

STATEMENT BY OFTEL, OFGEM, OFWAT, ORR AND OFREG ON JOINT WORKING

Introduction

1. The Regulators of the UK electricity, gas, water, telecommunications and railway industries all face a number of similar issues in relation to the regulation of their particular sectors. Since their establishment in the 1980's the Regulators have liaised on various issues and have kept in touch with regular meetings, both formal and informal. However the Regulators believe it is now appropriate to both formalise and deepen this joint working. This Statement sets out how the Regulators are doing this. The Regulators intend to update this Statement from time to time to report what has been achieved and what further joint working is planned.

Importance of Joint Working

2. As regulation matures and, particularly, as patterns of ownership and control begin to cross boundaries between the regulated sectors, it is becoming increasingly important to recognise that each of the Regulators needs to work in closer and more transparent co-operation with his colleagues in other sectors. Structural changes have already taken place with the establishment of combined regulatory offices for gas and electricity in both Great Britain and Northern Ireland.
3. The importance of joint working was also identified during the Government's review of Utility Regulation. In the White Paper "A Fair Deal for Consumers: Modernising the Framework for Utility Regulation" the Government proposed that there should be a duty on regulators to give collective consideration to matters of common interest.
4. In view of the importance they attach to joint working, the Regulators consider it would be in the public interest to both formalise and intensify their joint working. This statement sets out both existing areas of joint work (including how they will develop in future) and new areas of joint working which are being undertaken.
5. Although there are similarities in the work of the different Regulators, there are also many differences, particularly in the scope for competition in each sector. This means that not every area of joint working will be of equal interest to all Regulators; there may be areas of most interest to only some Regulators. Thus, while all Offices are kept informed of all areas of joint working, the degree of participation from other Offices will depend on the extent of their interest in that particular element of the programme.

6. Although this Statement covers the work of OFTEL, OFWAT, OFGEM, OFREG and ORR. Individual Regulators also maintain working contacts on a range of topics with the Office of Fair Trading (OFT) and the Competition Commission.

Meetings of the Regulators

7. The Regulators themselves (the Director General of Water Services, the Director General of Electricity and Gas Supply, the Director General of Telecommunications, the Director General for Electricity Supply and Gas for Northern Ireland and the Rail Regulator) meet together on a regular basis. These meetings have recently been formalised. There are 5 meetings each year with each Regulator taking the chair in turn. One Office provides the secretariat for a 12-month period. Regular items of the agenda are reports from the projects of joint working (see below), discussion of the Government's proposed reform of utility regulation and updates from each Regulator of important regulatory developments in their sector.

Elements of Joint Work

Issues common to all Regulators

i) The Competition Act 1998

8. All the Regulators have powers under this Act concurrent with the Director General of Fair Trading. All the offices are members of the Concurrency Working Party (CWP), chaired by OFT. The CWP is co-ordinating preparations for the implementation of the Competition Act 1998, including the drafting of Guidelines on how each Regulator will exercise his powers and how concurrency will work in practice. Once the Act's prohibitions on anti-competitive practices enter in force on 1 March 2000, the CWP will continue in existence. It will become the forum for maintaining close working between the regulators and the DGFT and ensuring consistency and coherence in policy development and in the procedures for handling cases.

ii) The Millennium Problem

9. Each Regulator is undertaking, in conjunction with the relevant regulated industry, an extensive programme of work to achieve "business as usual" over the millennium period. All the regulated sectors are of fundamental importance to the UK's public infrastructure. They are also inter-dependent: for example, telecommunications networks need power supplies and energy networks need telecommunications. All the Offices have been working closely together, as well as with the Cabinet Office who are co-ordinating work on the public infrastructure.

iii) *Administration, Personnel and Training issues*

10. The relevant Directors of Administration, Finance and Personnel from each Office, together with the Office of Fair Trading, meet every 4 months in the Administration Working Group. This considers current best practice in finance, personnel and administrative issues. The Regulators have decided that this Group should have a higher profile and should steer joint initiatives in this field. One example of joint working is the participation of all Offices in the Competition Act training organised by OFT. Other joint training initiatives are being pursued as well as possible short term attachments between Offices which should bring benefits in terms of improved co-operation on, and understanding of, common regulatory practices. In future the Administration Working Group will report to the Regulators' meeting.

