

Minutes of the Office of Fair Trading Board Meeting

Thursday 1 May 2008

Present:

Philip Collins (Chairman)
John Fingleton (CEO)
Jonathan May
Vivienne Dews
Sean Williams
Lord Blackwell
Bronwyn Curtis
Alan Giles
James Hart
Frederic Jenny
Richard Whish
Tony Lea

OFT Staff:

AML D Team (Peter Swan, Debbie Kitcher, Yvette Blackman) (observing)
Simon Brindley
Heather Clayton
Christine Cryne
Tony Donaldson
Amelia Fletcher
John Gibson
Peter Lukacs
Rita Monti
David Stallibrass
Ray Watson
Barney Wyld
Sarah Murphy

Executive Office:

Erik Wilson
Francesca Seymour (Board Secretary)

Observing:

Mark Lee (Board Away Day Facilitator)

Item 1: Minutes of the last meeting (6 April OFT (08)4th minutes)

The minutes of the last meeting were approved subject to a minor change.

Item 2: Consumer Direct

The Board was briefed on the future of Consumer Direct (CD), and specifically the case for investment. (The Board had previously considered funding issues under OFT(08)16). The Board was also asked to confirm that it was still content for CD to take on responsibility for Consumer Voice (CV).

Since the paper had been drafted, a 'letter of comfort' had been received from HM Treasury stating that it was happy for the OFT to enter into contractual commitments that go beyond this spending review period. However they were unable to give a commitment to funding past this period. The Board was informed that this approach was usual.

A further paper will come to the Board in June.

Item 3: Launch of market studies

The Board approved the launch of new market studies on Scottish issues.

Item 4: Work of Office of the Chief Economist (OCE)

The Chief Economist and Head of Competition Advocacy provided the Board with a presentation on the role of the OCE, and an overview of current and future work.

The role of the OCE lines up with the OFT vision through evaluation of the OFT's impact, competition advocacy (both internally and externally), intellectual leadership and capacity building. The Chief Economist also acts as Head of Profession to all the OFT's economists, who are mainly embedded in case teams. The OCE is currently slightly understaffed and recruitment is in process.

The external element of the evaluation work demonstrates how the OFT achieves value for money for the consumer, and how we meet our Comprehensive Spending Review (CSR) targets. Internally, it helps the OFT to learn how to be more effective and to prioritise better. The OFT is on target to meet the 5:1 benefits based on the last 3 years.

Key projects the OCE undertook this year included looking at the deterrent effect of competition – a ground-breaking piece of work – and the positive impact estimation, the latter now being put in place across the OFT. Other work will include an evaluation of the consumer credit interventions and the team is working with the Consumer Protection Group to find a non-credit area to look at.

Competition advocacy

The purpose of competition advocacy is to promote competition policy across Government through using the OFT's influence. Last year, the team looked at government subsidies and schemes that distort markets. Work with the Department of Health on the interface between more open markets within the NHS and the competition rules which apply to businesses working in the NHS is in progress, as well as work with Defra and BERR to ensure regulations work for greener markets, rather than against them. Future work includes looking at simplifying impact assessments.

Intellectual leadership

The team has been looking at the links between competition and consumer policy and has published two reports on this subject. Going forward, it would like to start a project on penalties for competition enforcement.

The view of the Board was that the OCE carried out very valuable work that was not sufficiently recognised externally, and it was important that more was done to promote it. The team advised that how they market their output will be covered at their away dDay – it was suggested they involve the Communications team in taking this forward.

Item 5: Board away day

The Board was invited to comment upon, and discuss the draft outline agenda for the forthcoming away day. In particular, comments were sought on the ranking of the issues to be covered, and whether there were any other important matters that needed to be included.

A full communications strategy will be presented to the Board in the second half of the year; it was agreed that this issue would be better discussed at a Board meeting, rather than as part of the away day. It was also suggested that a menu of topics be pulled together that the Board could revert to discussing if there was time. The Chairman agreed to discuss the content of the plenary and break-out sessions further.

