

**MINUTES OF THE JOINT REGULATORS' MEETING**

**8 July 2005**

**Present:** Chris Bolt (PPP Arbiter and ORR) Chairman  
Sarah Harrison (OFGEM)  
Philip Fletcher (OFWAT)  
Dr Harry Bush (CAA)  
Sarah Chambers (Postcomm)  
Sir John Vickers (OFT)

**In attendance:** Rob Toal (ORR) Secretary

**Apologies:** Stephen Carter (OFCOM)  
Alan Sutherland (WI Commission for Scotland)  
Douglas McIldoon (OFREG)  
Alistair Buchanan (OFGEM)

**ITEM 1 Minutes of the 15 April 2005 meeting**

1. The minutes of the previous meeting were agreed subject to a revision to paragraph 6 received from OFT.

**ITEM 2 NATS Price control review**

2. Dr Bush gave an overview of CAA's approach to the NATS price control review which reached firm proposals in May 2005. CAA's determination proposes an average annual price reduction of 3.4% in real terms. This compares to 4.8% proposed in the "initial proposals" document; this difference was mainly attributable to an adjustment for capital expenditure. Under the proposals, NATS would be conducting a review of its capability to deliver its long term investment plan by September 2006.
3. There was a 1.5% difference between CAA and NATS on total operating costs over the whole five year period. In terms of service quality, average delay was set at 45 seconds rather than the 60 seconds NATS had argued for. CAA determined that the cost of capital was 6.75% in pre-tax real terms, NATS had argued for over 7%. There was a small price profiling adjustment. CAA proposes to publish the formal licence modification for consultation process in September 2005. CAA would begin the BAA Airports review soon.

**ITEM 3 Approaches to enforcement**

4. Mr Bolt introduced paper (04)(05) on enforcement issues. He explained that the ORR Board had recently considered whether ORR should publish a statement on enforcement policy. The group had a general discussion on some of the principles and factors that would lead to enforcement under one set of powers rather than another. Members also considered the respective statements on enforcement and financial penalties that each office had produced.

**ITEM 4 DTI/HMT project on concurrent competition powers**

5. The group discussed the DTI/HMT project on concurrent competition powers in the light of the recent DTI presentation on this issue to the concurrency working party. Members considered how concurrency functioned in practice in each industry and agreed to wait until the DTI/HMT report had been published before considering this issue further.

**ITEM 5 Cross-regulatory working**

6. Mr Bolt introduced paper (05)(05) which was an update of the list of cross-regulatory working groups. It was agreed that JRG should receive an update on recent activities from each group at the next meeting. It was also agreed that the Chair of each working group may in future be invited to attend JRG meetings to provide an oral update on the group's progress.

**ACTION: Secretary**

**ITEM 6 Tour de Table**

7. Sir John Vickers (**OFT**) said that OFT had recently launched a companion document to the DTI's Hampton consultation which looks at the options for creating a Consumer and Trading Standards Agency. The Competition Appeals Tribunal would shortly be publishing its final judgement on the Burgess case. Philip Collins would be taking over as Chairman of the OFT when Sir John Vickers stands down.
8. Mr Fletcher (**Ofwat**) said that Ofwat had provided some examples of innovative practice for the NAO study in to this area. The cross-regulatory group looking at financeability issues had now agreed the terms of reference for the work it planned to carry out. Drought and water leakage issues were likely to receive some press coverage over the coming months. Sir Ian Byatt would be taking over as the Chair of the new Water Industry Commission for Scotland, Alan Sutherland will be the Chief Executive.
9. Ms Chambers (**Postcomm**) reported that Postcomm had published its initial proposals for Royal Mail's price control. Royal Mail was unhappy

with the proposals and had launched a campaign setting out its own views. Postcomm are considering to what extent information should be excised from publication.

10. Ms Harrison (**Ofgem**) said that Ofgem had now completed the gas probe. Ofgem had also given final consent for NGT to sell four of its low-pressure gas distribution networks and was now turning its attention to the first gas distribution price control due in 2008. Ofgem had published the outcome of the “super complaint” about billing, which had been filed by energywatch. The conclusion was that there was no widespread failure but that a small number of customers had suffered as a result of mistakes made by companies. Ofgem has adopted a self-regulatory approach to encourage the industry to resolve the issues identified by its investigation.
11. Chris Bolt (**PPP arbiter and ORR**) said that ORR was having discussions with DfT over the process for the next price control review, particularly the input for Government on high-level output specifications. ORR has also been discussing with DfT the content of the Crossrail Bill which was published earlier in the year. The reference from Metronet which was expected earlier in the year did not arrive and an informal review process between Metronet, London Underground and the PPP Arbiter has now been set up.

#### **ITEM 8 Possible items for future agendas**

12. Representatives of the Better Regulation Commission (formerly the BRTF) and the Better Regulation Executive (BRE) would attend the October meeting to outline how they see the BRC and BRE engaging with economic regulators. Each of the cross-regulatory working groups would be invited to prepare a short report on its recent activities for the October meeting. Ofgem would provide an update on Project Paperless and Postcomm would provide an update on Royal Mail’s price control review.