

# Minutes of the Joint Regulators Group (JRG) meeting 28<sup>th</sup> June 2012

*CAA House, Kingsway, WC2B 6TE*

## Present:

Iain Osborne (CAA) (Chair)  
Cathryn Ross (ORR)  
Steven Preece (OFT)  
Sean Browne (BIS)  
Sarah Harrison (Ofgem)  
Iain Morgan (Ofgem) to item 3  
Keith Mason (Ofwat)  
Neil Talbot (HCA)  
Richard Ploszek (HMT) to item 3  
Kirstin Green (BIS) item 8  
David Halpern (No. 10) item 8  
Thomas Carr (CAA) (Secretariat)

## 1. Minutes of the previous meeting

The minutes of the previous meeting 19<sup>th</sup> April 2012 were agreed following minor amendments and will be placed on the CAA website. Action points arising from the previous meeting have been complete with the following exceptions

- Splice groups to deliver publishable reports – open for completion by submission to September meeting
- The communications working group is to continue to develop the communication proposals to an operational level – open - JRG members agreed to supply the Secretariat with JRG outputs (minutes, notes, and reports) that they hold.

Following the JRG queries into cross regulator training, the JRG would like to record thanks to the COO group for its efforts in this area.

## 2. Presentation from Richard Ploszek: Infrastructure inter-dependencies

Mr Ploszek presented slides which set out the current HMT work programme on this topic. JRG noted that the four case studies were significant government transport projects. JRG questioned how far the project was looking to be developed with regards to private investors. RP stated that it was intended to progress through to private investors in a number of ways, information provision to private companies allowing them to reconsider their investment decisions, and through embedding inter-dependencies across government through amending the Green Book.

## 3. Terms of Reference for Infrastructure sharing working group

Iain Morgan presented the terms of reference (ToR) for the infrastructure sharing working group. JRG suggested that there should be a focus on setting out up front the expected outputs from the working group; it was also suggest that the project may want to consider whether additional legislation may be required to facilitate infrastructure sharing. RP requested that the project seek to consider what if scenarios as to how current regulation may perform in the event of infrastructure sharing taking place. It was agreed that Iain Morgan would chair the working group with members

provided from ORR, CAA, Ofwat, and Ofcom, the OFT also expressed interest as an observer on the working group.

AP – JRG members to nominate colleagues to form the Infrastructure sharing working group.

#### **4. Lessons Learnt from project splice**

JRG accepted the draft recommendation put forward in the Lessons Learnt note. The note to be held in draft until the splice projects are complete.

#### **5. Working group topics for 2013**

ORR put forward an interest in looking at the impact of current economic turmoil on regulated companies (not just cost of capital but also supply chain, demand uncertainty, etc.).

Ofgem raised a number of points around ensuring that there is full value gained from the Splice projects. Suggesting that splice six should continue to be taken forward due to the pressing issues with regards development of CMA.

Ofgem also suggest a working group considering the Consumer facing aspects of regulation, covering consumer research and protection powers. This was widely supported. It was suggested that JRG should liaise with the Consumer Concurrencies Working Group run by the OFT and concurrent consumer enforcers to ensure there is no duplication of effort.

CAA put forward an interest in a working group for looking at synergies in Transportation.

The CAA also raised the issue for building on the progress of the COO group on cross regulator training to consider the development of an economic regulators curriculum.

The CAA also suggested a working group on devolution; however it was considered that this would need initial discussion before full proposals given the sensitive nature of the topic. The OFT offered to provide an initial presentation on devolution given its expertise in this area.

AP: JRG members should draft TOR to develop their suggestions for working groups to be presented at the September JRG.

AP: CAA to re-circulate long list from the development of project splice

AP: OFT to develop a presentation on the issues for regulation arising from devolution to be presented at the September board meeting.

#### **6. Relationship with RPC**

JRG agreed with the findings of Philip Cullum's note on the JRG's relationship with the RPC. Concerns were highlight over the interaction with the RPC and regulators retaining their independence.

Further, a number of the regulators have robust decision-making conditions set out in statute, including appeal rights which are not necessarily present with decision that are normally overseen in the RPC framework. It was noted, however that a number of regulators considered that Impact Assessments (IAs) were not always equally robust. Ofgem noted that its IA framework was currently under review. HCA raised IAs as a significant issue in there interaction with the RPC framework.

AP: JRG members are to share their approaches and experiences in undertaking IAs via email.

## 7. Tour de Table

CAA is currently reviewing the licence and relationship with NATS, the Q6 price control for airports is currently progressing through its constructive engagement stage.

OFT have released a call for evidence on price and choice in remote communities. Clive Maxwell has been announced as the OFT's new CEO. Legislation to create the CMA is before Parliament. Ofgem have a bill entering Parliament that will alter their statutory duties by requiring them to have regard to strategy and policy guidelines issued by government. Initial proposals on RIIO-T1, GD1, & [?] are due to be published in mid to late July. Ofgem are also looking at launching a project reviewing regulatory enforcement practice later in the year.

ORR has a number of documents being published in July the PR13 financial framework, Joint response with DfT to the consultation on the role of ORR and ORR's Transparency strategy. In August ORR are looking to publish an 'Outputs framework' which will seek to transform Government set outputs for Network Rail into Regulatory Obligations and KPIs. ORR is also looking to engage the CC on the changes to the competition landscape.

Ofwat will shortly be publishing a price setting principles document. They are also in the process of amending licences to enable the setting of additional price controls. They expect that the draft Water Bill will be published next month. Ofwat are also hoping to announce a new Chair in the coming year.

HCA are bedding down the regulation and operations following the TSA merger. They are considering areas of financial ring fencing, developing a financial failure regime, and currently have a merger investigation that is on-going.

## 8. AOB

Kirstin Green and David Halpern presented the current stage of the Midata project to the JRG. Midata is part of the consumer empowerment agenda it is concerned with the provision of transactional data that companies hold back to the consumer in a machine readable format. The project is currently looking at a move from voluntary to a mandatory scheme. KG and DH asked whether regulators currently had powers in place that would aid in requiring companies to provide this data.

JRG members highlighted that a regulator-led approach may lead to a piecemeal result given the coverage of regulated industries. It was agreed that intermediaries (e.g., price comparison websites) might have an important role within this project. Ofgem was aware more generally about the important role of intermediaries as a significant consumer gateway within the energy sector (currently acting without regulation).

AP: KG/DH will contact JRG members by email to gather the information on powers that are available and background on the sectors.