

OFT (11) 5th minutes

Minutes of the Office of Fair Trading Board Meeting

Thursday 5 May 2011

Present:

Philip Collins (Chairman)
John Fingleton (CEO)
Vivienne Dews
Alan Giles
Frédéric Jenny
Robert Laslett
Tony Lea
Philip Marsden
Clive Maxwell
Bill Moyes

Apologies:

Barney Wyld

OFT Staff:

Frances Barr
Amelia Fletcher (Items 5, 6)
Paul Latham (Items 5, 6)
David Leech (Items 1–3; 6, 7)
Sonya Branch, Geoff Steadman, Graham Winton; Cavendish Elithorn, Gordon
Ashworth, Colin Brown (Item 4)
Mary Stark, Cristina Luna-Esteban; Ed Smith, Daniel Caistor, Peter Hill, David Osman,
Dan Rawling (Item 5)
Stephen Blake, Jackie Holland, Deb Jones, Ali Nikpay, Nerilee Telford, Sonya Branch
(Item 6)
Ali Nikpay, Stephen Blake, David Rawlings, Jackie Holland, Deb Jones (Item 7)

Executive Office:

Erik Wilson
Rachel Christopher

Introduction to meeting

The Board discussed the agenda.

1 New projects and portfolio development

Payment surcharges: Which? super-complaint¹

The Board was updated on progress in responding to the super-complaint and discussed potential detriment and remedies. The Board noted that the response to the super-complaint is due before shortly after the next Board meeting and agreed that the team should proceed as planned and should only return to the Board prior to the next meeting if a major issue arises. Subject to this, the matter would come back to the Board for decision at its next meeting.

New pre-complaint discussion

It was noted that the first request for pre-complaint discussion under its new CA98 guidance has been received.

Update on existing projects

Citizens Advice super-complaint regarding upfront fees and cold calling in credit brokerage and debt management markets

The Board was updated on the response to this super-complaint and the initiatives being taken by the OFT to address CitA's concerns.

Gaviscon

The decision was published on 30 April. The Board noted that the NHS in England has launched legal action against Reckitt Benckiser.

Outdoor advertising market study

The Board received and noted this paper.

Litigation

The Board was updated on recent litigation.

Procedural adjudicator

The Board was advised that the first application to the Procedural Adjudicator had been made. The decision will be published within the next fortnight.

OFT development

ExCo reported that the restructuring is going well. The SCS now has corporate objectives.

¹ JF withdrew from this discussion.

2 Operations

Finance update

The Board was updated on the financial position of the organisation at the year end.

Consumer Direct

The Board was updated on recent developments on Consumer Direct and agreed that this will be discussed further at the June Board.

IT

The Board noted that IT performance has recently been reasonably satisfactory. The project to update the Comms Room is progressing.

Monthly executive report to the Board May 2011

The Board received and noted this report.

Quarterly executive report to the Board May 2011

The Board commended the new format of the report, particularly the "Connect Four" charts.

3 Business planning

Performance management

The Board considered the proposed performance framework, noting that it was intended to form the basis for the quarterly report. The Board suggested that the performance measures proposed were operational objectives for management and should be considered by ExCo to allow it to monitor the performance of the organisation. The Board considered that a higher-level performance framework should be developed with a cross-organisational approach flowing from the strategic objectives agreed by the Board to measure inputs, outputs and outcomes. It was agreed that such a framework would be developed and, after review by ExCo, would be brought back to the Board.

4 External environment

Government consultation on Competition and Markets Authority – development of OFT response

The Board considered the working draft of the response to the consultation document. It proposed some modifications to the text and a revised draft will be considered at a forthcoming Board conference call.

Consumer landscape – national consumer enforcement

The Board was updated on recent developments in the consumer landscape. It discussed the draft response to the forthcoming Consumer consultation document and agreed the team's recommendations.

5 Cases: decisions needed

Aggregates²

The team reported that the Aggregates market study had expanded to include concrete and cement. The Board was updated on the case and potential detriment and remedies were discussed. The Board largely supported the team's recommendations and asked the team to reframe the case and to return to the June Board below the line.

Audit market

The team presented its recent work on the Audit market. The Board provisionally considered that the statutory test (under Section 131 Enterprise Act 2002) for a Market Investigation Reference to the Competition Commission has been met and supported the approach proposed by the team of conducting a short evidence-gathering exercise, including on the availability of effective remedies, before reaching any decision on whether or not to make a reference.

6 Litigation

Update: Construction and CRF

The Board discussed the outcomes of the CAT judgments in these cases and were briefed on the prospects for appeal.

7 Policy

Update on implementation of Project Condor Board review recommendations

The Board was updated on the implementation of the recommendations made by the Board Review.

8 Group update

The portfolio of the Office of the Chief Economist and Competition Policy (OCECP)

The Board agreed to defer this item to the July meeting.

² TL noted his previous involvement with Tarmac from which he has been absent for five years.

9 Minutes of the Board meetings (7 April) and AoB

Minutes

The Board approved the private and public minutes with no changes.

AOB

- There are Board conference calls on both 16 and 24 May.
- The next Board meeting will be preceded by a dinner.

10 Review of the Board meeting; future agenda items; carry forward

The Board was asked to send any comments on carry forward items of the future agenda to Erik Wilson (erik.wilson@oft.gsi.gov.uk).

Rachel Christopher

Executive Office

7 June 2011