airport. The CAA would be able to welcome a proposed primary duty to consumers and the recognition of the trade-off between competition and regulation. CAA's views on a licensing regime for airports had also been adopted. However, the report contained a number of unnecessary and inaccurate remarks about CAA's past conduct and the way it had interpreted its statutory duties in previous price control reviews. In essence, the CC were saying that the CAA had not done its job properly. This accusation is denied. The CAA had agreed to as much capital investment by BAA as the CC had recommended and had also imposed and developed conditions relating to service quality. Dr Bush agreed to prepare a draft letter for the Chairman to send to the Chairman of the CC seeking evidence for the criticisms made of CAA.

Action: Dr Bush

In response to Mr Mountford's question, Dr Bush confirmed that CAA had published a note setting out all relevant regulatory information to potential purchasers of Gatwick. If any party wished to seek further information on this, CAA would be prepared to answer questions.

- Stansted Runway 2 Planning Inquiry – detailed statements of case have to be submitted to the Planning Inspectorate by 22 December. The CAA's statement will cover the comparatively narrow role of CAA as economic regulator together with DAP and SRG matters. The impact of the CC's remedies on the Planning and in particular the Compulsory Purchase Inquiries was uncertain.
- Climate Change Committee Advice to Government – the advice was published on 1 December. Key recommendations had already been made to Government in interim advice which had been reflected in the Climate Change Act which received Royal Assent on 26 November. The CCC had noted that UK international aviation emissions could make up as much as 35% of the UK's allowable greenhouse gases in 2050 assuming take up of new technology and operations. The Board asked Capt Chapman to ascertain the likely reduction in greenhouse gases as a result of new technology.

Action: Capt Chapman

8. The Board noted the Report.

CPG – Doc 2008/116 by Mr Jackson.

9. Mr Jackson reported on the following highlights:

- Travel Republic – Legal Department had issued summonses against Travel Republic and Mr Kane Pirie, a director of the company, for breach of Article 3(1)(A) of the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995. The first hearing is fixed for 11 February 2009 at Westminster Magistrates Court.
- XL Failure – CAA's policy statement that it would refund customers of Freedom Flights and Pure Flights who may have unlawfully been sold flights and accommodation at the same time, provided they assign their claim over to the CAA, had been broadly welcomed by the travel trade.
- APC Consultation – a revised financial model to underpin the consultation on proposals to increase the ATOL Protection Contribution is being completed. The consultation will include a range of increases for implementation from October 2009.
- Secondment – Vanessa Jones, Manager Risk Analysis CPG, will be commencing a one year secondment to New Philanthropy Capital starting in January.

10. The Board noted the Report.

SRG – Doc 2008/117 by Capt Chapman.

11. Capt Chapman reported on the following highlights:

- EASA Extension of Scope to Air Traffic Management and Aerodromes – SRG continues to support DfT at the Aviation Working Group in Brussels which is working on the aerodrome text to be included in the EASA Regulation. Some of the key issues raised by UKREP have gained good support from other States and led to amendments. In particular, the removal of measures relating to airspace design, management and the notion of concept of operations.
- Newquay Airport – notwithstanding the very high level of support provided by SRG, the Airport had failed to put itself in a position to commence civil operations on 1 December and the Airport is currently closed. A new target date of 19 December has been set. However, there were a number of criteria to be satisfied before both the aerodrome licence and ATC approval could be granted. A final audit will be undertaken by SRG on 17 December. The delay to the opening and the costs overrun for Cornwall County Council is starting to become a media issue.
- FAME – the CAA has taken the lead in dealing with a new and emerging risk of biofuel contamination. A FODCOM has been published notifying operators that off-specification fuel is not acceptable and will result in aircraft having an invalid certificate of airworthiness. Operators

are required to agree contingency plans with the Original Engine Manufacturers if contamination levels are exceeded. OEMs have been reluctant to engage with this issue since they are having to spend money on testing engines for biofuel certification purposes.

Aerodrome Standards will issue a NOTAL to aerodrome licensees on dealing with FAME incidents. EASA, ICAO and IATA will be notified by CAA of the collective measures taken to date and the need for an agreed international position on this matter.

