

CIVIL AVIATION AUTHORITY



FOR PUBLICATION

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MINUTES OF THE 472nd BOARD MEETING HELD ON

WEDNESDAY, 19th FEBRUARY 2014, AT CAA HOUSE, KINGSWAY, LONDON WC2B 6TE

Present:

Dame Deirdre Hutton

Chair

Mr Andrew Haines

Chief Executive

Dr Catherine Bell

Mr David Gray

Mr Richard Jackson

Miss Chris Jesnick

Mr David King

Mr Iain Osborne

AVM Edward Stringer

Mr Phil Roberts Vice Mr Mark Swan

Mrs Kate Staples

In Attendance:

Dr Stephen Rooney

Director, Corporate Communications

Mr Will Webster For Item V

Mr Pedro Pinot For item V

Mrs Beryl Burton For Item V

Mrs Sarah Hill For Item IX

Mrs Manisha Aatkar For item X

Mrs Penny O'Neill For item X

Mr Peter Gardiner

Mr Stephen Baker Minute Taker

Minute Taker

II Apologies

1. Apologies were received from Michael Medlicott and Mark Swan.

II Minutes of the Previous Meetings and Matters Arising

2. The Minutes of the previous Board were approved.

III Chair's Update – by Dame Deirdre Hutton

3. The Chair reported on recent meetings she had attended.

IV Chief Executive's Report - Doc 2014-016 by Andrew Haines

4. Mr Haines briefed the Board on the forthcoming publication of the Offshore Helicopter Review and on briefings given to stakeholders, including the British Airline Pilots Association (BALPA), the Secretary of State for Transport and his opposition counterpart, local MPs and Patrick Ky of the European Aviation Safety Agency (EASA), who had been generally supportive of the Review. Mr Haines noted that the other key trade unions were to be briefed that night and that Mr Swan would be briefing the Scottish Minister that day. He noted that the report contained clear time-lines and that the implementation of its recommendations, would be monitored by an Offshore Helicopter Safety Forum, chaired by Mark Swan, which would report progress to the Board on a quarterly basis. AVM Stringer noted that the UK Military had to conduct air operations in similarly harsh conditions to the North Sea and had developed techniques and training methods to cope with these, which might have some application in the civil sphere. Dr Rooney outlined the CAA's approach to media handling following publication of the report and Mr Haines noted that the CAA had been invited to give evidence on North Sea helicopter operations at the Commons Transport Select Committee in March.

5. Mr Haines invited Mrs Staples to brief the Board on the fatal accident inquiry into the 2009, G-REDL North Sea helicopter crash. Mrs Staples outlined the support that the CAA had provided to the inquiry, in the form of an explanation of the regulatory framework then in place. Mrs Staples noted however that a request for disclosure of CAA audit reports on Bond Air Services had been made but had been refused by the Sheriff. Despite the refusal it was clear that the actions taken by the CAA in the immediate aftermath of the accident were of considerable interest to the inquiry. Urgent work would be undertaken to review both the response of the CAA (as regulator) to an accident or incident, the basis on which SARG employees assist the AAIB in accident investigations, and the use of NDAs by CAA employees generally, so that the Board could be assured that the CAA could obtain the information it needed to be able to continue to regulate organisations properly at the same time as the AAIB conducted its own investigations. Mrs Staples would report on this work in due course.

Action: Mrs Staples

6. The Board noted that the case highlighted a number of issues that should be examined and reviewed: the CAA's relationship with the AAIB, CAA actions after an accident and the use of NDAs by SARG employees.

Action: Mrs Staples

V Q6 Market Power Determination – Stansted Cargo Services - Doc 2014 – 017 by Iain Osborne

7. Mr Osborne advised the Board that the market power determinations (MPD) for Gatwick, Heathrow and Stansted (passenger airport operation services) had been published, as had now also the licences for Gatwick and Heathrow. He briefed the Board on the likelihood of appeals.

8. Mr Osborne noted that in the 'Minded To' paper, published in the previous year, the CAA had indicated it was minded to find Stansted did pass the statutory market power test in the cargo airport operation services market, based on analogies with the airport passenger services market. The CAA had now established further evidence and it was now clear this analogy was incorrect, in particular that cargo consigners could switch from Stansted to other airports and other modes of transport much more readily than passengers were likely to switch airports. He invited Mr Webster to present the Q6 Stansted Cargo Services market power determination paper to the Board.

