

**COMPETITION AND MARKETS AUTHORITY**  
**Minutes of the Board**  
**19 March 2014**

**Present:**

David Currie (Chairman)  
Alex Chisholm (CEO)  
Sonya Branch  
Sarah Cardell (items 1-13 only)  
Andrea Coscelli  
Carolyn Fairbairn  
Alan Giles  
Bill Kovacic (joined the meeting towards the end of item 12)  
Philip Lowe (items 1-13 only)  
Jill May  
Annetje Ottow  
Mike Walker  
Erik Wilson  
Roger Witcomb

**CMA and Transition staff:**

Alasdair Corfield (items 5-8)  
Paul Latham (items 12-13 and 15-16 only)  
Colin Sharples (items 1-11 only)

**Executive Office:**

Kate Bridge  
Tim Jarvis  
Rebecca Lyon (Board Secretary)

**Introduction**

**1 Introduction**

The Chairman introduced the meeting, welcoming Sonya Branch to her first full Board meeting and noting that it was Sarah Cardell's last Board meeting before going on maternity leave.

**Declaration of conflicts / Recusals**

There were no conflicts of interest relating to the agenda. It was noted that Roger Witcomb is recused on Energy and would leave the meeting for that agenda item.

**2 Review and approval of draft public and private minutes of the February Board meeting**

The Board approved both sets of minutes with no changes.

**Transition progress**

**3 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. HR policies had been reviewed and were being quality assured ready for sign-off and publication before 1 April 2014.

- **ICT and Accommodation:** The first two accommodation moves had taken place; feedback was generally positive, though not without issues and lessons from each move would feed into subsequent moves.
- **Knowledge and Information Management:** Final versions of the CMA security policies had been approved. The CMA library had been established.

The Board thanked the Transition team for all its work over recent months. A final transition update would be provided to the April Board.

## **Office of the General Counsel**

### **4 Arrangements during Sarah Cardell's maternity leave**

(Alex Chisholm, Sarah Cardell)

The Board was updated on arrangements for Sarah Cardell's maternity leave. Roland Green (Deputy General Counsel) would be the first point of contact in the Office of the General Counsel and would deputise for Sarah at Board meetings. Sarah would stay engaged on substantive issues and would ensure join-up with Roland and the rest of the team while she was away. The Board wished Sarah well for her maternity leave.

## **Finance and performance**

### **5 Resource planning – Budget 2014/15**

(Erik Wilson, Alasdair Corfield)

The Finance Director introduced the paper, providing an overview of the CMA's budget for 2014/15. Funding would be provided in two tranches: i) business as usual; and ii) expansion. Spend proposals for both tranches had been developed, meeting the available allocations. The Board agreed that the proposed budget was suitable. A project-based budgeting model would be introduced in due course alongside the functional budget and the Finance team would keep the Board updated on the CMA's budgetary position over the year.

### **6 Performance framework**

(Erik Wilson, Tim Jarvis, Mike Lacaille, Shagufta Hassan, Jennie Halliday)

The team introduced the paper, setting out a first draft of some KPIs in response to the discussion held at the February Board. The Board discussed the proposed indicators, suggesting that greater clarity on their purpose and audience was needed. It was noted that the KPIs were intended for internal use, complementing the external performance indicators included in the Annual Plan. The Board made a number of suggestions for the team to consider as it developed the KPIs. An updated draft of the KPIs would be prepared with a view to the first set being signed off in June. It was noted that the KPIs would need to be kept under review and the Board would be provided with updates as necessary.

### **7 Operation of the Board and Committees**

(Erik Wilson, Tim Jarvis)

The team introduced the paper, setting out arrangements for Board meetings, papers and the CMA's Committees. The Board's June meeting would be held in Edinburgh and its October meeting would be combined with a strategy review and be held in Cardiff. Some modest changes had been made to the Committees' terms of reference and membership since they were considered by the Board in October and would be kept under review. Technological solutions to improve the electronic distribution of Board papers were being explored, taking account of Government security requirements. In relation to the Non-Executive Committees, the Board noted that the terms of reference of the Audit and Risk Assurance Committee had been refined to more closely align them to HMT's Audit Committee handbook and those for the Remuneration Committee would be updated to demonstrate that the committee had delegated authority from the Board. The Board discussed the status of the Executive Committee and Case and Policy Committee and whether they should be considered as Board or Executive Committees. It was noted that they were sub-committees of the Board, in that their powers were delegated from the Board and the Board would receive the minutes

of their meetings but they were Executive Committees, in terms of their membership. The team agreed to further consider the terminology used to describe these committees.

The Board noted that flow diagrams would be developed to demonstrate the governance and decision-making responsibilities for cases (using different tools) and how these would progress through the Committees' structure; these would be presented to the April Board.

The Board noted the intention to switch the running order of the Board agenda from April, so substantive items would be considered in the morning session and organisational management issues would be considered in the afternoon. The Board suggested that a third category, incorporating policy and intellectual issues, should also be considered within the agenda.

## **8 Update on the Audit and Risk Assurance Committee (18 March 2014) and Litigation accounting**

(Alan Giles, Alasdair Corfield)

The Board was updated on the recent Audit and Risk Assurance Committee meeting, noting that the final accounts for 2013/14 would be signed off at the Committee's next meeting, in May.

## **HR**

### **9 Even Better update**

(Erik Wilson, Freya Guinness)

The Board was updated on the Even Better programme. 25 staff sessions had been held, attended by approximately 300 colleagues, alongside sessions for the Board, Senior Executive Team and Panel Members. Three core themes had emerged from the workshops which would be presented at the all-staff event on 31 March 2014, alongside an overview of how these matters would be progressed: governance and decision making; process and efficiency; and people proposition. It was noted that the themes coming from the Board and SET were somewhat distinct from those from the main staff sessions, with a greater focus on attracting and retaining talent and the CMA's external reputation.