Other Areas of Joint Working

11. The following areas of joint working have an identified lead Office. Other Offices with an interest are also identified.

iv) *Best practice principles for multi-utilities regulation (OFWAT)*

12. In May 1998, the Regulators published a joint response on the regulatory issues arising from the development of multi-utilities. This set out two actions that have already been taken and identified a number of issues requiring further joint work, in particular between OFWAT and OFGEM. This work will continue and will cover:

- securing joint monitoring of cost allocation systems;
- joint discussions with Hyder concerning independence of the separate licensed businesses and compliance with existing licence conditions; and
- liaison between the customer representative bodies

v) *Procedures and criteria for testing transition from pre-competitive to competitive markets (OFGEM)*

13. It is a general principle of regulation that it should be withdrawn or at least applied with a lighter touch as competition develops. Regulation is likely to impose costs and is therefore less efficient than competition. It is therefore important that regulators can measure when competition is effective and thus when regulation can be withdrawn. There is considerable advantage in sharing best practice and developing a common methodology for this. A working group led by OFGEM but comprising all Offices has been set up to take forward this work. Details are set out in the Annex.

- vi) *Best practice on compilation and dissemination of comparative price information* (OFTEL)
14. The Regulators agree there is a need to facilitate the publication of comparable pricing information for the consumer to help consumers make more informed choices between competing suppliers. OFTEL, OFGEM and OFWAT have all previously undertaken some separate work in this area. The Regulators have decided there would be merit in joint working so as to share best practice particularly in respect of dissemination to consumers. This work is being led by OFTEL and further details are in the Annex.
- vii) *Best practice on service delivery standards* (OFWAT)
15. The Government's Utility Review recommended that Regulators consider collectively practice on setting service standards, while recognising that there are differences between monopoly services and those where competition is emerging or established. OFWAT is leading a Working Group to review Regulators' approaches and to identify best practice. Further details are in the Annex.
- viii) *Regulatory accounting* (OFGEM)
16. The Government's Utility Review suggested that there would be benefits in companies producing regulatory accounts in a more standardised format to facilitate wider understanding of regulatory issues. OFGEM are leading a Working Group to take this forward. Further details are in the Annex.
- ix) *Price Control and Cost of capital* (OFWAT)
17. During 1999, the timetables for the OFWAT review of price limits and OFGEM's electricity distribution review are broadly concurrent. ORR's periodic review of Railtrack's track access charges is also due to reach provisional conclusions on the overall level of revenues during 1999. Regulated companies will naturally compare decisions of the two regulators on common matters such as cost of capital. Such comparisons will be particularly pertinent for the multi-utilities. OFWAT, OFGEM and ORR are therefore working closely together on these issues, keeping other Regulators whom also face price control reviews in touch. Further details are in the Annex.

Further Joint Working

18. The above comprises the current programme of joint working. The Regulators intend to review it at regular intervals and updates will be issued as appropriate.

October 1999

Title: Procedures and criteria for testing transition from pre-competitive to competitive markets.

Lead Regulator:

OFGEM.

Lead Official:

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Membership of working group:

Beryl Brown	OFWAT
Phil Dixon	OFWAT
Siobhan Walsh	OFTEL
Phil Smith	ORR
Mathew Cherry	ORR
Nick Fincham	OFGEM
Richard Moriarty	OFGEM
Giles Stevens	OFGEM

Rational for joint work:

The nature of the task is defined in the White Paper which calls on the regulators to “on a periodic basis, test the question of how far there has been a movement from a pre-competitive to a competitive market and to explain any regulatory consequences”.

Work so far:

A number of tasks have been carried out so far:

- Several group meetings have been held.
- A preliminary assessment of the methods used by the regulators to assess the development of competition within their own sectors was carried out.
- Having collated the above information, a draft framework table was circulated identifying possible stages in the development of competition from pre-competitive to competitive markets. Each stage was described by reference to the nature of market conduct and the type and extent of regulatory controls. The stages identified broadly reflect those set out in the Government’s Green Paper, with the addition of a “pre-entry” phase.
- An initial draft document expanding on the table was circulated to the group on 4th July.

- Separate industry specific appendices were received by 31st August.
- We have contacted other interested government departments, such as DTI, OFT, DETR, and HMT in order to make them aware of our work.