9. Mr Webster explained that when examining the airport cargo operations market it had become clear that this market was different from the airport passenger operations market, with a more complex value chain in which the cargo owner had significantly more choices than the airlines. Whilst in the passenger analysis, the ability and incentive of passengers to switch was relatively limited. The complexity of the cargo market value chain means many users had much more choice. The number of intermediaries in the latter meant it was not feasible to collect evidence from all of the relevant sources but a reasonable amount of evidence had been collected nonetheless. This evidence indicated that

the product market was wider than indicated in the 'Minded To' paper and included both cargo-only operations and belly-hold cargo operations. The effect of this change in market definition was substantially to reduce the share of the market held by Stansted. The geographical market was therefore now considered to include at least all airports in the South East of the UK providing air cargo services and, possibly, to extend to other UK airports, such as Manston, and to European airports within a 500km radius of Stansted.

10. The evidence, which had been collected as part of the additional consultation last October and through information requests to the relevant stakeholders since the Minded To paper, did not now support a finding that STAL had significant market power in this market. Mr Webster noted that Luton provided cargo services for DHL and Royal Mail and cargo owners at Stansted were not constrained from switching to another airport. Stansted was taking active steps to increase its share of the air cargo market and was not increasing its cargo tariffs. Indeed the Stansted tariffs were lower than at its competitors and possibly below what was a competitive tariff.

11. Even if more evidence were collected, it would be unlikely to support a different conclusion to that now arrived at. That the CAA had not been able to collect as much evidence as would be ideal like but this did not preclude them from drawing conclusions and making inferences from what evidence there was. Whilst CAA could have continued to collect more evidence, the relatively small size of the air cargo market at Stansted would not justify the significant extra effort and expense this would involve.

12. Consequently the recommendation to the Board was that Test A (significant market power) was not met. This being the case, air cargo operations at Stansted should be de-regulated.

13. The Board discussed the paper. It was noted that the emphasis of the paper required refining. Furthermore, there needed to be a full explanation of the rationale behind the change in the MPD.

Action: Mr Osborne

14. Subject to these two points the Board endorsed the paper's recommendation that Stansted did not pass the market power test for the relevant air cargo market under the Civil Aviation Act 2012.

15. The Board agreed that delegated authority to sign off the final MPD be granted to Mr Haines, Mr Osborne and Mrs Staples, provided that did not involve any change of policy.

16. The Board thanked Mr Osborne and his team for the significant work they had done on the various Q6 reviews and noted that a 'lessons learned' paper would be submitted to it by Mr Osborne, in due course.

Action: Mr Osborne

VI Revised Air Navigation Guidance - Doc 2014-026 – by Phil Roberts vice Mark Swan

17. Mr Roberts explained that the Secretary of State had originally published guidance to the CAA on environmental objectives, relating to the exercise of its air navigation functions, in 2002. In January of this year, following the recognition of the developments associated with SES1, SESAR2 and the development of the Future Airspace Strategy (FAS), the DfT had published new, revised environmental guidance to the CAA. The purpose of the paper and the briefing was to highlight the key characteristics of the revised Guidance and the issues facing the CAA as a result of the implementation of FAS, in particular associated with the London Airspace Management Programme (LAMP).

18. Mr Roberts outlined the main aspects of the revised Guidance and noted that the key issue was the ability of the CAA to refer a decision concerning an airspace change to the Secretary of State if the CAA considered the change would have 'significant environmental impact', although this term was not actually defined in the Guidance. Mr Roberts explained how the referral procedure would work under the Guidance and the options available to the Secretary of State in that event.

19. Mr Roberts noted that NATS was processing the London Airspace Management Programme (LAMP) 1a airspace change as part of the FAS which would, subject to any CAA approval following an environmental impact assessment, result in a new standard instrument departure (SID) and noise

preferential route (NPR) at Gatwick and amendments to other SIDs/NPRs. The NATS proposal was due to be submitted to CAA for approval in Spring 2015, close to the period of purdah before the general election. If the proposal should be referred to the Secretary of State under the Guidance, as noted above, there could be a significant delay to the LAMP 1a airspace change of up to one year which could require a re-consultation and additional, substantial costs. There were, however, mitigations that CAA could put in place to reduce the risks somewhat and these were outlined by Mr Roberts.

20 The Board noted that whilst timely decisions would be desirable, any decision to refer a proposal for a decision by the Secretary of State on environmental impact grounds must be taken following the published Guidance notwithstanding the potential delay this might cause to an airspace change proposal. The Board requested sight of the current timetable for LAMP with an indication of scale of benefit and local impact of each of the main phases.