The final programme and pack of papers including notes from the previous away day and selected background information will be sent to the Board on or around 21 May.

Item 6: Anti-Money Laundering (AMLD) – business case for registration

The OFT has had a statutory duty since 15 December 2007, under the Money Laundering Regulations 2007, to supervise estate agents and non-FSA authorised consumer credit lenders. This involves monitoring compliance with the Regulations and taking action to ensure compliance where necessary. An interim supervisory regime was agreed by the Board in December 2007, but a longer-term approach is now required. Following discussion at the December Board, the team had gone away and produced more information on what was required at the Board's request.

The team advised that it was proposing a registration, as opposed to a licensing regime. It had considered voluntary registration, but this was deemed an unsatisfactory option. The aim was to keep costs on business as low as possible.

The Board agreed that it was content to proceed, and thanked the team for their hard work on this issue.

Item 7: ExCo report to the Board

Executive Director, Markets and Projects

Banks

A paper on the implications and next steps following the test case will come to the Board in June. The OFT noted the main points in the judgment. A Case Management Conference will be held on 22 May.

ICE clear

The OFT has a duty to consider the competition implications for this application for approval to operate, but not the wider competition implications of their model of operation for the market. No problems were identified in relation to the application, and HMT was advised accordingly.

Supermarkets

The Competition Commission (CC) report on supermarkets has been published. Government has 90 days to respond to the report.

Executive Director, Policy and Strategy

National Audit Office (NAO)

The NAO is coming into the office in May to review progress since the 2005 report. The latest report is due to be published in the Autumn.

Competition Bill

The proposed Competition Bill is currently with BERR's junior Minister. The forthcoming consultation document will also be consulting on changes to the mergers regime including a possible change to the mergers test to change OFT's duty to refer to a discretion to refer as proposed by the CBI.

Regulatory Enforcement Sanctions Bill (RES Bill)

Under the RES Bill the OFT has a duty to remove unfair business burdens. Part 4 of the Bill makes the OFT subject to that duty which comes into force either the end of this year or early 2009.

New Director of Strategy and Policy

Dr Claire Craig joins the OFT from BERR at the end of June.

Executive Director, Corporate Services

Consumer Direct

It has been decided to recruit a Deputy Director at Grade 5 level for Consumer Direct.

End of Year flexibility (EYF)

The team has started the process of identifying priority bids for EYF, and is also looking at allocating the capital budget. Vivienne Dews is speaking to HMT next week regarding the format required for business cases.

Director of Finance

Plans are underway to recruit a new Director of Finance, and to appoint a new interim Director.

CEO

Staff Event/Staff Survey

The recent staff event had gone well, and an important point from the staff survey was work/life balance and staff retention.

Budgets

Following the coverage of budgets at both the March and April Board meetings, the CEO tabled a breakdown of budget allocation by area.

Item 8: Points from below the line items

Horizon scanning

The Board noted the content of this paper.

Audit committee

The Board noted the content of this paper, and that a full paper will come to the Board in September.

Annual Report

The Board is asked to submit any comments to the team by 9 May.

Item 9: Any other business and future agenda items

Office of the Surveillance Commissioner's (OSC) inspection

This inspection was held on 30 April. We have signed up to a Memorandum of Understanding with the City of London Police, and implemented recommendations from the previous inspection report. The Board will be advised of the outcome of this inspection on receipt of the report.

Freedom of Information request: Rob Evans (Guardian)

Following a request from the Guardian for information regarding previous OSC reports, Rob Evans contacted the OFT again requesting we undertake an internal review.

The Board, as the nominated 'qualified person', confirmed that it was content that s36 of the Freedom of Information Act (2000) applies to the redactions and was applied in the public interest.

Francesca Seymour
Board Secretary
2 May 2008