Future work programme:

We aim to:-

- Circulate more widely a redrafted paper to the working group, DTI, OFT, DETR, and HMT then process their comments and amendments;
- Circulate draft to the Director General's meeting.

We aim to publish a "final paper" later in the year.

Title: Regulatory Accounts

Lead Regulator:

OFGEM

Lead Official:

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Membership of the working group:

Paul Plummer	ORR
Gavin Greenfield	OFTEL
Helen Twelves	OFWAT
Alan Smith	OFREG NI

Rationale for joint work:

The Government's Green Paper on utility regulation "A Fair Deal for Consumers" suggested that there would be benefits in companies producing regulatory accounts in a more standardised format. In particular this would facilitate wider understanding of regulatory issues.

Work so far:

- background paper produced on the main issues;
- working group established; and
- following discussions with the working group the initial plans have been revised, suggesting a paper for DGs in May 2000 and a public consultation in August 2000.

The consultation paper is intended to cover the main issues relating to regulatory accounts. These may include:

- form and content of the regulatory accounts;
- cost allocation and transfer pricing;
- basis of accounting;
- timing of publication; and
- role of auditors.

Title: Best practice on compilation and dissemination of comparative price information

Lead Regulator:

OFTEL

Lead Official:

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Membership of working group:

Geoff Delamere	OFTEL
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Paul Tonkinson	OFGEM
Paula Davies	OFGEM
Anna Hayes	OFWAT

Rationale for joint work:

As a result of the Utilities Review and Government requests in the White Paper, the Director Generals of the regulatory bodies OFGEM, OFWAT and OFTEL have agreed to publish a joint work programme on *Best practice on compilation and dissemination of comparative price information*.

It was agreed by the regulators that there is a need to facilitate the publication of comparable pricing information for the consumer to help them make a more informed choice when selecting a utility supplier. OFGEM, through MORI research confirmed that there was public demand for comparable pricing information. OFGEM added that it is easy to switch between gas suppliers but customers are put off by the inability to compare prices. Some customers are switching and end up paying more due to misleading comparisons and advertising. This further supports the need for an *independent* comparison source.

OFTEL had received requests from consumer groups to ensure this type of information was produced.

Work so far:

The regulators summarised the work they have done in relation to comparable pricing information for consumers.

OFGEM currently contract Which? to collate and publish comparable pricing information for domestic customers by the way of factsheets. These are available on the internet and are also circulated to local advice bureaux and its regional offices for distribution through contacts with local authorities (for example, housing and trading standards departments) or on request. The position may change in light of OFGEM consolidating OFFER and OFGAS.

OFWAT circulates pricing information literature to main public libraries and to local libraries on request. They also provide literature in response to direct queries to OFWAT and on request from interested parties/individuals. They also have some information on the internet.

OFTEL has commissioned pricing consultants Analysys, to design a model enabling customers to compare what their typical bill would be with different companies. The model is based on individual calling information obtained from a sample of customer bills supplied by operators. A draft document based on the model's results has been tested with some focus groups, and a final version of the document should be in the public domain by the end of 1999.

Agreement of joint work plan

No indication of the number of comparable pricing documents that have been distributed or that have been accessed via the internet is currently available. It was felt that it could be beneficial to investigate the scope for measuring consumer awareness of these documents, how widely they have been distributed, and how useful consumers have found them.

As a result, the agreed joint action plan is as follows:

OFGEM agreed four actions:

- (1) To check with Which? as to whether or not they would have data on the number of people visiting the factsheet pages on their website.
- (2) To see whether or not it would be possible to put a brief questionnaire on the site for customers to complete after they have accessed the factsheet, regarding its usefulness, ease of use, and decision on whether or not to switch supplier.
- (3) To explore the possibility of asking customers who request the factsheet whether or not they would be prepared to participate in some follow up research, following the next publication.
- (4) To provide a copy of their MORI research to OFTEL for discussion and information purposes (done).

OFWAT agreed:

- (1) To consider possibility of better information and comparisons for consumers on water rates as against meter charges.

