
Introduction

1.1 The regulators of the utilities and other industries face many similar issues and meet regularly to discuss these issues and share best practice. Since 1999 they have reported annually on their joint working and this is the fourth joint statement. The Director General of Fair Trading also attends the regular meetings in recognition of the importance of the interplay between sectoral regulation and general competition policy and because many of the regulators have concurrent powers under the Competition Act 1998.

1.2 The benefits of the joint working and sharing of ideas and practice enhances rather than impinges upon the independence of the regulators who have different statutory duties and powers. The end result is a more informed understanding of the issues facing regulators and the right decisions for consumers.

Why joint working?

1.3 There are a number of issues which are common to many of the regulators. These include issues relating to setting price controls (such as the cost of capital and incentivising appropriate capital investment), those pertinent to competition (examples are assessing the extent of transition from monopoly to competitive markets and the handling of Competition Act 1998 cases) and those covering regulatory best practice (including timely and effective consultation with regulatees and customers and the retention and training of skilled and professional staff). Recent issues which have been identified as fruitful areas for joint working include optimal financial structures and the handling of business failure. Joint working benefits the regulators, the companies they regulate and consumers. Regulators benefit from the sharing of best practice which assists them in running efficient and cost-effective organisations. Regulated companies benefit from a consistent approach to similar issues which increases regulatory certainty. Ultimately, consumers are the main beneficiaries.

1.4 The limits to joint working are the differences in the sectors they regulate, the different statutory duties of the regulators and the differences in their powers. Ultimately, the regulators (whether individually or part of a corporate board) are independent and have to take decisions that meet their statutory objectives in addressing problems in their particular sectors. The sectors vary in many ways including their present state of competition, the need for capital investment and the speed of technological change. In some sectors, the Government may have wider considerations for which legislation provides for guidance to be given to the regulatory organisation on environmental and social matters.
Working with Government Departments

1.5 The legislative framework in which the regulators work is, properly, one set by Parliament. The expertise and experience of the regulators is a valuable asset and they can contribute to policy making by informing the Government of problems faced by their sectors and the likely effects of policies. The regulators are able to assist the Government by identifying significant common issues and examining them with Government departments. This assistance should help the Government in developing the regulatory framework, in seeking Parliamentary approval for legislation to develop the regulatory framework and in longer term strategic planning.

NAO report on Pipes and Wires

1.6 In April 2002 the National Audit Office (NAO) published a report "Pipes and Wires" on the economic regulation of utility networks by Oftel, Ofgem and Ofwat. The NAO found evidence that the regulators had been successful in achieving their objectives. Customers had seen lower prices and higher quality of service, and regulated companies had been able to cut costs and invest in their networks while continuing to finance their functions. There was no evidence that investment had been inadequate nor that the networks had deteriorated. The report concluded that through their regulation based on RPI-X the regulators had been successful in ensuring that the networks were maintained and enhanced and had encouraged substantial improvements in efficiency which had been passed on to customers. The NAO recognised that the RPI-X approach to regulation had some inherent risks: to the strength of incentives, to investment in networks, risks associated with financing investment and process risks. It found that the regulators had identified these shortcomings and taken action (appropriate to the conditions in their sector) to mitigate them. Examples include, introducing stronger incentive regimes to encourage efficient investment, allowing companies to keep the benefits of efficiency gains for five years, encouraging companies to take a risk management approach to their network assets and communicating to companies and investors the methodology to be used in future price reviews. The NAO noted that the regulators' decisions had been based on well established assumptions which changed little between reviews. Some of the NAO's conclusions and recommendations were concerned with joint working. It noted that the regulators were jointly commissioning research into the cost of capital and suggested that the joint working groups may have a role in evaluating completed price reviews. The three regulators covered by this report appeared before the Public Accounts Committee in May 2002.

Developing best practice and responding to Better Regulation Task Force report

1.7 The Better Regulation Task Force (BRTF) reported on the economic regulators in July 2001. It specifically looked at the work of Ofgem, Oftel and the CAA,
but its recommendations were addressed to all the regulators. The BRTF recognised that the introduction of competition and regulation had brought tangible benefits to consumers, in particular RPI-X had encouraged culture change in the former nationalised industries and the savings made had been passed through to consumers in significant price cuts. The Government responded to the report in February 2002. It said that it would take forward some of the issues raised, but many were the responsibility of the regulators.

