

**Minute of the thirty-sixth meeting of the Water Industry Commission for
Scotland**

Held on 31 March and 1 April 2008 in Stirling

Present:

Sir Ian Byatt (Chairman)
Professor David Simpson (Deputy Chairman)
Dr Michael Brooker
Mr Charles Coulthard

In attendance:

Mrs Katherine Russell (Director of Corporate Affairs)
Mr Richard Khaldi (Analyst – Competition)
Dr Jeremy Atkinson (Chief Executive of the Central
Market Agency Scotland Limited) for item 5.6.
David Tyler (Senior Engineer) for item 6.2
Mr John Simpson (Director of Analysis) for item 7.1

Chairman's opening remarks

The Chairman welcomed everyone to the meeting and thanked them for attending.

1. Apologies for absence

John Banyard
Alan Sutherland

2. Minute of previous meeting and review of action points

2.1 Minute of last meeting (02/08)

The Commission agreed that the minute was an accurate account of proceedings.

2.2 Review of action points (AP02/08)

The Commission were updated on action points from the previous meeting. The Commission noted it was a satisfactory position.

3. Update on current issues

- 3.1 Working with stakeholders
- 3.2 Other current issues

Dr Brooker reported that John Fingleton, CEO of the OFT had met with Ofwat, however, the discussion had been general and not focussed on the utility sector. Professor Simpson gave a report on the presentation given by the OFT to members of the Scottish Parliament.

Mrs Russell advised that the communication plan for market opening was now focussing on customers, both big and small.

In relation to the office of the Commission, Mrs Russell advised that progress was being made on recruiting a finance manager and an assessment centre for new analysts had been held recently. The results of the centre were disappointing, however, with only one internship offered from the seven candidates.

Mrs Russell advised that Cesar Raffo had now left the office of the Commission and the Commission noted its appreciation for Mr Raffo's work and agreed that those sentiments should be expressed to Mr Raffo on their behalf.

Mrs Russell advised that the office was preparing for the Commission's next strategy day. The Commission noted that the strategy day would take place in May after the Commission meeting.

The Chairman advised that he would be giving a talk to the RPI in Oxford on 4 April 2008. The talk will cover whether the Scottish model is exportable. The Chairman would also be meeting with the Council of Water UK on 15 April 2008.

The Chairman reported on a meeting he had had with David Sigsworth, the new Chairman of SEPA. The meeting had been useful; they had discussed SEPA's responsibility of supporting sustainable economic development as well as concerns over development in Glasgow. The Chairman also raised the Commission's focus on Scottish Water's outputs and SEPA's role in that process.

The Chairman also reported that he would be meeting with the Chairman and new CEO of Scottish Water shortly. He planned to discuss market opening and the evaluation of its success, the Commission's concerns over leakage targets and the provision of the LRM information for the Schedule 3 determinations.

The Commission discussed the letter to the Chairman from Stewart Stevenson, Minister for Transport, Infrastructure and Climate Change, regarding the gilts buffer. The Commission agreed to take up Mr Stevenson's offer of a meeting to discuss the gilts buffer further.

Actions:

3.3 Update on the Central Market Agency (CMA)

See CP53/08 below.

4. Corporate Affairs

4.1 Update on the office workplan (CP44-08)

The Commission noted the update.

4.2 Update on framework contracts (CP45-08)

Mr Coulthard commented that the Audit Committee had approved office reports on quarterly expenditure which would be provided to the Committee. These reports, together with the new contractor approvals committee, should improve control over budgets; the new Financial Controller will also focus on this area.

The Commission noted the management of consultants was going well and welcomed the new quarterly expenditure reports.

4.3 Oral update on Audit Committee meeting

4.4 Update on Internal Audit (CP46/08)

Mr Coulthard provided the Commission with an update on the following issues:

- It had been confirmed that the Commission would not be subject to the Crerar Review
- A new audit manual was now in place nationally and the Committee would be reviewing its procedures and the office generally in light of the new manual.
- Audit Scotland wanted a 30% increase in its fee. We responded that this was excessive.
- The Disaster Plan was in progress as was the retendering process for Internal Auditors.

Mrs Russell confirmed that so far five invitees had turned down the offer to tender for the Internal Audit contract. The bids received had not yet been opened but would be shortly with Keith Haig of the Audit Committee providing advice to the office on the selection process.

The Commission noted the paper. It welcomed the retendering process and noted that the work of the Audit Committee would be reviewed in light of the new manual.

4.5 Budget for 08-09 (CP47/08)

The Commission noted this paper with approval.

5. Competition

5.1 Update on new application (CP48/08)

Richard Khaldi updated the Commission, confirming that no representations had been received and licences would therefore be granted to Osprey.

