

Minutes of the Office of Fair Trading Board Meeting

Thursday 10 January 2008

Present:

Philip Collins (Chairman)
John Fingleton (CEO)
Jonathan May
Sean Williams
Allan Asher
Lord Blackwell
Bronwyn Curtis
Alan Giles
Frederic Jenny
Richard Whish

OFT Staff:

Anna Benedicic
Colin Brown
Ian Edwards
Cavendish Elithorn
Jessica Farry
Paul Gurowich
Andrew Hadley
Mike Haley
Gover James
Brian McHenry
Siobhan Pointer
Christine Wade
Susan Willcox
Alan Williams
Rob Williamson
Barney Wyld

Executive Office:

Erik Wilson
Francesca Seymour (Secretary)
Jennifer Halliday

In attendance:

Sarah Kaye

Item 1: Presentation by Peter Vicary-Smith, Which?

Notes from this presentation were circulated separately as not part of official Board business.

Item 2: Minutes of the last meeting (6 December 2007) OFT(07)11th minutes)

The Board accepted the minutes of the December meeting as true records, subject to minor amendments.

Item 3: Unfair Commercial Practices Directive (UCPD) - Update

The UCPD team had prepared a paper updating the Board on UCPD implementation. The Board was apprised of the risks involved in this work and on the importance of managing expectations.

An unprecedented level of stakeholder engagement, especially with business, has been undertaken in the production of the guidance. The guidance is intended to be of practical use, and contains a selection of meaningful examples. Next steps include progression of a series of linked follow-up projects that support this work. A joint communications campaign has been agreed with BERR, and the team will continue to work with stakeholders especially around managing expectations on what the OFT can and cannot do.

The Board discussed the application of the CPRs in the financial services area and noted that a Memorandum of Understanding with the FSA covering the enforcement of the CPRs, comparable to already in place for the UCCTRs, was under discussion.

In response to questions on the guidance related to Invitations to Purchase, the team explained that we were only able to provide illustrative, rather than interpretive guidance, and were bound by the language used in the Directive itself. Separate guidance on enforcement principles and policy is also being developed, and each document will cross-refer to the other. The Board observed that it was important to ensure that the guidance and communications package delivered the key messages on UCPD to business as effectively as possible.

On the Business Protection Regulations, the OFT's position was broadly similar to that under the present misleading advertisement regulations. Businesses do not get the same protection under BPRs as consumers under the CPRs. Our principal enforcement interest is likely to be in those cases where disputes in B2B transactions have an adverse effect on consumers.

Item 4: Personal current accounts - update

The Board was brought up to date on developments on the various related parts of this project.

On behalf of the Board, the Chairman thanked Siobhan Pointer for all her hard work on this project and wished her well for the future.

Item 5: Work of the Markets and Projects Consumer Protection Group

The Board was presented with an overview of the mission and current work of the Group which covers consumer protection enforcement, scams, the Consumer Codes Approval Scheme and regulation of estate agents. The team was currently 25 per cent below its planned complement of 50, but was on track to be fully staffed by March 2008.

The Scams team is now internationally recognised, and there are 18 Consumer Codes going through the approval process. The team is currently looking at internet estate agency issues, where it is keen to encourage innovation but without detriment to the consumer.

Overall, the goal is to lead the agenda on consumer issues, work with partners, particularly Local Authority Trading Standards Services (TSS), to address specific market issues, take high profile action in precedent-setting cases under the CPRs and develop as a centre of intelligence and excellence and to take on criminal work.

The team is presenting a paper to PriCo next week on consumer issues in renewable energy, an area in which the Board expressed an interest. It was also noted that Consumer Direct had facilitated the gathering of complaints from across the country.

Going forward, the priorities for the group are: capacity building in caseworker knowledge of the CPRs; to embed intelligence; to work in closer partnership with TSS and to integrate the team with the rest of the Markets and Projects group.

Item 6: Management Information and Oral ExCo update to the Board

Executive Director, Markets and Projects

Anti-Money Laundering Directive

The Board was made aware that the business case is more likely to come to the Board in June than April.

Mergers

The OFT has undertaken its first raid under the ECMR and taken its first two decisions clearing mergers using the new *de minimis* guidance.

Dairy

Seven out of the 10 parties are co-operating pursuant to agreements made with them. The Board was also made aware of, and discussed related issues arising from this case.

New case

This case will come to the Board in February.

Executive Director, Policy and Strategy

Private actions

Secretary of State (BERR) has agreed to consult on virtually all the proposals contained in our recommendations, including the possibility of 'opt out' representative actions. A legislative slot is yet to be confirmed.

Hampton review

This had developed into a more wide-ranging than initially expected and a draft report had been received immediately before Christmas. Jonathan May has a meeting with the Review Team on 14 January. The report is due to be published at the end of February.

Interim Executive Director, Corporate Services

Fleetbank House

A new lease was signed for Fleetbank House on 17 December, for 14 years. The new rent gives savings of £350k per annum.

HM Revenue and Customs

Visits by the HMRC team in December appeared to go well, and final reactions and responses from them are awaited.

CEO

Meeting with the Competition Commission Council, 7 February

An agenda for the meeting will be circulated following Ali Nikpay's

meeting with Martin Stanley on 24 January.

Item 7: Points from below the line Items

There were no below the line papers to consider.

Item 8: Any other business

No other business was discussed.

Francesca Seymour
Board Secretary
11 January 2008