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### Minutes of the Joint Regulators Group (JRG) meeting 15 December 2011 at the Office of Rail Regulation

**Present:** Cathryn Ross (ORR) (chair)  
Thomas Carr (CAA)  
Matthew Conway (Ofcom)  
Steven Preece (OFT)  
Sarah Harrison (Ofgem)  
Andrew Dench (TSA)  
Paul McMahon (ORR)  
Julie Monk (BIS) (items 1 and 2)  
Iain Osborne (CAA)

#### 1: Minutes of previous meeting

The minutes of the previous meeting of 13 September 2011 were agreed (with some minor amendments) and will be placed on the ORR website.

#### 2: Plans for regulators reviews

Julie Monk from BIS attended the meeting to brief and discuss with JRG its plans for reviews of regulators. There is a coalition commitment to do 'sunset' reviews of regulators. Following further work BIS recognised that this is not appropriate in all circumstances, which in particular applies to economic regulators. As such, the focus of the regulators reviews will be on how regulators engage with business to support growth. BIS is currently understanding the scope of its review, i.e. which regulators fall into it and who are the sponsoring departments for each of them. Following this phase BIS will do deeper analysis of a selected set of regulators. Possible outcomes from the work include refreshing the functions of a regulators and the split of responsibilities between departments and regulators.

JRG were grateful for the update. JRG requested that the review recognises the independence of the economic regulators and that there should be a clear recognition of consumer interests.

**Action:** BIS would confirm with JRG (via Paul McMahon) the responsible departmental contacts. **Action:** Iain Osborne (as 2012 JRG chair) would invite BIS back to JRG for a further update and discussion ahead of March 2012 when it plans to conclude the first phase of its review.

#### 3: JRG programme for 2012

JRG discussed two papers: by Iain Osborne discussing a possible JRG workplan for 2012 in the light of the collaboration undertaken in 2011; and by CAA/Ofcom on communicating the work of JRG.

**Governance.** JRG considered that clarification of governance was necessary as a foundation for further collaboration and communications. Such

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clarification may involve a programme of engagement with senior staff across JRG members and perhaps more widely. **Action:** CAA to circulate draft Terms of Reference.

**Stakeholder engagement:** The pros and cons of a JRG “annual report” and an annual conference were discussed – to provide stakeholders with a clearer and fuller account of JRG’s activities. JRG agreed that consideration of such steps needed to be considered as part of the wider communications and stakeholder engagement agenda. **Action:** Iain Osborne (working with ORR, Ofgem and Ofcom) to develop a paper for JRG to consider the wider communications issues and proposals for addressing this.

**Building on collaboration in 2011:** The progress on the initial five collaborative workstreams was noted, which are (1+2) Cost of capital and financeability (Ofgem led); (3) Benchmarking and efficiency assessment (ORR led); (4) Charging (Ofgem led); (5) Competition or regulation (CAA led). There was general interest in a workstream on pensions but JRG has been unable to identify a workstream chair. **Action:** JRG members to consider whether they can provide a chair for this workstream.

A range of further topics for collaboration were identified and discussed, including: the sharing of infrastructure, consumer protection and risk based regulation. There was general support for ensuring regulatory frameworks do not discourage shared works, shared facilities or revenue sharing (as requested by HM Treasury). More widely, however, it was thought that the list of possible topics should be a start-point for considering a further round. **Action:** Iain Osborne to recirculate this list.

However, JRG agreed that the focus at the current time should remain on the existing workstreams, with the aim of completing the initial work on these by the end of Q1 2011. The outputs would be evaluated before any decisions on further topics were taken.

**Shared training:** JRG discussed the potential for sharing training resources. This was widely recognised as being an area that should be actively explored to take forward. **Action:** Sarah Harrison to talk to David Pimm (Ofgem) about the regulators regular Chief Operating Officers group discussing at its next meeting the procurement issues associated with this.

**Links with regulators chairs and CEOs:** JRG had a brief discussion on the importance of ensuring coordination with the existing regulators chairs group and with the CEOs. **Action:** Cathryn Ross to discuss with Richard Price the outcome of his conversations with CEOs on the merits of establishing CEO group.

## 4: Tour de table

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**Ofgem.** Ofgem will reach decisions in January on fast-tracking for electricity transmission companies under the new RIIO model. Proposals for energy retail market reforms are out for consultation until February and proposals for reforms to improve liquidity in the wholesale electricity market will be published soon. Ofgem has initiated an enforcement policy review and is developing its impact assessment framework to improve consideration of sustainability aspects.

**TSA.** The economic regulation functions and backstop consumer regulation functions of the TSA are transferring to the Homes and Communities Agency at the end of March 2012, at which point the TSA will be closed. Revisions to the regulatory framework for social housing following Royal Assent to the Localism Act are currently out for public consultation until 10 February 2012.

**OFT.** An update was provided on the tobacco retailing case, where the CAT has just announced that it would allow the appeals against the OFT's decision on tobacco retailing and the imposition of fines. OFT is examining CAT's judgement and considering the potential next steps. OFT is also consulting on proposed revisions to its Competition Act 1998 penalties guidance until 26 January 2012. OFT also explained that it has launched a market study into the supply of private motor insurance.

**Ofcom.** Ofcom has recently proposed the removal of most price controls from Royal Mail – in order to secure the provision of a universal postal service. It also published in November the first report on the state of UK's communications infrastructure.

**CAA.** The draft Civil Aviation Bill has been published.

**Monitor.** Monitor reported that the Health and Social Care Bill is currently in the House of Lords and that Royal Assent is expected in May. Monitor has published draft licences for providers of NHS funded services.

**ORR.** ORR has published a comprehensive consultation on incentives for its 2013 periodic review. It is publishing in December, jointly with the Department for Transport, a consultation on the role of regulation – wherein the transfer of certain regulatory functions from DfT to ORR relating to train operators is being consulted on.

## **6: Any other business**

The next meeting of JRG will be organised by CAA and the date will be confirmed.

JRG noted the suggestions for items at future meetings: communications strategy, a JRG terms of reference, regulating in a devolved world, switching & losing, and regulation/price capping of state owned organisations.