

**MINUTES OF THE JOINT REGULATORS' GROUP (JRG) MEETING  
14 June 2007**

**Present:**

Sarah Chambers (JRG Chair/Postcomm)  
Sarah Harrison (Ofgem)  
Bill Emery (ORR)  
Nick Fincham (CAA)  
Iain Osborne (NIAUR)  
Philip Rutnam (Ofcom)  
Sean-Paul Brankin (OFT)  
Richard Moriarty (Postcomm)  
Mick Fews (JRG Secretary/Postcomm)

**Apologies:**

Alan Sutherland (Water Industry Commission for Scotland)  
Sean Williams (OFCOM)  
Regina Finn (OFWAT)  
Alistair Buchanan (Ofgem)  
Chris Bolt (PPP Arbiter)  
Harry Bush (CAA)

**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.

**ITEM 3 House of Lords Select Committee on Regulators**

3. Sarah Chambers and Bill Emery discussed their experiences of giving evidence to the Select Committee on Regulators round table on 12 June. Ms Chambers and Mr Emery reported that the round table had gone well. The regulators had presented a consistent front at the round table.
4. JRG recognised that the pre-meeting held on the 8 June had been particularly useful for those attending the round table.

**ITEM 4 Housing Corporation – request to attend a future JRG meeting**

5. The JRG discussed a request from the Housing Corporation to attend a future JRG meeting. The Housing Corporation is the subject of a review led by Martin Cave. It is possible that the remit of the Housing Corporation or its successor will change making it more similar to other economic regulators. The Housing Corporation wish therefore to understand the role of economic regulators. JRG agreed that it would be more useful for the Housing Corporation to approach individual regulators at this stage. Iain Osborne agreed to get in touch with them in the first instance to arrange a one-to-one meeting.

**ACTION: Secretary to the JRG**

**ITEM 5 Postcomm's strategy Review**

6. Richard Moriarty updated JRG on Postcomm's Strategy review. Mr Moriarty described the context in which Postcomm was conducting its strategy review. This included the nature of the postal industry and Royal Mail, the current state of the postal market and likely future trends.

7. Mr Moriarty described the issues that Postcomm would have to tackle in progressing its regulatory strategy and the challenges which Royal Mail and other operators would face over the coming years.

8. JRG discussed the nature of competition in the mail market and the similarities that exist between the postal market and other regulated markets, including the telecoms market.

**ITEM 6 Tour de Table**

*OFT*

9. Sean-Paul Brankin updated the JRG about progress in the preparation of a report by the concurrency working party about the application of competition law across regulated sectors. Mr Brankin believes that a report should be ready for the September JRG meeting.

*CAA*

10. Nick Fincham reported that the CAA had referred price control proposals in respect of Heathrow and Gatwick airports to the Competition Commission in March.

11. Mr Fincham reported that CAA had attended a conference at the University of Exeter about the cost of capital and financing. The event was supported by the Competition Commission. The Competition Commission's position on cost of capital and financing is likely to be of interest to other regulators.

12. Mr Fincham advised JRG that the Government had published in May 2007 its criteria for the designation and de-designation of airports. Those airports which are designated are subject to CAA price control. At present there are 4 designated airports. Of those currently designated Stansted and Manchester may be de-designated.

13. Mr Fincham reported that Harry Bush had appeared before the House of Commons Transport Select Committee in May 2007. Dr Bush had given evidence as part of the Transport Select Committee's investigation into passenger experience at UK airports.

*NIAUR*

14. Mr Osborne provided JRG with a summary of NIAUR's operations including current staffing levels and projections. The new single electricity market for all Ireland will go live on 1 November 2007. The legal framework should be in place in July 2007. The framework will operate across two jurisdictions. There will be no appeal on merit for decisions made by NIAUR under the trading and settlement code.

15. An all Ireland approach to gas is being considered. The nature of the gas network and ownership structure which includes mutual ownership will present interesting challenges.

16. NIAUR became the water regulator 1 April 2007. NIAUR are currently validating the business plan of the Northern Ireland water company. Issues under consideration include water metering and compliance with EU law.

*Ofgem*

17. Sarah Harrison reported that the first gas distribution price control initial proposals were published in May 2007. A decision will be due in December 2007.

18. Ms Harrison outlined the contents of the Energy and Planning white papers and their relevance to Ofgem. Ms Harrison advised JRG that the Commission's third package of proposals for regulation would be published in September 2007. These would be likely to include proposals for ownership unbundling.

19. Ms Harrison confirmed that the first substantive appeal had been lodged with the Competition Commission under the Energy Act 2004. The timetable is extremely tight and all parties are being represented by Counsel. It is possible that the cost benefit component of the impact assessment will be considered in the appeal which may have wider interest for other regulators.

*Ofcom*

20. Philip Rutnam outlined the key areas of OFCOM focus with respect to fixed telecoms operators and mobile operators. Mr Rutnam explained that OFCOM had received three appeals after making determinations. Two were by mobile operators and the third by a fixed telecoms operator.

21. Mr Rutnam explained the role of the Competition Commission and Competition Appeals Tribunal in dealing with telecoms appeals.

22. Mr Rutnam also explained Ofcom's decision about international roaming.

*ORR*

23. Bill Emery reported that Network Rail had been found in breach of its licence over signalling operations in Portsmouth and that ORR had referred the rolling stock companies to the Competition Commission.

24. Mr Emery explained that ORR was included within the scope of the draft Regulatory Enforcement and Sanctions Bill because of its safety role. It is possible that the degree to which ORR and subsequently other regulators are affected by the Regulatory Enforcement and Sanctions Bill could change.

*Postcomm*

25. Ms Chambers reported that Royal Mail had successfully appealed against the amount of the penalty imposed by Postcomm for breach of its licence obligation not to favour its own business over that of its competitors. The appeal was successful on a narrow point and did not overturn Postcomm's finding that Royal Mail had breached its licence.

26. Ms Chambers explained that the appeal was successful on the basis of a "flaw" in Postcomm's policy about the imposition of financial penalties. Ms Chambers explained that Postcomm was minded not to appeal against this judgement but

would consider any representations made by fellow regulators as to any wider significance of the judgement.

**ACTION: JRG members**

*PP Arbiter*

27. Chris Bolt reported via the Chairman that the Arbiter is currently expecting Metronet to trigger an Extraordinary Review before the end of the month, reflecting significant overspending. The process allows for direction on an interim payment, to cover additional "efficient and economic" costs during the period of the reference.

28. Draft directions on the interim award are expected to be published in mid-July 2007, with final directions around the end of July 2007. Draft directions on the main Extraordinary Review are expected to be published before Christmas.

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

29. Sarah Chambers confirmed that the date of the next JRG meetings would be 28 September at 2pm. JRG members were invited to propose agenda items for the next two JRG meetings.

**ACTION: JRG members**

Mick Fews, Secretary, JRG  
June 2007