

**MINUTES OF THE JOINT REGULATORS' GROUP (JRG) MEETING
8 DECEMBER 2006**

Present:

Sarah Harrison (Acting JRG Chair/Ofgem)
Bill Emery (ORR)
Regina Finn (OFWAT)
Sarah Chambers (Postcomm)
Nick Fincham (CAA)
Alan Sutherland (Water Industry Commission for Scotland)
Iain Osborne (OFREG)
Vincent Smith (OFT)
Sean Williams (OFCOM)
Maxine Frerk (OFGEM)
Andy MacFaul (JRG Secretary/Ofgem)

Peter Vass (Director, Centre for the study of Regulated Industries, University of Bath) - Item 2

Apologies:

Alistair Buchanan (Ofgem)
Chris Bolt (PPP Arbiter)
Harry Bush (CAA)

ITEM 1 Minutes of the previous meeting and other matters

1. The minutes of the previous meeting were agreed, subject to one drafting comment.
2. Sarah Harrison welcomed Regina Finn and Iain Osborne to their first JRG meeting.

ITEM 2 Economic regulators and sustainable development

3. Peter Vass gave a presentation based on the conclusions to his recently published report on the economic regulators and sustainable development.
4. His view was that the economic regulators were and should remain independent but were nonetheless part of a wider regulatory state. On that basis he believed that the economic regulators should contribute fully to the development of "integrated policy packages" and that they should actively communicate the sustainable development agenda.
5. Mr Vass observed that regulators and government departments had to debate the issues in a mature, open-minded way or else citizens might lack the motivation to change their habits.
6. The JRG discussed the extent to which they should take account of sustainable development in their decision-making. The JRG agreed that most of the regulators had for some years looked at a range of social issues and had a track record of looking to the interests of future consumers as well as present ones. Sarah Harrison said that in the ongoing debate about regulators' duties, it was important not to overlook their powers and functions.
7. The JRG agreed to return to the topic of sustainable development in 2007.

ACTION: SARAH CHAMBERS (AS JRG CHAIR IN 2007)

ITEM 3 Response to DTI/HMT concurrency report

8. The JRG was content with the final draft CWP response to the DTI/HMT report.

ITEM 4 Better Regulation issues

9. The JRG noted the forthcoming publication of Departmental Simplification Plans

10. The JRG noted the recently published Davidson Report on the gold plating of EU legislation and the Better Regulation Commission's report on risk.

11. The JRG briefly discussed Professor Macrory's report on regulatory sanctions. The JRG was keen to explore the concept of restorative sanctions that focused solutions on the customers that had suffered harm.

ITEM 4 Freedom of information request

12. The JRG discussed the implications of Tom Winsor's information request for minuting and reporting to colleagues on JRG meetings.

ITEM 5 Tour de Table

CAA

13. Nick Fincham reported that the CAA had published initial price control proposals in respect of Heathrow, Gatwick and Stansted airports. He said CAA's view was that Stansted no longer needed to be price controlled but noted that this was a decision for Government. Mr Fincham also noted that there would automatically be a reference to the Competition Commission in respect of Heathrow and Gatwick airports, which could result in recommendations on issues such as the cost of capital with implications for all UK economic regulators.

14. Mr Fincham said CAA was keeping a close watch on the EU airports charging Directive, and in particular the extent to which it was consistent with better regulation principles. It was suggested that CAA get in touch with the Better Regulation Commission given its recent and continuing work on better regulation in Europe.

Ofreg

15. Iain Osborne reported that Ofreg was consulting on the proposed acquisition of Viridian by Arcapita. He also updated the JRG on the latest developments in establishing a single Irish electricity wholesale market.

Ofwat

16. Regina Finn updated the JRG in relation to the Shotton case and the Mid Kent/South East water merger. She also reported on various enforcement cases, including those with Serious Fraud Office involvement.

ORR

17. Bill Emery reported on a settlement decision in relation to *EWS Railways* and gave updates on the price control reviews and the financing of Network Rail.

18. Mr Emery said that ORR was looking at measuring how operationally efficient it is, using the WS Atkins exercise of a few years ago as a starting point. The other regulators agreed to provide assistance where possible.

Ofcom

19. Sean Williams reported on the standards of service issues that had arisen following the separation of BT's wholesale and retail divisions.

20. Mr Williams referred to Ofcom's work on setting a new price control for BT's core telecoms networks. He updated the JRG on the European Communications Framework and said that spectrum sales would be a major priority for Ofcom in 2007.

21. Mr Williams flagged that Ed Richards, Ofcom's new Chief Executive, would probably attend the next JRG meeting.

OFT

22. Vincent Smith reported that OFT had sent out an information request in relation to Sky's acquisition of a stake in ITV.

23. Mr Smith said OFT would be consulting on whether to refer the ownership of airports by BAA to the Competition Commission.

24. Mr Smith said that in the City Hook case the CAT had not required OFT to provide its background documentation; just a witness statement. The JRG noted the implications for non-infringement decisions generally.

Water Industry Commission for Scotland

25. Alan Sutherland noted the effects in Scotland of the CAT's Albion Water decision.

26. Mr Sutherland said that in 2007 he would publish a market code setting out how the market will function.

Postcomm

27. Sarah Chambers reported that Nigel Stapleton had been reappointed as Chairman for a further four years. She added that two new Commissioners had been appointed, Stephen Littlechild (previously Director General of OFFER) and Simon Prior-Palmer, who had investment banking experience.

28. Ms Chambers noted that decisions by Ministers were overdue on the future financing of Royal Mail and the future of the post office network. She said also that Postcomm was carrying out a long term strategic review at the same time as the European Directive was being developed.

Ofgem

29. Sarah Harrison reported that on 4 December Ofgem had published final proposals for the gas transportation and electricity transmission price controls and the one-year gas distribution review. She said that the companies had until 8 January to accept or reject the proposals.

30. Looking ahead, Sarah Harrison said that the European Commission would be publishing its Strategic Energy Review and the findings from DG Comp's sectoral inquiry on 10 January. She also flagged other important developments in the first quarter of 2007, including an Energy White Paper, continued Parliamentary debate on the Consumers Bill (affecting Postcomm too), the possible publication of a Climate Change Bill, and the publication of a report by the Sustainable Development Commission on Ofgem.

ITEM 6 Any other business

31. Sarah Chambers said that she would contact each JRG member individually to discuss how the JRG should operate in future, including the role of sub-groups. She also suggested that the first meeting of 2007 should take place in March, and said she would be in touch to suggest dates.

ACTION: SARAH CHAMBERS

Andy MacFaul, Secretary, JRG
15 December 2006