The Commission noted this paper.

5.2 Update on Schedule 3 (CP49/08)

The Commission expressed its disappointment that the LRMC information was not yet available from Scottish Water, without which the Commission would be unable to make determinations required under the 2005 Act.

The Commission reminded the Chairman and Chief Executive of the need to complete this work.

Action:

5.3 Update on customer website (CP50/08)

Mrs Russell informed the Commission that there had been a significant number of hits on the website from both home and abroad. Mr Pollock of the Commission's office has been asked to prepare a report detailing the number and location of hits on both the customer and corporate websites.

Mrs Russell added that Osprey would be added to the customer website once its licences were granted.

The Commission thanked the office for its work on the customer website and noted that the site was being used both nationally and internationally.

5.4 Update on Communications strategy

Mrs Russell explained that the paper did not include the latest work that has been carried out in advance of market opening. Mrs Russell

then gave an oral update on the Commission's latest communications initiatives.

The Commission welcomed the activities and noted the further initiatives which had taken place since the drafting of the paper. The Commission noted that this was the first chapter in a continuing campaign and as such, organisations like the CBI and trade associations should continue to be pursued.

The Commission noted further that 3 Monkeys were being well managed and were producing good outputs.

Actions:

- 5.5 Standard agreement for trade effluent services provided by SW to licensed providers (CP52-08)

The Commission noted this paper.

Actions:

- 5.6 CMA update (CP53-08)

The Chairman welcomed Dr Jeremy Atkinson, Chief Executive of the CMA, to the meeting. Dr Atkinson reported market opening was proceeding well and, in his view, the CMA had so far achieved everything that was required of it.

Dr Atkinson reported that there would be lots of work in the coming months to 'tidy-up' matters including data cleansing and improving the data outputs to licensed providers.

The Chairman asked Dr Atkinson about the systems in place to deal with potential problems. Dr Atkinson confirmed that a dispute resolution process exists together with other processes to deal with such events. The Chairman asked Dr Atkinson to keep the Commission aware, informally, of issues as they arise. Dr Atkinson confirmed that he would.

The Chairman then raised the market entry process. Dr Atkinson confirmed that the process can be expedited. The CMA had set out a sequential process for market entry, however, the process would allow tasks to run side-by-side and Dr Atkinson confirmed that he would be flexible in his approach. Further, Dr Atkinson confirmed that the market entry assurance testing would not stray beyond that which is absolutely necessary and relevant to the CMA's systems. Dr Atkinson added that the assurance testing can be completed within four weeks provided the applicant can complete the necessary work. In this regard, Dr Atkinson confirmed that he had asked Gemserv to take a partnership approach with applicants.

The Chairman noted that with Dr Atkinson's assurance that the market entry assurance testing can be completed within four weeks, it would be possible for applicants to complete their testing within the current licence grant timetable. The Chairman added that the Commission's and CMA's literature should reflect this fact.

Conclusions:

- The Commission noted this paper and was pleased to hear the positive report from the Chief Executive of the CMA on market opening.
- The Commission was pleased to hear of the CMA's processes for dealing with potential problems and will keep in close touch with the CMA over any potential problems which may arise.
- The Commission welcomed the assurance from the Chief Executive of the CMA that those items of the application process for which the CMA is responsible can be completed by the CMA (together with the applicant) within the licence grant timetable of seven weeks.
- In particular, the Commission welcomed the assurance from the Chief Executive of the CMA that:
 - the market entry process was flexible and tasks within it will be run side-by-side; and
 - the market entry assurance testing should normally be completed within four working weeks and Gemserv will work in partnership with applicants to achieve this.
- The Commission agreed that the CMA application form was a matter for the CMA.

5.7 Update on Ondeo application (CP54-08)

5.8 Ondeo application decision paper (CP55-08)

The Commission noted paper CP54-08 and agreed with the recommendations in paragraph 9 of Annex A of CP55-08.

Actions:

6. Investment

6.1 Oral update on investment delivery

6.2 Progress on Investment programme to end February 2008 (CP56-08)

The Commission expressed concern that reports on investment delivery were still using beneficial use and not regulatory sign-off as the measurement for delivery.

The Commission noted this paper. The Chairman commented that going forward the efforts of both the Commission's office and the OMG Working Group should be focussed on the regulatory sign-off of investment projects. In this regard reporting should be made on the basis of the number and scale of those projects. The other stages of completion, such as beneficial use, are merely interpretative of the final output.

7. Financial

7.1 Update on Strategy Meeting held in March CP57/08

The Commission agreed that the minutes to this item and all others concerning the price determination discussions are confidential and should be kept separately.