

Council of the Competition Commission

**Minutes of the 84th meeting held in Hearing Room 5
Monday 15 March 2010**

Present:

Council Members

Peter Freeman QC (Chairman)
Laura Carstensen
Christopher Clarke
Peter Davis
Grey Denham
Diana Guy
Dame Patricia Hodgson
David Saunders
Lesley Watkins

In attendance

Carole Begent*
Rebecca Lawrence
Chloe MacEwen
Rachel Merelie
Clare Potter
Rory Taylor*

*part of the meeting

1. Minutes from meeting on 25 January 2010 (Item 1)

1.1. The minutes from the last meeting were approved with minor amendments.

2. Chairman's Report (Item 2)

- 2.1. The Chairman reported on recent events. The new Competition Commissioner, Joaquín Almunia, and DG of DG Comp, Alexander Italianer, had taken office. The Chairman and the Director of Policy had met with both. The aim of the meeting had been to establish contact and to emphasise the CC's particular role and contribution to the competition system.
- 2.2. The Chairman had attended a major competition conference in Paris in February and had spoken on the subject of sector inquiries. There was considerable interest in the scope and strength of the CC's Market Investigations.
- 2.3. There were also successful meetings at the OECD in February, particularly in the session on transparency and fair process. The UK, and the CC in particular, appear to be well recognised as leaders in this regard.
- 2.4. The Chairman spoke at a joint RPI/CCP conference in the week of 8 March on competition and the public interest, discussing the BSkyB/ITV, Lloyds/HBoS and Kraft/Cadbury cases.

- 2.5. The BSKyB/ITV case was now closed; the Court of Appeal having endorsed the CC's approach, both on competition and on plurality issues, and BSKyB having sold the bulk of its shares in ITV.
- 2.6. The BAA case continues. The CC has applied for leave to appeal the case to the Court of Appeal; the outcome is awaited. [Note: leave to appeal has since been granted and the trial set down for 21 June 2010.]
- 2.7. The ITV CRR remedy review is drawing increased attention in the run up to the election.
- 2.8. The CC came 51st in Sunday Times Public Sector Best Places to Work. This was very good but we could always improve.

3. Chief Executive's Report (Item 3)

- 3.1. The Chief Executive presented his written report to Council.
- 3.2. The CC remained within budget and was well placed for next year.
- 3.3. The CC was reasonably busy but its only merger work was the *LiveNation* remittal; apart from the *Bus Industry* inquiry the CC remained busy on regulatory work and remedies.
- 3.4. The CC's work with BIS on achieving savings and efficiency was ongoing and continued to look at effectiveness and value for money of the overall competition system and agency efficiency.
- 3.5. The Chairman and Chief Executive had met with John Penrose MP at his request, as a follow up to an earlier meeting. Mr Penrose had explained the sort of conclusions that he was reaching in his work on reform of regulation, and discussed the links between the CC and the regulators.
- 3.6. The Chief Executive had also had recent meetings with Ofwat (Regina Finn), Tesco (Lucy Neville-Rolfe), Slaughter and May, the OFT (John Fingleton) and Treasury.
- 3.7. The CC had won its recent case in the Employment Tribunal.

4. Review of Council risk register (Item 4)

- 4.1. The Chief Executive drew Council's attention to the risk register. A number of suggestions were made to reflect the recent remedies review and some drafting changes. Council discussed how often it was necessary formally to present the register. It was agreed that it should be presented regularly but that Council need not discuss it in detail unless some change was necessary.

5. The CC's International work (Item 5)

- 5.1. Carole Begent introduced a paper on the CC's International work. The purpose was to identify the different workstreams and seek Council's views on priorities. Those priorities would assist in resource planning and ensuring that staff engaged in international work appreciated the importance of that work. The Chairman emphasised the importance of this work in ensuring the CC's profile in the

competition community generally as well as the benefits it brought to the quality of the CC's case work and policy contribution.

- 5.2. Much had been done to rationalise and systematise the work done and to ensure that the benefits were captured internally. Requests for assistance (including exchanges of information, visits to the CC and by the CC and attendance at international meetings such as ICN and OECD) have been recorded for a number of years. For the purpose of this paper the international team asked all staff to review the record for past 12 months to gain a more accurate picture and a number of additional activities had been identified.
- 5.3. The paper identified a number of ongoing priorities, in particular engagement with OECD and ICN, and proposed a framework for prioritising future requests for visits to and from the CC and other ad hoc work. The proposed approach was agreed. Within the agreed criteria, the international team would continue to discuss prioritisation of particular events with the Chief Executive.
- 5.4. Council discussed the budget for and cost of the work. It was agreed that for the future, all staff should be asked to assign international work to the international code for timesheets and expenditure so that the use of resources for this work could be more accurately be identified and used for priority setting.
- 5.5. Peter Davis suggested that the proposed aim of the CC's international work (set out in part 6 of the paper) could be amended to align with existing more general workstreams, eg: (i) external communications; (ii) education and training; (iii) research and development. The budget and costs of international work could then be broken out and allocated against those workstreams. The Chairman questioned whether it would be sensible to do that, the work could not be broken out so cleanly and there was often a clear distinction to be drawn between the international work and that more generally carried out from Southampton Row.
- 5.6. Council also suggested that more could be done to ensure that the benefits of this work were fully captured internally and to recognise the contribution and efforts particular staff members made. That said, Council did not see the need for particular resources to be exclusively dedicated to International work.

6. Review of business plan (Item 6)

- 6.1. The Chief Executive introduced the draft business plan for 2010/2011. This required some further cosmetic work but was intended for publication within three weeks; final comments were invited.
- 6.2. A number of comments were raised and discussed, including:
 - Accommodation costs, in particular how the costs of hearing rooms should be treated and whether these should properly be allocated to inquiry work.
 - The importance of the CC's independence and how this should best be reflected.
 - Assumptions on workload, in particular expectations of future references and how to treat expected costs of appeals.

7. Communications (Item 7)

- 7.1. Rory Taylor and Chloe MacEwen introduced a paper on the CC's communications activities. The intention had been to create a log of existing activity in order to assist setting priorities for the future. Council discussed existing activities and agreed that it would be sensible to develop some high-level principles and objectives in order to systematize the work to a limited degree.

8. Report on Council Strategy Day – December 2009 (Item 8)

- 8.1. The Chief Executive introduced a report of the Council Strategy Day held in December 2009. Council agreed that the day had been useful and should be repeated. Council had a number of comments to be reflected in the paper.

9. Cost savings (Item 9)

- 9.1. The Chief Executive introduced a paper on planned further cost savings. The key proposal for which Council's approval was sought was to vacate a quadrant of the sixth floor. This could be offered to let through public sector channels without incurring further agency/consultancy fees. In any event, even if the vacant space was not let a saving could be made of c£70,000 on rates simply by keeping the space empty. The proposal was endorsed.

10. Any other business

- 10.1. Christopher Clarke commented that resources were quite stretched on appeal and regulatory work despite the current lull in active merger and market work. Rachel Merelie and the Chief Executive explained that these factors had been built into the planning process.