12. In discussion of the economic pressures on airlines in the current recession and whether this would have an impact on safety, Capt Chapman said that in previous downturns, experience had shown that UK airlines did not cut back on safety. Safety issues did not necessarily derive from financial problems. The Chairman said that in the current recession it was important that SRG maintain its levels of surveillance of the industry.

13. The Board noted the Report.

DAP – Doc 2008/118 by Mr Arscott.

14. Mr Arscott reported on the following highlights:

- Single European Sky – the legislative amendments to the four high level SES Regulations were given general approval at the 9 December meeting of the Transport Council. The majority of CAA's concerns had been addressed. However, regrettably, Spain appears to be resurrecting the Gibraltar issue.
- SESAR – the European ATM Master Plan is still outstanding. An event to sign the membership agreements took place on 8 December but the membership process will not be finalised until March. The appointment by the JU of Jose Calvo of the Spanish NSA as Chief of Regulatory Affairs is to be welcomed.
- Wireless Telegraphy Act Licensing Contract – Ofcom have indicated that they will renew the contract only for 12 months prior to issuing an invitation to tender for competitive bidding. DAP is working with Miss Jesnick on this matter.
- Auction of Spectrum at 2.6GHz – DAP staff are continuing to work with Ofcom and MoD to resolve potential interference issues for primary radars.
- Noise Management at Heathrow – DfT and DEFRA have asked the Head of ERCD and the Director of Acoustics, Bureau Veritas, to make recommendations on how aircraft noise constraints at Heathrow might be regulated. A paper recommending methods to detect breaches of noise constraints and sanctions that might be applied was delivered on 20 November. Any independent authority to regulate Heathrow's adherence to noise limits will require the use of ERCD's services and may in due course wish to incorporate ERCD's functions.

- Autonomous Radar Unit Operations – DAP had issued a revised policy document for Autonomous Radar Units operating in UK airspace. The policy underpinned the safe provision of both civil and military ATM and ACACS Services. The Chairman said that it would be useful if AVM Anderson could explain the MoD's approach to safety regulation to the Board.
Action: Mr Arscott/AVM Anderson
 - Administrative Incentive Pricing – Ofcom are to undertake a further consultation. Changes are unlikely before 2010.
15. The Board noted the Report.

V Legal Report – Doc 2008/119 by the Secretary.

Charges for Air Services

16. The Board approved the making of the CAA (Denmark and Iceland Charges) Specification 2009, which introduces revised charges for air navigation services provided by the Governments of Denmark and Iceland and ICAO from 1 January 2009.
17. The Board approved the making of the CAA (Eurocontrol Charges) Specification 2009, which introduces revised Eurocontrol rates from 1 January 2009.
18. Both Specifications will be published in the London, Belfast and Edinburgh Gazettes as required by the Transport Act 2000.

Action: Mr Britton

Air Safety Support International Limited

ASSI Guidelines

19. The Board approved an amendment to the Guidelines for the working relationship between the CAA and ASSI to deal with the change in the reporting line of the Manager, International Technical Co-ordination from the Group Director SRG to the Director, European and International Strategy.

ASSI Objectives

20. The Board approved an amendment to the Objectives for the company to enable it to make charges by way of reimbursement of its costs to the Government of an Overseas Territory in respect of assistance, training or advice undertaken in accordance with arrangements agreed with the Government of the Overseas Territory concerned. The amendment to the Objectives had been approved by the Secretary of State in accordance with paragraph 9 of the CAA (Overseas Territories) Directions 2003.
21. The Board noted the Report.

VI Finance Report – 8 Months Ended 30 November 2008 – Doc 2008/120 by

Miss Jesnick.

Financial Results

22. The operating loss for the year to date was £220k as compared to the budgeted profit of £1,165k. After accounting for borrowing costs (£227k credit) the CAA's net profit was £7k as compared to a budgeted profit of £1,388k. The impact of the recession is now being felt. ASKs have declined by 4% in November with transatlantic numbers down by 10%. The year end loss is now forecast to be £5.5 million. Miss Jesnick said that she was having discussions with DfT about borrowing money for IT investment and increasing the overdraft facility for next year. The Chairman said that he had raised the issue of CAA's finances during the recession with Robert Devereux, DfT Permanent Secretary. DfT confirmed the need to maintain regulatory resources to ensure safety. Deficits incurred could be recovered in later years.
23. The Board discussion paper on these issues will be presented by Miss Jesnick in January in the Quarterly Report.

