

COMPETITION AND MARKETS AUTHORITY
Minutes of the Board
13 February 2014

Present:

David Currie (Chairman)
Alex Chisholm (CEO)
Sarah Cardell
Andrea Coscelli
Carolyn Fairbairn
Alan Giles
Bill Kovacic
Philip Lowe
Jill May
Annetje Ottow (joined the meeting part way through item 2 and departed part way through item 13)
Mike Walker
Erik Wilson
Roger Witcomb
Rebecca Lyon (Board Secretary)

Apologies:

Sonya Branch

CMA and Transition staff:

Tim Jarvis
Paul Latham (items 13-15 only)
Ann Pope (items 8-9 only)
Colin Sharples (items 1-3 only)

Introduction

1 Introduction

The Chairman introduced the meeting and invited the CEO to make any opening remarks. The CEO noted the heavy agenda and high volume of papers for this meeting. This was because transition activity was reaching its peak and the need for the Board to be briefed on ongoing key litigation and case activity.

Transition progress

2 Transition update

(Alex Chisholm, Colin Sharples)

The Board was updated on key transition workstreams:

- **HR and People:** The job matching process was largely complete. There were a number of vacancies open for recruitment.
- **Structure:** The analysis of contractor roles had been completed with approximately 50 per cent asked to transfer their contracts to the CMA to conclude cases, inquiries and transition work.
- **ICT:** The risks relating to this workstream had reduced.
- **Knowledge and Information Management:** Work was underway to align policies and procedures. A communications programme was underway to raise awareness of the new Government security classification system, which would be used in the CMA. The Board noted that this new classification system would not change the way that information was shared with it and Panel Members.
- **Accommodation:** Refurbishment work at Victoria House was on schedule. Additional space had been secured to accommodate new staff recruited as part of the work associated with the additional funding for 2014/15. Additional lockable storage units had been purchased in response to staff feedback. Minor snagging issues relating to noise and temperature were being addressed.
- **Communications:** An all-staff launch event was being planned for 31 March 2014. There would be no external launch event, though a programme of external briefings and media engagement was planned. GOV.UK product development was proceeding well, including an improved search tool and case page templates. Work on the 'lift and shift' of relevant content from the OFT and CC websites to GOV.UK and development of the CMA intranet site was proceeding well.

Staff

3 HR update

(Erik Wilson, Carmel Flatley, Freya Guinness)

The Board was updated on HR issues:

- **Even Better:** A pilot workshop had been held with the senior executive team and a seminar held with Panel Members. 25 sessions with teams were scheduled to be completed by mid-March, the results of which would be presented at the all-staff event on 31 March 2014. A workshop to consider the results would be held with the Board in advance of this event and the results of, and outcomes from, the Panel Members' seminar would be shared at their next seminar. The senior executive team would have oversight of the issues going forward. The results would be taken forward within teams in order to generate buy-in and focus on the most relevant issues. The team expected to undertake in-year 'pulse' surveys to see how things were progressing and where additional attention was needed. There were a number of themes emerging from the workshops so far including: the way the CMA runs projects; attracting and retaining talent; and governance and decision making.
- **Recruitment:** A large volume of recruitment was anticipated.
- **Staff engagement:** The CMA Staff Engagement Plan had been published; Welcome and Orientation events were ongoing; a Values workshop was being planned – a pilot was to take place with the senior executive team in late-March and it would then be rolled out to staff from April.

- **Opportunities:** The Board noted that there were a number of opportunities and mechanisms to build the CMA's capability, including legislative reforms, additional funding, the Even Better programme, the PMO, the CMA Academy, Learning and Development, and professional communities.

Sector regulation

4 Regulated sectors – draft CMA annual concurrency report

(Andrea Coscelli, Michael Grenfell)

The team presented the paper, noting that the CMA would have a duty to prepare and publish an annual report containing an assessment of how concurrency arrangements had operated during the preceding year. The draft report, to be published in April, was intended to establish the baseline for future reporting by providing a factual description of current arrangements.

The Board discussed the preparation and content of the annual report and made a number of suggestions to improve the baseline report.

The Board thanked the team for its work; it will adopt the final report in March.

Policy

5 CMA guidance – tranche 2

(Andrea Gomes da Silva, Louise Banér, Emma Lindsay, Steven Preece)

The team sought the Board's approval to publish on 11 March 2014 various Tranche 2 guidance documents and their associated summaries of responses. Subject to minor drafting amendments, the Board approved the publication of these documents.

The team also:

- i) asked the Board to approve the making by the CMA of the CMA Competition Act 1998 Rules and for permission to submit these Rules to the Secretary of State for approval; and
- ii) asked the Board to adopt certain existing guidance and other documents which the CMA will treat as its own.