Action: Mr Roberts

VII Report from the CAA Audit Committee – Doc 2014 – 018 by Graham Ward

21. Mr Ward reported on highlights from the CAA Audit Committee meeting held in January.

22. He noted that the Committee had requested that, in addition to the standard representation letters signed by all ExCo members, a management representation letter be signed by the CAA Chief Executive, the CAA Secretary and General Counsel and the F&CS Director, relating to the sign-off of the annual accounts as part of the annual report and accounts process.

23. Mr Ward advised the Board that the Committee had also reviewed its terms of reference against UK Corporate Governance requirements and its standing agenda and now sought Board approval to the following, additional paragraph being included in those Terms of Reference:-

‘Where requested by the Board, to provide advice on whether the annual report and accounts, taken as a whole, are fair, balanced and understandable and provide the information necessary for stakeholders to assess the CAA’s performance, business model and strategy.’

The Board confirmed its approval to the additional paragraph being included in the Committee’s terms of reference.

24. Mr Ward noted that the Committee had also discussed the number of activities devolved by the CAA to external bodies and the level of oversight of these which should be required. It had agreed that further discussion was needed and that consideration should be given by the Committee to commissioning an Internal Audit review of these arrangements and whether they were appropriate.

25. The Board noted the paper.

VIII Safety & Airspace Regulation Group Report – Doc 2014 – 019 by Phil Roberts vice Mark Swan

26. Mr Roberts reported to the Board on a number of matters from the report.

27. Mr Roberts reported that the Irish Air Accidents Investigation Branch had published its report into the fatal accident involving a Spanish operated airline, Spanish registered and Spanish regulated Fairchild Metro III at Cork Airport in 2011. The aircraft, although Spanish registered and operated, had displayed the Manx 2 livery. Manx 2 was the ticket seller but not the operator/lessee and thus was a ‘virtual airline’. The issues in the case bore some similarities to the increasing use of wet leases by UK airlines. Mr Roberts reported that work was now being conducted with UK airlines that use wet leases to trial the alignment of their SMS with the operators’. This work would eventually feed into a wider, Europeanisation policy project, to incorporate earlier work on wet leasing with wider European regulatory liberalisation issues and their impacts on oversight of airlines.

28. The Board noted the project and requested a paper be presented to the Board on the results of the trials and the conclusions of the project, involving all possible scenarios and outlining clear outcomes and recommendations. The Board also requested sight of the timescales for the report at the next Board meeting.

Action: Mr Roberts

29. Mr Roberts reported that Southend Airport had submitted a proposal for a Transponder Mandatory Zone and or Radio Mandatory Zone which was being assessed.

30. Mr Roberts reported that CAA had attended a meeting of the Space Leadership Council and had presented a paper on the principle of using 'informed consent' by passengers and pilots in relation to the proposed regulation of sub-orbital space-plane operations. The paper had been well received by the Minister for Universities and Science and the Council. The Board noted that the principle of 'informed consent' was useful but might have limitations if the size of space-plane activity were to eventually become more than a small niche market.

31. Mr Roberts briefed the Board on the special bulletin recently published by the AAIB on the G-SPAO helicopter fatal accident last November in Glasgow. He noted that it had not yet been established why the two supply tanks were empty when the main fuel tank contained sufficient fuel for flight. The AAIB had also been unable to determine when fuel warning indicators had been made during the flight.

IX European and International Strategy - Annual Review – Doc 2014 – 020 sponsored by Iain Osborne and presented by Sarah Hill

32. Mrs Hill presented the annual review of EIS activities during 2013 and of the prospects for 2014. She noted there were a number of themes. There were likely to be challenges in 2014 in terms of the development of the new denied boarding regulation, changes to the EASA Basic regulation to align it with SES II and the election of a new European Parliament with enhanced powers as well as the appointment of a new European Commission. The CAA was highly regarded in the EC as a source of technical expertise and of all the national aviation authorities, it had the highest engagement rate on the various EASA and EU standing committees. It was not clear however, that we were sufficiently strategic as to deploy these resources to maximum effect. and the CAA was not always good at presenting a coherent CAA policy in order to influence the debate at an early stage on key EU aviation policy and legislative development issues. The development of the new IMCR was a case in point, likewise the development of the new sailplane pilot licence.