The regulators also agreed to jointly:

- (1) Examine the scope for researching how widespread the distribution, awareness, and usage of the gas and electricity industries' comparable pricing factsheets is – either through an omnibus questionnaire or some other means.
- (2) Examine the scope for researching the usefulness and understanding of the factsheets amongst those who have received or used it – either through targeting consumers who have requested it or who have used it on the internet. Has it clarified pricing information for them and has it affected their choice of supplier?
- (3) Consider and identify possible means for production and dissemination of price comparison information.
- (4) Consider preparation of good practice guide for use by regulators and others on dissemination of information to consumers regarding price comparisons based on experience of price comparison exercises.

A follow-up meeting of the regulators was held in June 1999 to review feedback, to decide on research activities and to determine a timetable for joint working outputs. Next meeting scheduled for November 1999.

Title: Price Control and Cost of Capital

Lead Regulator:

OFWAT

Lead Official:

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Membership of working group:

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Keith Mason	OFWAT
Richard Morse	OFGEM
Peter Bucks	OFGEM
Andrew Walker	OFGEM
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Rationale for Joint Work:

During 1999, the timetables for the Ofwat review of price limits and Offer's distribution review are broadly concurrent for the production of draft and final determinations. The Rail Regulator is also due to reach provisional conclusions on the level of Railtrack's track access charges in December 1999. Regulated companies will be considering whether to appeal to the Competition Commission on these determinations at about the same time. The companies will, naturally, compare the decisions of the three regulators on common matters, such as the cost of capital. Such comparisons will be particularly pertinent for the multi-utilities.

Consequently, there is a particularly strong case for the three regulatory offices to liaise on issues of common interest during the reviews. The aim of the liaison is to agree principles and the approach to financial issues, not necessarily to agree precise numbers, since these may vary according to the different characteristics of the respective industries.

Work so far:

Broad agreement has been reached between Ofgem and Ofwat on a number of matters:

- the interpretation of Regulators' duties to secure that companies are able to finance the proper carrying out of functions, including the interaction with judgements on efficiency;

- the degree to which Regulators should take account of the financial position of other group companies as well as of the licensed holding companies;
- the approach to the assessment of the cost of capital, including the use of various finance theory models and the degree to which market evidence should be taken into account;
- the role in such assessments of a principle of financial efficiency;
- the approach to the assessment of financial viability or bankability of companies, including the weight to be placed on financial covenants;
- the role and designation of key financial indicators and their broad values;
- the interaction between regulators' actions and the market's assessment of the creditworthiness of companies, for example, by rating agencies; and
- ranges for the cost of capital for the respective utilities.

Future work:

- To continue jointly to monitor market movements in the cost of capital until final proposals or determinations are made in November 1999.
- To ensure any regulatory submissions to the Competition Commission on the cost of capital and associated financial matters are consistent in approach.

Title: Best practice on service delivery standards

Lead Regulator:

OFWAT

Lead Official:

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Membership of working group:

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Rationale for joint work:

The White Paper concluded that:

- regulators should use existing powers to impose service standards on companies in monopoly markets or markets where competition is not effective; and regulators should have powers to impose fines for breaches of overall and individual service standards; and
- details of performance of monopoly, or near monopoly, utilities against service standards should continue to be published to facilitate benchmark comparison. Where competition is emerging, regulators should determine what information is published to ensure that consumers make informed choices.

The Government recommended that regulators should consider the above matters collectively.

A review of present practices by regulators indicates differences in a number of areas. Some of these reflect differences in the development of competition and, as indicated in the White Paper, can be sustained on those grounds. Others reflect different approaches by regulators and the aim of joint work is to review these to identify possible best practice.

Work so far:

- A paper review of regulators' current practices in setting service standards, monitoring company performance and publishing information for customers. This identified significant common elements, but also some differences.

- Meeting to agree issues that required further joint work, and to set objectives.

Future work programme:

In the short-term (by March 2000) to complete the following work:

- Review whether there is sufficient consistency in the service measures and standards used by the regulator, with particular reference to monopoly services. Report to set out recommendations for any changes and to consider what, if any, further steps can be taken to benchmark service standards in the utilities with service levels in other service industries.
- Identify current practices in securing information on company performance. Report to identify the essential requirements for securing reliable information from companies.
- Consider whether steps can be taken to make published information on company performance more accessible and useful to customers, especially where there is competition.

In the longer-term, we will look to developing ideas on linking price control to service performance, building on the proposals in the current reviews of price limits by OFWAT and OFGEM.