

**MINUTES OF THE JOINT REGULATORS' GROUP (JRG) MEETING  
28 September 2007**

**Present:**

Sarah Chambers (JRG Chair/Postcomm)  
Bob Chauhan (ORR)  
Harry Bush (CAA)  
Iain Osborne (NIAUR)  
Philip Rutnam (Ofcom)  
Grahame Horgan (OFT)  
Steven Preece (OFT)  
Alan Sutherland (Water Industry Commission for Scotland)  
Regina Finn (OFWAT)  
Alistair Buchanan (Ofgem)  
Richard Moriarty (Postcomm)  
Colin Sharples (Postcomm)  
Mick Fews (JRG Secretary/Postcomm)

**Apologies:**

Chris Bolt (PPP Arbiter)

**ITEM 1 Welcome and introductions**

1. Sarah Chambers welcomed attendees.

**ITEM 2 Minutes of the previous meeting and other matters**

2. The minutes of the previous meeting were agreed.

3. Iain Osborne reported that he and other regulators had met with representatives of the Housing Corporation.

**ITEM 3 Operation of concurrency**

4. Steven Preece presented the outcomes of a review of the application of competition law by the regulators. JRG discussed how future reviews could be conducted and the manner in which any recommendations or conclusions would be presented. JRG also discussed how the Concurrency Working Party and OFT could work together to increase effectiveness.

**ITEM 4 Progress report from Regulators Performance Measurement Group (RPMG).**

5. Bob Chauhan reported on the RPMG's progress. Mr Chauhan set out the work that had been completed by RPMG and the outcomes of this work. JRG discussed the manner in which the information produced by the RPMG should be presented and noted that as the results were preliminary and subject to uncertainties at this stage, the data should be treated with caution. JRG decided that it would not at present be appropriate to extend the membership of the RPMG.

**ITEM 5 Regulating Government owned companies**

6. Mr Osborne explained that the privatisation of Northern Ireland Water had been ruled out. A panel had been convened by the Northern Ireland Executive to consider governance arrangements. Mr Osborne explained that to help this panel consider governance options a seminar would be organised to which those with experience of regulation of Government owned companies would be invited. The NIAUR organised seminar would take place either the last week of November or first week of December 2007.

**ITEM 6 Duty to reduce Burdens – Regulatory Enforcement and Sanctions Bill**

7. Mick Fewes explained the proposals made by the Better Regulation Executive (BRE) to include a power within the Regulatory Enforcement and Sanctions Bill allowing a minister to place a duty on regulators to identify, reduce and avoid introducing unnecessary burdens.

8. JRG discussed whether it was appropriate to respond to the proposed new power jointly or as individual regulators. The merits of resisting the implementation of powers or seeking to proactively engage with the duty were discussed. JRG decided that it would be more appropriate for regulators to respond to BRE individually.

**ITEM 7 Tour de Table**

*OFWAT*

9. Regina Finn reported that OFWAT had proposed a £12.5 million fine on Thames Water: £11.1 million for failing to provide it with robust information and £1.4 million because poor processes and systems meant that customers received poor service. The proposal was subject to consultation and a final decision would be made by the OFWAT board after representations had been received.

*OFT*

10. George Horgan reported that OFT had issued a provisional decision against supermarkets and dairies about price fixing. The OFT had found that supermarkets and dairies had colluded to cost consumers £270 million on milk, cheese and butter. Mr Horgan also reported that the OFT had published two consultations which may be of interest to JRG:

- calculating direct benefits to consumers (closing 18/12/07), and
- prioritisation of work (closing 22/11/08).

*Ofcom*

11. Philip Rutnam outlined the key areas of OFCOM focus since the last JRG. These included mis-selling in telecoms, the outcome of investigations into television phone-in competitions and litigation in the mobile phone sector over termination charges.

12. Mr Rutnam explained progress over implementation of BT's undertaking made under the Enterprise Act for its Open Reach business.

*NIAUR*

13. Iain Osborne confirmed that the new single electricity market for all Ireland will go live on 1 November 2007. Mr Osborne reported that the NIAUR and Irish regulator would now consider an all Ireland approach to gas.

14. Mr Osborne outlined the progress of the review panel formed by the Northern Ireland Executive to consider water arrangements in Northern Ireland.

*Ofgem*

15. Alistair Buchanan reported that the decision on the first gas distribution price control will be published in December 2007.

16. Mr Buchanan explained that the governance arrangements announced for European electricity networks appear to be based on the British model. Mr Buchanan explained however that there may be some issues to be resolved about the independence of the European regulator, the ability of grid companies to influence regulators and the role of the future Energy Commissioner.

17. Mr Buchanan also outlined the way in which Ofgem's sustainability duty is impacting on the decision making process within the electricity governance arrangements.

*Water Commission for Scotland*

18. Alan Sutherland reported that market opening would take place on 1 April 2008 for water and sewerage. Business customers will be able to choose water and sewerage suppliers. Separation of Scottish Water's retail functions to meet licence conditions was proceeding. There will be licences for 2 new entrants and applications are expected from 2 or 3 more.

*CAA*

19. Harry Bush reported that CAA are expecting the Competition Commission report on the proposed price control proposals for Heathrow and Gatwick airports.

20. Mr Bush reported that CAA are also expecting the Government's decision about the de-designation of Stansted and Manchester.

21. Mr Bush explained that while some of the issues reported in the press about Heathrow's difficulties over the summer were justified some may have been exaggerated by the media.

22. Mr Bush also expressed concern about proposals for a future Airport Charging Directive which could extend regulation to UK airports currently outside of the scope of UK regulation.

*ORR*

23. Bob Chauhan reported that English Welsh and Scottish Railways limited had been prosecuted following an electrocution.

24. Mr Chauhan also reported that ORR had confirmed a penalty of £2.4 million on Network Rail for poor planning and risk assessment.

*PPP Arbiter*

25. Chris Bolt reported via the Chair that the Arbiter's main focus has been the Extraordinary review of the Metronet contracts. Mr Bolt has arranged a meeting with all JRG members on 29 November to discuss the issues arising.

**ITEM 7      Any other business/date of next meeting**

26. Sarah Chambers confirmed that the date of the next JRG meetings would be 6 December at 2pm. JRG members were invited to propose agenda items for the next two JRG meetings.

27. Mr Harry Bush offered to chair the 2008 JRG meetings at CAA's London offices.

Mick Fews, Secretary, JRG  
September 2007