33. The Board noted that while CAA did engage at an early stage in EU and ICAO technical committees, there needed to be clearer CAA objectives for what the CAA wanted to achieve in these debates and fora at a strategic level. A more joined-up strategy, the setting of clear priorities and a proper evaluation of what resources and training were required and the efficient use of resources were also key points. The board therefore emphasised the importance of strong central co-ordination through the Policy Programmes Team . Alliances with other bodies with similar aims to the CAA were also desirable although the CAA had to be mindful of the objectives of the DfT on the international stage and to align itself with those objectives. The Board also noted that the EIS annual review, whilst very useful, was very detailed and that it would be useful for future reports to take a more high level, strategic approach; describing the current position, establishing lines of direction and establishing timelines.

Action: Mrs Hill

34. The Board noted the report

X HR Annual Review and re-evaluation of the 2010 HR Strategy, Capabilities and Services – Doc 2014 – 021 by Manisha Aatkar

35. Mrs Aatkar explained that her report looked, at what had and had not been achieved by the department during 2013 against the HR Plan, offered early thoughts on the approach to reward from 2015 onwards, and evaluated whether the current HR strategy, capabilities and services remained valid for the future.

36. Mrs Aatkar gave the Board an overview of the main outcomes achieved over the past year. She outlined possible reward developments post 2015.

37. In relation to the second part of her report, she reported that she had looked at the HR capabilities and services and her report proposed a number of changes to these, to ensure the continued change and transformation of the CAA. She had looked at the department's current headcount and concluded that in order to be able to continue to support change and transformation the department head count needed to increase in the short term although she stressed that these new positions would not increase the department's overall budget.

38. It was recognised that it was essential to retain the right technical skills in the CAA and the question was how best to capitalise on them. Employing the right managerial skills and achieving the right balance between technical and management expertise were seen as key.

39. The Board noted the report and indicated its approval to Mrs Aatkar's proposals for a refresh of HR capabilities and services, as outlined in the report, subject to the caveat that, in relation to Appendix 10 of the report, there should be a change to allow better assessment of performance delivery, perhaps including looking at benchmarks used by other organisations managing technical experts.

XI Finance Report – Doc 2014 – 022 by Chris Jesnick

40. Miss Jesnick presented the CAA Group's draft financial results for the 10 months to 31 January 2014. She reported that group income continued to be above budget, particularly in CAAi and the large airframe series as well as in income from the Government for the space-plane programme and section 16 requests. Employment costs remained below budget and the forecast employment costs to year end included the effect of the one-off pay award and SARG redundancy costs. She noted that debt collection stood at a pleasing 98% for the month.

41. Miss Jesnick asked the Board to approve the draft CAAPS Indexation Consultation document to move the CAAPS indexation measure to CPI, appended to her report. She noted that the Employee Forum had been consulted on the draft and had made a number of useful comments which had been incorporated into it. The Unions had also been consulted and had raised no objections. The consultation did not include a change in the indexation measure used for the cap on pensionable earnings which would remain as RPI. There would be a 60 day consultation period. Miss Jesnick noted that there some minor, editorial changes would be made to the draft before its publication in the CAA, including to some of the graphics.

42. The Board approved the document for consultation.

43. Miss Jesnick reported that the consultation on the CAA's Schemes of Charges for 2014/2015 had now closed. A total of 31 responses had been received, mainly relating to the new Aviation Security scheme.

44. The Board noted the report.

XII Live Issues

MCG – Doc 2014 – 023 by Iain Osborne

45. Mr Osborne reported that EasyJet and Ryanair had been fined by the Italian authorities for bundling insurance products with flight sales. The CAA had no authority to fine airlines for mis-selling of insurance products which was a matter for the FCA. The CAA had taken action against the airlines under the Airports Services Regulations in relation to pre-selection of items on their websites. The Board suggested that the FCA should be informed.

46. Mr Osborne reported that the backlog of pre-guidelines DBR cases that the CAA had required airlines to re-work was now down to 2000. BA, Thomas Cook and Thompson were making good progress with dealing with the backlog. Extant backlog cases (pre and post-guidelines) were being referred to the airlines with a 4 week deadline for dealing with them.

CPG – Doc 2014 – 024 by Richard Jackson

47. Mr Jackson reported on the travel industry's January trading figures.

CCD – Doc 2014 – 025 by Stephen Rooney

48. Dr Rooney reported on recent media coverage of the flooding at Gatwick.

XIII Any other Business and Forward Planning

49. AVM Stringer reported on a recent in-flight incident involving a MoD A330 Air Tanker.

Date and Time of Next Board Meeting: Wednesday 19 March 2014, starting at 0930 hours at the Compass Centre Heathrow Airport, with a closed Board meeting at 1300 hours.