The Board approved these requests and thanked the team for its work.

Finance and performance

6 The role of the Board and its relationship with the Executive

(Erik Wilson, Alasdair Corfield, Shagufta Hassan, Tim Jarvis, Mike Lacaille)

The team introduced the paper, setting out some high level principles for the way the Board might exercise its responsibility for the performance of the CMA.

The Board agreed that the proposed approach was sensible, noting that some flexibility would be needed as to when matters were escalated to it in relation to strategic oversight and risk management. The Board considered its role in relation to budget and resource planning. A high level overview of resource planning would be presented to the March Board and the Board noted that it would consider priorities and key themes for budget allocation in the future.

On performance reporting, the PMO would keep track of all projects and the Board would be updated periodically on performance across the CMA. The performance management framework would be developed over the coming months. More broadly there were 39 CMA Commitments and 29 performance measures which the CMA was obliged to report on as set out in the Performance Framework; the Board would be updated on performance against these targets on a quarterly basis and they would be reported externally as part of the Annual Report. The Board highlighted the importance of clear, concise KPIs that were genuinely key in order to focus attention across the CMA on its priorities and asked to consider a first draft of KPIs at its next meeting.

7 Finance update

(Erik Wilson, Alasdair Corfield)

The Board was updated on finance issues:

- **Funding:** funding for 2014/15 had been confirmed by HMT.
- **Cost modelling:** work on the total resource funding was being undertaken. Plans for the use of the additional funding announced in the Autumn Statement were being prepared.
- **Resources:** an indicative distribution of resources had been developed organised along Directorate lines.
- **Financial statements:** financial statements for 2013/14 were being prepared in accordance with NAO advice. An early draft would be considered by the Audit Committee in March and the final version laid before Parliament in June.

CMA markets work

8 The CMA Markets Agenda: the key challenges and how to address them

(Andrea Coscelli, Daniel Gordon, Rachel Merelie, James MacBeth)

The team presented the paper, focussing on some of the core challenges to the CMA markets agenda. The Board thanked the team for its work and endorsed the reform agenda presented by the team. It agreed that after six or 12 months of operation in the new regime it would be appropriate to review progress and issues encountered.

Litigation

9 Litigation at the CMA

(Sarah Cardell, Frances Barr, Roland Green, Simon Jones)

The Board received and considered a presentation on developing and establishing the CMA's litigation function. It was also briefed on key current OFT litigation and was given a written briefing on disclosure of information issues arising in recent appeals brought on Phase 2 cases.

Regulatory appeals

10 CMA approach to regulatory appeals: challenges and opportunities

(Andrea Coscelli, Lucy Beverley, Roland Green, David Roberts)

The Board was updated on the challenges and opportunities in relation to regulatory appeals, noting that the CMA would inherit all the CC's responsibilities in this area.

Minutes

11 Review and approval of draft public and private minutes

The Board approved both sets of minutes with no changes.

OFT Board

12 OFT Board preparation

The majority of substantive items to be discussed at the OFT February Board were also being considered at the CMA Board. The Board noted that the Chairman would provide feedback to the OFT.

The Board considered the need for a further joint CMA/OFT Board session in March, agreeing that this was not necessary.

Markets

13 Banking¹

(Andrea Coscelli, Sheldon Mills, Sophie Mitchell, Dan Moore, Natalie Timan, Daniel Gordon)

The team introduced the paper, noting that there was a long history of reviews of the banking market, all of which had raised concerns relating to levels of concentration, barriers to entry and weaknesses on the demand side. The Board was updated on the OFT's recent and current work in this market and discussed the CMA's intentions for the banking market.

14 Energy²

(Andrea Coscelli, Ed Smith, Tony Donaldson, Daniel Gordon)

The team updated the Board on the progress of the Energy review. The Board discussed the team's analysis and considered the potential outcomes of the review, noting that there was a range of engagement planned between the CMA, OFT and Ofgem. The Board thanked the team for its work.

¹ CF and JM recused themselves from this discussion.

² RW recused himself from this discussion.

15 Higher Education³

(Andrea Coscelli, Ed Smith, Tony Donaldson, Daniel Gordon)

The team introduced the paper, noting that Higher Education was a priority area for the OFT given that it was a sector that had undergone considerable marketisation, it fitted with the OFT's broader public markets workplan and it was a key market for the UK given its economic contribution. The Board was updated on the findings of the recent call for information.

The Board had a broad ranging discussion about this market. It agreed that this is an important market and the CMA shall maintain engagement with the sector in a focussed way to secure achievable goals.

³ DC and JM recused themselves from this discussion; PL chaired the meeting in DC's absence.