1.8 Many of the BRTF’s conclusions cover areas which the regulators have already identified and are addressing. In some of these areas the regulators have benefited from sharing best practice and they will continue to do so. However, there are differences which prevent an entirely uniform approach. For example, the corporate structures of the regulators’ offices are laid down by statute so it is not possible for some of them to take decisions corporately. In telecoms, for example, EU legislation prescribes the method of market assessment. In its response the Government said that one possible outcome would be for the regulators to develop jointly a code of regulatory good practice. The regulators will consider how the results of current joint working, plus any new work, can improve regulatory good practice.

Meeting of regulators

1.9 The regulators and Director General of Fair Trading meet five times a year to discuss issues of mutual concern and to report on recent developments in their own particular sector. The secretariat is provided by one office for a twelve month period, currently the CAA. Agenda items during the past year have included the interaction between sector regulation and the Competition Act, responding to the recommendations of the BRTF report, lane rental proposals and a discussion with the Treasury and Department of Trade and Industry.

Areas of joint work

Concurrency Working Party

1.10 The regulators recognise the increasing convergence between price control and general competition law. Most of them have powers under the Competition Act, concurrent with the Director General of Fair Trading, to investigate anti-competitive agreements and abuse of dominant positions. These regulatory offices meet monthly with the Office of Fair Trading to promote a consistent and co-ordinated approach to the use of Competition Act powers. They also discuss best practice from their experience of handling competition cases. The Concurrency Working Party is setting up a joint private website to assist in the mutual exchange of information and dissemination of best practice and training opportunities. It is proposed that some of the regulators will also have concurrent powers under the Enterprise Bill. The Working Party is discussing the guidance on the exercise of these powers under the Bill. Although the
Working Party acts as a forum for the discussion of issues of common interest, there are legal limits to the information which the regulators can disclose about specific cases. It does not, and legally cannot, replace decisions which are for the individual regulators or regulatory bodies.

**Principal Establishment and Finance Officers and Chief Operating Officers**

1.11 All the regulators are concerned that their organisations should operate efficiently and effectively. To achieve this their Principal Establishment and Finance Officers and Chief Operating Officers meet regularly to discuss common issues and share best practice. Issues discussed include: pay, recruitment, staff retention, training, knowledge management and financial and management information systems. In the past year the group has continued to follow up on the findings of the WS Atkins Efficiency Review.

**Communications**

1.12 The regulators recognise the importance of effective communications with their stakeholders. Publishing priorities and work programmes, explaining decisions and conducting genuine consultation all play a part in reducing regulatory risk. The communications working group addresses how to achieve this and shares experience of established practice and innovative approaches.

**Best practice on service delivery standards**

1.13 Ofwat leads this group which considers the service measures and standards used in the different sectors and identifies areas where joint working may be beneficial. The group's aims are to consider what service measures and standards could be extended, to identify the potential for benchmarking, to identify requirements for securing reliable information from companies and to consider how to make published information more accessible.

**Price control**

1.14 The regulatory offices discuss their approaches to price control. This working group considers issues of common interest, particularly where a consistent approach may aid regulatory certainty and promote long term stability. It has commissioned a report into the cost of capital which should be completed by Autumn 2002. Ofwat is the lead office for this group.

**Transition to competitive markets**

1.15 The regulatory offices discusses the implications of the transition of markets from monopoly to competition. As the sectors vary in their state of, and potential for, competition there are limits to the benefits of joint working in this area. In particular the European directives on telecoms prescribe how the assessment of markets should be determined in that sector. Nevertheless, this group, led by Ofgem, considers areas where joint working may be useful.
Regulatory accounts

1.16 This working group is led by Ofgem and has built on its previous work in recommending common regulatory accounting guidelines. It is currently engaging with the Institute of Chartered Accountants on how to apply the guidelines consistently to the regulated companies.

Social and environmental issues

1.17 In some sectors the Government may issue guidance on social or environmental issues. Ofgem leads this working group which examines the initiatives in individual sectors and explores the scope for comparable approaches elsewhere.

Best practice in compiling and disseminating comparative price information

1.18 The regulators see the need for comparative pricing information to enable consumers to make informed choices between competing suppliers. This particularly applies to the gas, electricity and telecoms sectors. Oftel leads this working group in which the regulatory offices consider whether they can learn from experience in other sectors. Approaches used include industry initiatives, indices and the use of the internet to disseminate information.

Conclusion

1.19 In the past year the regulators have continued to tackle issues of common interest and senior staff in their offices have met regularly to discuss and disseminate best practice. The regulators intend to build on their achievements and will consider areas where a common approach may be beneficial and adds value to regulatory policy.