The Board considered the themes identified, noting that improved communications, particularly in relation to the governance and decision-making structures and processes, could provide a quick win in response to the Even Better programme.

### **10 Professionalism and Pay Parity**

(Erik Wilson, Carmel Flatley)

The Board was updated on the professionalism and pay parity exercise, noting that a service provider was appointed in mid-March and a report was due by end-May. An update would be provided to the Remuneration Committee in April. Staff would be alerted to this work and appointment shortly via the CMA bulletin.

## **Markets**

### **11 Energy<sup>1</sup>**

(Andrea Coscelli, Ed Smith)

The team updated the Board on the progress of the Energy review, focussing on its possible outcomes and the associated communications.

The Board discussed the review. Although it had no formal role in any potential MIR at this stage, the Board expressed its support for the findings of the Annual Competition Assessment. It highlighted the need for the OFT/CMA to be involved in all communications related to the Annual Competition Assessment and any potential MIR.

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<sup>1</sup> RW recused himself from this discussion.

## CMA approach to...

### **12 CMA's approach to Enforcement and Consumer: challenges and opportunities**

(Sonya Branch, Nisha Arora, Stephen Blake, Ann Pope, Gordon Ashworth, Lee Craddock, Jason Freeman, Dan Moore)

The team presented the paper, providing an overview of the CMA's proposed approach to Enforcement. The Board thanked the team for its presentations, agreeing that successful and increased enforcement is key to the CMA's success. It agreed that it would be appropriate to review progress and issues encountered in due course with a view to demonstrating how the CMA has improved the enforcement process and outcomes.

### **13 CMA's approach to International: challenges and opportunities**

(Tim Jarvis, Tony Penny, Andrew Pickering, Linzi Talbot)

The team presented the paper, noting that it would draw on resource from across the CMA to engage in international work, including working-level specialists and senior leadership attending events and presenting papers. There was a variety of international bodies and networks to engage with and prioritisation of requests would be needed.

The Board discussed the priorities for international engagement and where the CMA's international focus should be. The Board thanked the team for its presentation, agreeing that it would be appropriate to further consider the CMA's international priorities and to review progress in six months' time.

## Communications

### **14 Annual Plan 2014/15**

(Paul Latham, John Kirkpatrick)

The team presented revised drafts of the Annual Plan and prioritisation principles following the recent consultation, as well as a draft response to the consultation. Some further amendments would be made to ensure the Plan was as up to date as possible when it was published on 1 April 2014.

The Board made a few detailed points on the drafting of the Plan. It noted the intention to announce a piece of research into anticompetitive barriers to online business alongside the Annual Plan. The Board approved the Plan for publication on 1 April 2014 and thanked the team for its work.

## Sector regulation

### **15 Regulated sectors – draft CMA annual concurrency report**

(Andrea Coscelli, Michael Grenfell)

The team presented a revised draft of the 'baseline' concurrency report, which reflected comments made by the Board at its February meeting and those received from the individual sectoral regulators.

The Board approved the report, which would be published on 1 April 2014 and thanked Michael Grenfell for his work.

## Policy

### **16 CMA guidance – tranche 2**

(Louise Banér, Simon Constantine, Roland Green)

The team sought the Board's:

- approval to publish CMA Short-form Opinion Guidance;
- approval for the CMA to adopt certain CC and OFT guidance and related documents as its own;
- confirmation that it considered that existing CC and OFT guidance and related documents not adopted by CMA were not applicable to the CMA; and
- permission to close Phase 1 of the CMA guidance review project, following publication of the second tranche of CMA guidance.

In relation to the Short-form Opinion (SfO) guidance, the Board noted that this was a discretionary tool and the CMA would consider issuing a SfO in response to reasoned requests from relevant parties, which must

be prospective; raise novel or unresolved questions about the application of Article I prohibition in the CA98, clarification of which would benefit a wider audience; and have a material link to the UK. In relation to existing CC/OFT publications not expressly adopted by the CMA, the Board noted that it would be able expressly to adopt such guidance as its own at a later stage should this be required. The Board approved the four requests and thanked the team for its work.

## **17 CMA Rules of Procedure for Merger, Market and Special Reference Groups**

(Louise Banér, Simon Constantine, Roland Green)

The team introduced the paper, noting that procedural rules for CMA panellist groups set up to conduct merger inquiry references, market investigation references and special references were required under legislation. The proposed rules were closely aligned to those followed by CC groups which the new rules would replace.

The Board approved the procedural rules as written.

## **OFT Board**

### **18 OFT Board preparation**

The Board reviewed the papers, noting that David Currie and Alex Chisholm would both be attending the final OFT Board meeting.

## **AOB**

### **19 AOB**

#### ***Appointment of Panel Deputy Chairs***

The Board was informed that four new Panel Deputy Chairs had been appointed, in addition to the three existing Panel Deputy Chairs, to enhance the senior capacity of the CMA (Philip Marsden and John Wotton would take up their roles from April and Phil Evans and Anne Lambert would start in September). Staff would be alerted to these appointments shortly and arrangements would be made for the Board to meet them.

#### ***Appointment of Senior Independent Director***

The Board was informed that Philip Lowe had been appointed as the Senior Independent Director (a post required to be filled by a Non-Executive Director).

#### ***CMA launch***

An all-staff launch event would be held on 31 March 2014. There would be no external launch event, though a programme of external briefings and media engagement was planned.