

Minutes of the Joint Regulators' Group (JRG) meeting

Wednesday 22 September 2010 at 2.00pm at Postcomm

Present:

Keith Mason	JRG Chair (Ofwat)
Peter Culham	(Ofcom)
Maxime Frerk	(Ofgem)
Paul McMahon	(ORR)
Cavendish Elithorn	(OFT)
Tim Brown	(Postcomm)
Iain Osborne	(NIAUR)
Harry Bush	(CAA)
Richard Moriarty	(TSA)
Sarah Chamber	BIS (Observer)
Jane Swift	BIS (Observer)
Hannah Cook	(Ofgem) Item 2
Hannah Nixon	(Ofgem) Item 2

1. Minutes of previous meeting

The minutes of the meeting of 30 June 2010 were agreed (with minor amendments) and will be placed on the Ofwat website.

2. Update on RPI-X@20

Hannah Nixon (HN) and Hannah Cook (HC) (Ofgem) gave a presentation on RPI-X@20. GEMA are to decide on this at its next meeting and then there would be a final round of consultations on the final proposals.

HN outlined the components of RIIO (Revenue, Incentives, Innovation and Outputs). This would retain the ex-ante controls (including the commitment to the RAV); would involve an eight year price control period and being implemented under the existing industry structure.

The group discussed the choice of period for the length of the price control and whether the pressure to reopen after four years would mean the longer period would not be realised.

HN outlined Ofgem's stance in respect of financial structures and commented that their views on financeability (linked with cashflows in respect of

depreciation) had not been received well by the sector. They would also be consulting in the Autumn on their proposals for the indexation of the cost of debt.

HN outlined the package of measures designed to stimulate innovation. She recognised that this may involve Ofgem in 'picking winners'. Ofgem plan to use an independent panel to inform their view on who should receive innovation funding.

Ofgem have decided to publish guidance as to the circumstances in which they would refer concerns over the final price control proposals to the Competition Commission. JRG discussed the merits of this and in particular the incentive properties. BIS noted that attitudes to this were very sector specific.

HN concluded by setting out the process going forward which will involve final consultation in Autumn 2010 and implementation in the next rounds of transmission, gas and electricity distribution price limits.

3. The Post-election landscape and regulatory reviews

Sarah Chambers (SC) gave an update on BIS's position in relation to government's reviews. The competition framework and the consumer protection framework are the focus but proposals are not as fully developed as expected because of the party conference season. SC outlined some of the thinking and potential options for each of these frameworks. Any proposals for change are likely to be included in the Public Bodies bill in late October.

SC commented that the thinking had not as yet extended as far as the sectorial regulators. However, BIS will be publishing a paper on 'The Principles of Economic Regulation'. This would reflect the current importance of investment in infrastructure, the impact of the divergence of frameworks on the cost of capital and the need to promulgate best practice. It was noted that this is a topic that may need further consideration by JRG (perhaps at its December meeting).

The group discussed the role of concurrency powers for sectorial regulators and any proposals for reform. The consumer aspect of this was recognised by government and it was acknowledged that sectional regulators needed a tool kit (ie concurrency pavers) to carry this out.

It was noted that the sectoral reviews currently in progress (Ofgem, Ofwat and ORR) would continue under their own terms of reference.

4. Incentivisation of 'non-conventional' companies

ORR circulated a note of its recent seminar. JRG discussed whether a separate group was needed to carry on this work. ORR was asked to consider this further. (Action: ORR)

5. Tour de table

Ofgem: MF noted that the Supreme Court had upheld Ogem's decisions in relation to National Grid's fine in respect of meters. This now exhausts National Grid's routes to appeal.

ORR: PMc said ORR would defer its next price review due by 2013, because of the government revenues.

ORR had achieved a positive result in its predatory pricing case against Deutsche Bank Schenke. It was also carrying out a market study into the land holdings of 'Freight Property'.

Ofcom: PC noted that Ofcom had two appeals on regulatory issues at the CAT. The first is on leased lines and the second is Local Loop Unbundling. The latter one has now been published with only very detailed changes made. It was noted that clarity on the type of review to be carried out (eg principles or detail) would be helpful to all parties.

CAA: MB said that the NAT's price control would be completed shortly. The CAA expect to be quite directive in regard to certain aspects of financing, for example the level of gearing.

OFT: CE commented that OFT had a lot of appeals arising from its decisions on construction and tobacco issues.

The OFT would shortly be issuing Competition Act Cases Procedural Guidance consultation.

Postcomm: Postcomm expect to issue its interim price control for Royal Mail in November.

TB noted that a bill is expected in early October setting out the future of the Royal Mail.

NIAUR: IO noted that the Northern Ireland Electricity price control process had started. He also said there was political agreement to the cross border gas market. Work will start shortly on this. It would provide households with a choice of gas supplier.

IO noted that governance issues in water remained but the industry was making good progress with regard to its costs.

TSA: RM noted that the TSA's duties had now been realigned along 'economic regulation lines' in common with other regulators. This re-affirmed the importance of the independence of economic regulation.

Ofwat: KM noted the recently published final findings of the Competition Commission in the Bristol Water price referral case. This confirmed Ofwat's price setting methodology but had allowed Bristol a small increase in its price limits.

KM stated that the terms of the Defra review are now public and David Gray will be leading it.

The Thames Tideway project had been confirmed by Defra ministers.

6. Any other business

There was no other business. The next meeting will be on Wednesday 15 December at Postcomm, Hercules House at 2pm.