

**Minutes of the Joint Regulators' Group (JRG) meeting
Wednesday 31 March 2010 at 2.00pm at Ofgem**

Present:

Keith Mason	JRG Chair (Ofwat)
Peter Culham	(Ofcom)
Sarah Harrison	(Ofgem)
Richard Moriarty	(TSA)
Paul McMahon	(ORR)
Jackie Holland	(OFT)
Paul Taylor	(CAA)
Nida Broughton	(Ofcom) (Item 4)
Sarah Chambers	(BIS) (Observer)

1. Minutes of previous meeting

The minutes of the meeting of 9 December 2009 were agreed and will be placed on the Ofcom website.

2. Purpose of JRG and identification of forward agenda items

The group discussed the purpose of JRG and referred to previous discussions on this topic. It was agreed that the previous conclusions remained valid. The main purpose of JRG is to be an informal high level forum for the exchange of views and matters of common interest. Some of these matters may be of a technical nature but JRG would not involve itself in technical level discussion. JRG is not an 'institution' and does not require the apparatus of an institution. It would continue to meet quarterly.

Members discussed potential items for future agendas. Members identified the following

- the post election landscape
- governance
- the approach to infrastructure investment
- update on RPI-X@20
- the competition concurrency working group

3. Workshop on incentives in 'not for profit' entities

The ORR asked if there would be interest in a workshop on the operation of incentives on 'not for profit' bodies. There are a number of such bodies in different regulatory sectors and holding a forum to exchange experiences could be helpful. This was agreed by members and ORR offered to host the event. (This has now been arranged for late June).

4. The use of discount rates in cost benefit analysis – presentation by Peter Culham and Nida Broughton (Ofcom)

Ofcom had prepared a short paper for JRG which was supplemented by a presentation of some further analysis of the issues. Ofcom presented three possible approaches – the first the conventional Social Time Preference Rate (STPR) discount method (as in the Treasury Green Book) and two others put forward by Michael Spackman (an expert in public sector finances) and Professor Ian Cooper of LBS. The 'Spackman' method is a refinement of

STPR method but includes financing costs. The 'Cooper' method recognises systematic risks and applies differing discount rates dependant on the cash flow profile and risk.

The group discussed the way individual regulators had used discounting in cost benefit analysis. OFT referred to the State Aid discount rate work by Deloitte which had been commissioned by the EU. It was agreed that publication of best practice would be useful. A first step would be a workshop for sector practitioners to assess approaches in more detail. Ofcom agreed to host and coordinate this. The outcomes of this workshop would be discussed at the next JRG meeting.

5. **Tour de table**

- Ofgem:** SH noted its two flagship projects – RPI-X@20 and Project Discovery. These are progressing well. Treasury/DECC responded to the latter in the budget in March 2010. There is an Energy Bill going through the House and Ofgem are confident of its progress. SH described the chronology of its Chapter II case with National Grid regarding meters. The Court of Appeal upheld the substance of the case but reduced the fine on National Grid further to £15m.
- ORR:** PMc outlined the Value for Money study that is to be carried out jointly with the DfT. It is a wide ranging study that should be completed by March 2011. It will be chaired by Sir Roy McNulty. Other items noted were the predatory price case against Deutsche Bank Schenke being carried out by the OFT; Martin Cave's study in rail and the potential national rail strike.
- TSA:** RM noted the powers for housing authorities and Local Authorities were moving through parliament now. This would allow the TSA to build a regulatory framework to ensure value for money was being achieved. There are around 1,400 bodies to regulate.
- Ofcom:** PC said the results of the Pay TV investigation would be announced today. Other studies that were ongoing included wholesale local access and mobile call termination. PC noted that the EU had entered the debate on the latter and were suggesting a pure LRIC approach. This could potentially give Ofcom a dilemma in reaching a decision. Ofcom had lots of appeals at the CAT and, indeed, allowed for such appeals in its workflow planning. The resource implications of appeal hearings may be a suitable topic for further discussion by JRG.
- OFT:** JH noted that the OFTs defences to the 25 appeals of its construction decision were due in today. The OFT had also recently announced a settlement with RBS, in relation to an information sharing agreement with barclays. OFT were carrying out a project on streamlining its CA98 case

management processes and were also going a project on 'Drivers of compliance'. The latter would be done through qualitative research and focus groups.

CAA: The governance proposals on the CAA's duties was now out. This covered the full gamut of powers but of particular interest was the proposal to extend powers of appeal to Passenger Focus; a direct power on information requirements and concurrency powers. The proposals for new price controls for NATS would be published in May.

Ofwat: KM highlighted the recent refresh of Ofwat's strategy announced earlier this month and the Flood & Water Management Bill currently making its way through parliament. Bristol Water has not accepted its five year price limits and the matter has been referred to the Competition Commission. The outcome is expected in August. Defra have publicly announced a potential review of Ofwat's duties but no detail has yet been seen of this.

BIS: SC reported on the plethora of reviews; The NAO review had now been published; the Treasury/BIS review on 'arms length bodies' covering the OFT, the CC and the CAT; the low key reviews by BRE of sector regulators; the review of the 'consumer landscape'. SC also noted the CBI paper on competition that did not seem to have been widely publicised.

6. **Any other business**

There was no other business. The next meeting will be on Wednesday 30 June at Ofgem, Millbank at 2pm.