Action: Miss Jesnick

24. The Board noted the Report.

VII European and International Strategy Report – Doc 2008/121 by Mr Smethers.

25. Mr Smethers reported on the following highlights:
- Transport Council – Mr Smethers confirmed that progress on SES II and the extension of EASA's scope to ATM and aerodrome safety had been satisfactory in terms of UK objectives.
 - EASA Management Board – at its meeting on 10 December, the Board considered the 2009 budget, the business plan for the period 2009-13, outsourcing policy to include Qualified Entities and a strategic discussion of safety strategy. Community funding for EASA is likely to be 10% higher in 2009 and the Agency is confident that its income will hold up despite the economic situation. The business plan is a substantial improvement on earlier versions. A number of States had reservations about the possible role for Qualified Entities resulting in lengthy discussions on how they would be brought into the system. The safety strategy discussion focused on how the Agency should mesh its work with that of NAAs to avoid duplication and building NAA confidence in handling of occurrence data. The Chairman said that it would be useful to have a discussion at SPC on EASA's progress on safety strategy.

Action: Capt Chapman/Mr Smethers

In addition, the Chairman asked Mr Smethers to include a note of the impact of the forthcoming changes in the Commission and Parliament and what this means for CAA in his next Report.

Action: Mr Smethers

26. The Board noted the Report.

VIII 2006 Strategic and Regulatory Reviews of GA – Progress Report – Doc 2008/122 by Capt Chapman.

27. Capt Chapman reported that good progress had been made in implementing the recommendations arising from the Strategic and Regulatory Reviews of GA. All but two items had been closed in the case of the latter. However, it had to be recognised that some of the strategic review recommendations were unlikely to be closed in the near future. These included recommendation 6 on the VAT treatment applied to flying training places at UK flying schools which required a decision from HM Treasury. Recommendation 12 requesting the Government to revisit the 2003 report of the Inter-Departmental Working Group on the Training of Aircraft Maintenance Engineers was dependent on the availability of Government resources. The Chairman asked Capt Chapman to write to Mr Griffiths on this matter.

Action: Capt Chapman

28. The Board noted the Report.

IX Mode S – Doc 2008/123 by Mr Arscott.

29. Mr Arscott reminded the Board that Mode S had been initially introduced for commercial IFR/GAT operations in notified airspace in March 2005. Following the 2006 consultation a phased approach to further regulatory changes had been agreed in principle by the Board. As a result, the requirement for Mode S as the means of compliance for mandatory transponder carriage came into force in March 2008 with a transition period to 2012.

30. The Board Paper presented the next phase following a further consultation undertaken this year on four proposals –

- Introduction of mandatory carriage and operation of Mode S transponders in controlled airspace
- Introduction of process for creation of TMZs
- Inclusion of gliders in SSR carriage regulations
- Mandating carriage and operation of Mode S transponders on all international flights conducted by powered aircraft.

There were nearly 2,000 responses to the consultation, 94% of which were from private individuals of whom 80% were glider pilots. As previously, issues raised were the conduct of the consultation, the lack of benefits to GA and continuing perceptions of favouritism to commercial operators. No new issues were raised. A number of productive meetings had

been held with GA representatives. There was growing recognition of the benefits but it was acknowledged that the proposals would be a major change for the gliding community, who would also be disadvantaged if an alternative approach of widespread segregation were introduced.

31. In an endeavour to meet GA concerns, continued phasing appeared to be the best practical option. However, this had to be balanced with the need to meet the safety concerns of ANSPs and airlines. Inter-operability between commercial, military and GA remained the key to ensure that safety and efficiency improves as capacity increases. Mode S was a key component to achieve this.
32. In response to Dr Bell's question, Mr Arscott confirmed that phasing would not be a retrograde step. Most powered aircraft were already fitted. The key to fitting transponders to gliders from April 2012 would be production of light weight transponders by industry. The Chairman asked Mr Arscott to produce an update on light weight transponders at the next APC meeting.

