

**MINUTES OF THE JOINT REGULATORS' GROUP (JRG) MEETING
6 December 2007**

Present:

Sarah Chambers (JRG Chair/Postcomm)
Michael Beswick (ORR)
Harry Bush (CAA)
Donald Henry (NIAUR)
Grahame Horgan (OFT)
Keith Mason (OFWAT)
Sarah Harrison (Ofgem)
Richard Moriarty (Postcomm)
Colin Church – BERR (item 6)
Mick Fews (JRG Secretary/Postcomm)

Apologies:

Chris Bolt (PPP Arbiter)
Alan Sutherland (Water Industry Commission for Scotland)
Regina Finn (OFWAT)
Alistair Buchanan (Ofgem)
Bill emery - ORR

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. Harry Bush invited JRG colleagues to suggest strategic level items to be considered by JRG over the coming year as part of a forward work plan. Possible agenda items may include Governance, Europe, major infrastructure projects, competition arrangements and success indicators. Those suggesting items would also be asked to suggest individuals to lead discussions.

Action – JRG to provide agenda items and leads to Kevin Hoskin by end of Jan 2008.

Action – Mr Bush to write to Chairmen reinforcing the importance of JRG and working arrangements

ITEM 3 House of Lords report

4. JRG discussed the outputs of the House of Lords select Committee report. JRG discussed the recommendation that JRG be formalised with a secretariat, produce an annual report and publish agendas and minutes on a JRG website. It was agreed that the current informal working relationships best meet the needs of the regulators

Action - Ms Chambers to respond to the House of Lords Select Committee on this issue on behalf of JRG

ITEM 4 RES Bill – Unnecessary burdens

5. JRG discussed the positions that may be taken by the regulators following Sir Brian Bender's November 2007 letter. Mr Michael Beswick explained that Chairmen had agreed that it would be preferential to take the duty on the face of the Bill but with the OFCOM wording of "a view to securing" rather than "must secure" that unnecessary burdens are not imposed or maintained. Mr Beswick confirmed that ORR would respond to Brian Bender's letter this side of Christmas.

ITEM 6 Better Regulation and the economic regulators – what the future holds

6. Colin Church presented what he believed to be the agenda going forwards for better regulation and how it would be likely to impact on regulators.

7. Dr Church described there being two main strands firstly the work flowing from the Hampton review and secondly the "less is more" better regulation agenda focussed on the five principles of better regulation.

8. Dr Church explained that the Hampton Implementation reviews have now been completed for the big five regulators (HSE, Environment Agency, FSA, FnSA and OFT). BRE are now seeking to extend the review to the middle tier of regulators including the social inspectorates and OFSTED. Some of the functions of bodies within which economic regulation is conducted are caught by Hampton. These include the safety functions of CAA and ORR. It would be possible to extend the remit to all of the economic regulators but it is not a priority because typically the economic regulators do not carry out inspections, have good relations with typically a small number of stakeholders and appear to be following best practice.

9. Most of BRE's attention on the economic regulators has been on what good practice can be taken from the economic regulators and applied to the Hampton regulators. The complaints that BRE receives about the economic regulators are focussed on the administrative burdens that they impose for example in requesting information from those regulated.

10. Dr Church explained that the "less is more" better regulation agenda which is made up of the five principles of Better Regulation apply to every body whether state or quasi state. These include IAs and the need to reduce burdens. BRE will be responding to the House of Lords report on behalf of Government.

11. In response to questions Mr church explained:

- the value in the Hampton review process has been to allow senior management to understand the disconnect between policy and what happens on the ground. The manner in which the review teams are formulated (NAO, BRE and other regulator) allows good practice to be shared. The HSE implementation review report is due to be published in January 2008.
- NAO and BRE work closely. They co-developed the Hampton implementation review process and work closely on IAs.
- Dr Church explained that the new duty on burdens apply to economic regulators the BRE will have little role. Any complainant who considered that a regulator was not applying the duty correctly could seek a judicial review.

- Dr Church explained that for competition issues the duty would apply to how decisions were taken and not the decision. BRE are working with OFT and CC to agree a form of wording to be read out by a Government Minister to clarify this position. BRE would also be happy to write to regulators to confirm this position.
- In terms of the wording of the duty Dr Church believed that there was little meaningful difference between the wording of the Ofcom duty and the proposed new duty. Dr Church explained that the independence of economic regulators was so much part of the culture of Government that it had come as a surprise that the RES Bill's proposals had caused concern.

ITEM 5 Tour de Table

NIAUR

12. Donald Henry updated JRG on the work of the review panel formed by the Northern Ireland Executive to consider water arrangements in Northern Ireland.

13. MR Henry explained that a single gas market for Ireland was being considered and that the first meeting of the Single Electricity Market Committee had taken place.

OFWAT

14. Keith Mason reported that OFWAT had published in November a methodology paper setting out its proposed approach on the 2009 price control review. OFWAT's approach had been publicised via City briefings and other fora.

15. Mr Mason also explained that OFWAT had fined Southern Water £20 million for misreporting customer satisfaction information. Southern Water has accepted the fine.

ORR

16. Michael Beswick reported that ORR had received and reviewed Network Rail's strategic business plan. ORR hoped to publish its thoughts before Christmas. Mr Beswick explained that ORR had published two Better Regulation themed documents seeking clarify exemptions to licensing and safety approval. Mr Beswick also explained that future major infrastructure projects would pose a challenge for ORR and Government relations.

CAA

17. Harry Bush reported that CAA had on 20 November published its final price control proposals for Heathrow and Gatwick airports.

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

Ofgem

19. Sarah Harrison reported that the decision on the first gas distribution price control had been published.

20. Ms Harrison reported that Ofgem had published a sustainability report and guidelines for a new rating scheme for green electricity tariffs.

21. Ms Harrison also outlined the way in which Ofgem's sustainability duty is impacting on the decision making process within the electricity governance arrangements.

22. Ms Harrison explained that National Grid's system operator incentives were due to be set. Ofgem had decided to follow a constructive engagement approach and would publish for stakeholder consideration National Grid's own proposals.

OFT

23. Grahame Horgan reported that OFT had published a paper aimed at facilitating third party and class / representative actions. This paper includes recommendations on funding of actions, on costs and on requiring UK Courts to take account of NCA decisions and guidance. OFT now hope that the Treasury will now consult on this issue. DG comp are due to publish a white paper on private actions shortly to which the OFT will be responding.

Postcomm

24. Ms Chambers explained that it expected the Government to begin a review of the impact of liberalisation on Royal Mail to begin in the New Year. The Government had committed to this review in its manifesto.

ITEM 7 Any other business / date of next meeting

25. Mr Bush confirmed that 2008 JRG meetings would be chaired by CAA. Meetings would be held at CAA's London offices from 2pm - 4pm on 27 March, 19 June, 4 September and 4 December.

Mick Fews, Secretary, JRG
December 2007