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Competition and Consumer Policy Directorate
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UKRN consultation: collaboration between economic regulators

Thank you for the opportunity to provide views on collaboration between economic regulators through the UK Regulators' Network (UKRN). This response is submitted on behalf of the Centrica group, is non-confidential and may be placed in the public domain.

We are regulated by a variety of different bodies and see a range of both good and bad practice. We therefore support collaboration and the sharing of best practice between economic regulators. With the right structure in place, we believe such collaboration has the potential to improve the quality of regulatory decisions for the market and consumers. However, for the reasons give below, it is important that collaboration does not become a primary duty for economic regulators or undermine existing statutory objectives. In particular, we highlight the following:

- **The UKRN should be allowed time to develop their own approach to collaboration.** The UKRN is a new organisation with new leadership and BIS should afford it the opportunity to establish its own approach to collaboration before seeking to place any statutory requirement on regulators. This approach to collaboration should be based on economic regulators pursuing competitive solutions, as these are more likely to enhance consumer welfare. BIS may wish to review the effectiveness of the UKRN's approach to collaboration in late 2015.
- **The outputs of collaboration should be secondary to existing statutory objectives and subject to appropriate accountability and transparency.** The UKRN may best add value by reviewing and recommending best practice to sector regulators. For instance, UKRN could improve the quality of regulatory impact assessments by drawing on the experience of its members. Economic regulators may then consider these recommendations when they consult on changes through their normal consultation and impact assessment process. When making these recommendations, the UKRN should be accountable to external stakeholders and we welcome UKRN publishing an annual work-plan. By extension, we do not believe the UKRN should produce regulatory policy as this is the proper role of the economic regulators.

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Similarly, any recommendations which may have social or redistributive effects should be subject to democratic oversight and parliamentary approval.

- **Collaboration should be well-targeted and appropriate to the sector.** While we support economic regulators sharing best practice, the UKRN should be mindful that each market is sufficiently different to require sectoral regulation. For instance, markets are at different stages of development and maturity, while technological innovation and disruption is more prevalent in some markets. Therefore, any recommendation by UKRN should be appropriate for the existing structure of the market.

We provide answers to the consultation questions in the Appendix A below. If you have any questions about this response, please contact me on 07769 548 906.

Yours sincerely

[Redacted signature]

[Redacted name]

British Gas

Appendix A

Question 1: Do you have any views or experiences – on cooperation between regulators, particularly under the previous JRG regime and before the UKRN was established?

We previously monitored the output of the Joint Regulatory Group (JRG) but had little direct interaction with the Group or its secretariat. We broadly welcomed the JRG's exploration of different regulatory approaches in various markets but would have valued more direct involvement, such as being invited to attend JRG meetings or having the opportunity to provide input as an interested stakeholder. We also have experience of engaging with the Council for European Energy Regulators (CEER) on European energy regulation. Despite focusing on energy, CEER is similar to the UKRN to the extent that members regulate a wide range of markets with different structures and levels of maturity.

From our experience of the JRG and CEER, we believe that collaboration between regulators should primarily lead to advice and recommendations rather than substantive policy. The UKRN may best add value by reviewing and recommending best practice to sector regulators. For instance, UKRN could improve the quality of regulatory impact assessments by drawing on the experience of its members. It is important the appropriate mechanisms exist for accountability and we welcome UKRN publishing an annual work-plan. Where UKRN recommendations are taken forward by the sectoral regulators, these changes should be consulted on through the normal consultation and impact assessment process.

Finally, collaboration should be well-targeted and appropriate to the sector. While we support the sharing of best practice, the UKRN should be mindful that each market is sufficiently different to require sectoral regulation. Any recommendation by UKRN should be appropriate for the existing structure of the market and take into account the different stages of market development and maturity.

Question 2: Are there any specific areas where cooperation amongst the regulators could bring greater benefits and/or protections for consumers? Please provide any examples that you think will help demonstrate your argument.

Question 3: Is there evidence of areas where sharing best practice and developing more consistency between sectors would benefit investors, regulated companies and/or consumers?

While we think that the UKRN should be allowed time to develop answers to these questions, we provide below examples of areas that the UKRN may wish to explore. In each case, the UKRN should evaluate the available evidence and engage with stakeholders as part of their collaborative efforts.

