

Minutes of the Joint Regulators Group (JRG) meeting 4 April 2011 at the Office of Rail Regulation

Present: Bill Emery (ORR) (chair)
Paul McMahon (ORR)
Iain Osborne (CAA)
Stephen Gibson (Postcomm)
Sonia Brown (NHS Monitor)
Matthew Conway (Ofcom)
Sarah Chambers (BIS) (items 1 and 2)
Paul Griffiths (BIS) (items 1 and 2)
Jane Swift (BIS) (items 1 and 2)
Steven Preece (OFT)
Sarah Harrison (Ofgem)

1. Minutes of previous meeting

The minutes of the previous meeting of 15 December 2010 were agreed and will be placed on the Ofwat website.

2. BIS competition regime consultation

BIS provided an overview of its current consultation on the competition regime “A Competition Regime for Growth: A Consultation on Options for Reform” which was published on 16 March 2011, with the consultation closing on 13 June 2011.

BIS said that underpinning its consultation was the question of whether competition cases were taking too long to progress and why there were so few cases from regulated sectors. It said that it believed the concurrency regime was working well. BIS outlined possible options, including giving the proposed new Competition and Markets Authority powers to call in cases and a duty to periodically review important markets.

On regulatory appeals BIS observe a range of different mechanisms across the sectors for companies to appeal regulatory decisions. It posed the question whether there are good reasons for this and/or whether a single “best” approach can be identified. ORR agreed to convene a JRG workshop to better understand the different mechanisms in use to inform the ongoing debate on appeals and to support regulators responses to the BIS consultation. **Action: ORR.**

3. Collaboration between JRG members

There was a discussion on the pros and cons of greater collaboration on technical/policy issues, based on background papers prepared by CAA and ORR.

JRG recognised that a range of stakeholders (including BIS, Infrastructure UK, House of Lords and investors) have suggested that the regulators should collaborate more than is currently the case and do more joint technical work. This could provide for more consistent policy positions and to make resource efficiencies (e.g. not to unduly replicate technical studies).

JRG noted that there continues to be engagement between the regulators and joint working on specific issues. Some regulators also collaborate at a European level.

JRG recognised the potential benefits of greater collaboration but also saw challenges in making this happen, including the different timings of the price control process across the sectors and the different statutory duties.

JRG agreed that there should be further consideration of the issue, including more detailed discussion with each regulator. JRG recognised that the issue of coordination and publication of joint work is an important issue that needs to be carefully considered. A sub-group led by Iain Osborne and including Matthew Conway, Keith Mason and Paul McMahon would take this forward and report back at the next meeting of JRG. **Action: Iain Osborne.**

4. Tour de table

ORR. ORR reported that Richard Price would be joining as its new chief executive, taking over from Bill Emery, who retires, in June. The NAO published on 1 April 2011 its value for money study on ORR's "regulation of Network Rail's efficiency". Amongst others it said that ORR should work with other regulators to understand the reasons for the high level of UK infrastructure costs compared to Europe and address aspects of the regulatory frameworks that may contribute to this.

Ofgem. The final RIIO proposals had been published. It has also published for consultation the findings of its retail markets review that has highlighted flaws in the energy retail market and highlighted proposals to address this. An update on the Ofgem review being undertaken by government was also provided.

Ofwat. An update was provided on the review of Ofwat being undertaken for DEFRA by David Gray. Looking ahead to the next periodic review, Ofwat will not adopt "negotiated settlements" but will have more customer involvement.

Postcomm. The Postal Services Bill is due for Royal Assent in July. This will provide for Postcomm being merged into Ofcom and also enable privatisation

of Royal Mail. Postcomm has also published decision papers on the regulatory regime for 2011-12 and a consultation on the future regime.

CAA. An update on the planned government bill on aviation regulation was provided, with Royal Assent planned by the end of 2013. This will include introduction of a licence based regime, concurrency and greater information collection powers for CAA.

Ofcom. An update on BT's price control was provided. Ofcom said that the Court of Appeal has decided that the Competition Appeals Tribunal can take evidence not put to Ofcom when it made its decision when hearing appeals under the Communications Act 2003.

Monitor. An update on the Health Care Bill was provided, highlighting the debate on the role of Monitor and the proposed introduction of competition into the health sector.

5. Any other business

There was no other business. The next meeting of JRG will be held at ORR on 16 June 2011.