Action: Mr Arscott

33. The Board believed a reasonable balance was being struck and endorsed the Paper as the basis for formal CAA submission to DfT to amend the Air Navigation Order.

X Consumer Policy – Doc 2008/124 by Mr Jackson.

34. Mr Jackson presented the Paper which was split into two distinct reports. The first related to the Secretary of State's request for advice under Section 16 of the Civil Aviation Act 1982 on how to improve the air passenger experience. The second dealt more widely with the CAA's consumer policy role.
35. To produce the through airport passenger experience advice for the Secretary of State, a lot of work had been undertaken with the interested parties at the UK's four largest airports. As requested by the Secretary of State, the work focused on the interfaces between the various service providers and how these could be improved to strengthen the resilience of the through airport passenger journey. Relationships between these providers were not particularly good at some airports. However, there were practical solutions to the problems. The survey indicated that on the majority of occasions when the airports were operating in good conditions, the passenger experience worked well. There was not an endemic problem.
36. Dr Bell said it was important to define CAA's role.
37. CPPC would look at the Paper again at its January meeting. Detailed comments should be submitted to Mr Jackson by 24 December.
38. Ms Abbott presented the second part of the Paper on consumer policy objectives and air travel.

The Paper sought to bring the legal and policy components together to provide a coherent framework. The Paper also referred to consumer representation in air travel and ways of working between the AUC and CAA.

39. In discussion, Dr Bush said that the emphasis on consumer protection was a move in the right direction. However, an enhanced consumer protection role would require increased resources both in numbers of people and in the skills involved. There should be a critical assessment of the proposed greater involvement by the CAA. Dr Bell commented that there should be less diffidence about the use of enforcement powers. The light touch approach of regulators had been found to be wanting in other areas. Mr Mountford drew attention to paragraphs 36 and 38 dealing with the interfaces between service providers at the airport. In a post-BAA world there will be new types of owner. Infrastructure funds will only be interested in investment returns. There will be no real interface with the travelling public. Security staff are likely to be outsourced. New structures may be required to deal with this reality and thought should be given to this.
40. Mr Jackson said that the aim was to submit the Paper to DfT in January. In response to the Chairman's question, Mr Jackson confirmed that the Chief Executive of the AUC had been briefed about its contents.
41. The Board endorsed the recommendations for developing the CAA's approach to consumer policy. Detailed comments on the Paper should be submitted to Mr Jackson before 24 December. The Paper would be reviewed by CPPC in January.

Action: Mr Jackson

XI Business Plans:

ERG – Doc 2008/125 by Dr Bush.

CPG – Doc 2008/126 by Mr Jackson.

SRG – Doc 2008/127 by Capt Chapman.

DAP – Doc 2008/128 by Mr Arscott.

ASSI Business Plan and Budget 2009/10 – Doc 2008/129 by Capt Whitefield.

42. The Chairman confirmed that each of the Business Plans had been approved by the appropriate Policy Committee. The Group Directors confirmed that there were no material changes. Capt Chapman said that the safety conference section in the SRG Business Plan will need updating once the conference has been held in January. Miss Jesnick drew the Board's attention to the SRG profit and loss account and the entries for EASA transition additional income. She stressed that this income is not confirmed and if it is not realised it could result in additional costs having to be recovered by the SRG Schemes of Charges.
43. The Board endorsed the 2009/10-2013/14 Business Plans of the four Groups and for ASSI.

The Board further approved the submission of the ASSI Business Plan and Budget 2009/10 to the Secretary of State as required by the CAA (Overseas Territories) Directions 2003.

Action: Mr Britton

XI Any Other Business.

(i) Agenda Plan Update.

44. January 2009 – add Board discussion on financial issues.

May 2009 – move Trustees' presentation to July 2009.

March 2009 – the risk workshop will be held on 18 March 2009 at 1.30pm following on from the Board meeting.

June 2009 – the Away Day will be held on 16/17 June at Aviation House, Gatwick.

The next Meeting of the Authority will be at 10.00am on Wednesday 21 January 2009 in Conference Room 1, CAA House