By way of example, the UKRN may wish to explore the following areas:

- **The use of regulatory impact assessments (RIA) by economic regulators.** Regulators currently adopt a range of approaches to the timing, rigour and format of RIAs. Sharing best practice would help to ensure that regulatory interventions are well-supported by the available evidence. We believe that RIAs carried out by economic regulators should be of sufficient rigour and quality to stand up to an audit from the National Audit Office (NAO). In particular, we believe that the use of, and approach to, quantified regulatory impact assessments would benefit from the sharing of best practice.
- **The usability of economic regulators' websites, both for consumers and regulated companies.** Most economic regulators now provide useful information for consumers and firms on their websites, though some regulators have gone further than others. Firms, similar to consumers, prefer information to be provided as simply as possible. In terms of best practice, we note that the Financial Conduct Authority (FCA) has developed a separate, easily navigable website for their Handbook and believe other regulators would benefit from considering this approach.

- **The provision of reasons for regulatory interventions.** Good economic regulation requires the regulator to justify and explain their actions. Some regulators provide such explanations in a clear, jargon-free style and ensure that reasons are understandable both to consumers and to regulated firms. Again, we would encourage the UKRN to consider the FCA's approach to justifications.
- **The consistency and appropriateness of enforcement decisions.** Over recent years, regulators have adopted very different approaches to enforcement decisions. We believe that best practice involves: (1) ensuring that the process taken to open an investigation and then come to an enforcement decision is transparent and easy to understand for the parties involved; (2) enforcement decisions should be taken independently from the staff undertaking the investigation; and (3) any enforcement orders, financial penalties or remedies are well-reasoned and proportionate to any harm suffered by consumers. There would be merit in the UKRN reviewing how close economic regulators are to this view of best practice.
- **Collaboration to ensure the safety of meters.** Maintaining the safety of energy meters is of paramount importance and requires regular inspections from energy suppliers. Responsibility for safety is spread across a number of regulators and bodies. At the moment, Ofgem is responsible for monitoring compliance with the must inspect obligations, DECC own the impact assessment which assumes fewer visits in a world with smart meters, and the HSE is responsible for safety. While the HSE is not part of the UKRN, we believe Ofgem, DECC and HSE should collaborate to agree a safety framework covering both smart and non-smart meters.

Question 4: Are there specific areas where better cross-regulator cooperation could improve infrastructure delivery or incentivise the more efficient use of infrastructure assets or networks? Please provide any examples that you think will help demonstrate your argument.

We believe that, in the infrastructure space, the UKRN should consider working with other organisations beside economic regulators. For instance, the Environment Agency plays an important role in many infrastructure projects and economic regulators could benefit from cooperating more closely with the Agency.

Cross-regulator cooperation and learning could prove beneficial in the regulation of networks. For instance, we believe that Ofgem's regulation of the Distribution Networks has been unduly lenient and there may be lessons from the water sector or telecommunications in how to avoid allowing excessive returns to occur.

Finally, we would recommend that, once established, the Oil and Gas Authority (OGA) is invited to attend UKRN meetings.

Question 5: Do you believe that Government should take further steps to support and encourage cooperation between regulators? If so, what would be your favoured approach and what benefits do you think this would bring? Please include, if appropriate, any issues which you consider may inhibit cross-sector cooperation.

Question 6: Do you have any views on the advantages and / or disadvantages of each of the three options identified? Do you have a preferred option?

Question 7: What are your views on how best to implement each of the three options identified without becoming overly burdensome or impacting regulatory stability?

Question 8: Are there any other options which the Government has not identified in paragraph 3.3. If you identify any, what are the advantages and disadvantages of such options??

The UKRN is a new organisation with new leadership and BIS should afford it time to develop an approach to effective collaboration and best practice sharing before introducing statutory requirements for this to happen. For this reason, we support Option 1 and allowing the UKRN time to

bed in. We believe that economic regulators should pursue competitive solutions as these are more likely to enhance consumer welfare and BIS may wish to review the effectiveness of the UKRN's approach to collaboration against such an objective in the second half of 2015.

We are not supportive of Options 2 or 3 at the present time. Government should be careful to avoid providing too much of a steer to the UKRN, whether through guidance or statutory objectives, as such a steer could limit the independence and effectiveness of the UKRN. We also share the Government's concern that placing a statutory objective to collaborate on economic regulators would add to an already long list of statutory duties and could lead to a two-tier approach within the UKRN. Introducing a statutory duty to collaborate could also potentially erode regulatory independence, undermine UKRN output by prescribing areas of focus or even mandate collaboration where it may not actually be useful. While sharing best practice is to be welcomed, the goal of collaboration should always be subsidiary to the main statutory objectives of each regulator.

