

# Collaboration between Economic Regulators

Options for embedding joint working between economic  
regulators – Response form



A copy of this consultation can be found at:

<https://www.gov.uk/government/consultations/economic-regulators-encouraging-closer-cooperation>

#### Confidentiality and disclosure of responses

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 1 December 2014

Please return completed forms to:

UKRN Consultation  
Competition and Consumer Policy Directorate  
Department of Business, Innovation and Skills  
3<sup>rd</sup> Floor – Victoria  
1 Victoria Street  
London  
SW1H 0ET

Alternatively you can email your response to

Email: [UKRNconsultation@bis.gsi.gov.uk](mailto:UKRNconsultation@bis.gsi.gov.uk)

#### Your details

Name: [REDACTED]

Organisation (if applicable): Office of Rail Regulation (ORR)

Job title (if applicable): [REDACTED]

Address: One Kemble Street, London WC2B 4AN

Telephone number: [REDACTED]

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Please tick the box below that best describes you as a respondent to this consultation

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
✓	Other (please describe) Regulator

## Role of the UKRN

**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? (para 1.7 – 1.14)

Comments:

This is a response from Office of Rail Regulation (ORR) to HM Government's consultation on collaboration between economic regulators, dated 6 October 2014. This response is non-confidential.

ORR has also contributed to UK Regulators' Network's (UKRN) response to this consultation.

### Summary of ORR's response

ORR supports the government's interests in encouraging closer working between UK economic regulators, where appropriate, to benefit consumers and the economy and in particular to support UKRN in its efforts to strengthen joint working and cooperation under its arrangements.

ORR has taken a leading role in collaborating with other economic regulators to set up the UKRN in March 2014 to ensure effective cooperation and strengthen work across sectors without cutting across the independence of each regulator, and their ability to make the best judgements for the sectors they regulate. With the UKRN at a relatively early stage, we consider this initiative should be given sufficient time and opportunity to develop to achieve its objectives before the government considers taking any further action particularly any statutory action. Hence, from the three options outlined in this consultation for supporting and encouraging cooperation, ORR considers option 1 (monitor progress of the UKRN and review effectiveness of the UKRN in 2015) would be most appropriate for encouraging collaboration between economic regulators and ensure that UKRN continues to facilitate joint working.

### JRG vs UKRN

ORR was a member of the Joint Regulator Group (JRG) which was considered to be more of a forum for discussion rather than collaboration. UKRN having a clear remit and framework against which it can be assessed makes it more accountable and transparent than JRG was. Having a published programme of work covering a wide arrange of projects also gives UKRN a clearly defined objectives and road map for facilitating greater joint working amongst regulators. There was little evidence of the ways sectors had taken account of joint working under JRG. UKRN is led by the Chief Executives and progress on delivery of UKRN's work is overseen by Senior Representatives from UKRN membership. This gives UKRN the commitment needed at a senior level to ensure greater collaboration than in the past. Another area where UKRN is different from the JRG is that UKRN is supported by permanent secretariat that oversees and drives progress which was not the case with the JRG.

## Potential benefits of joint working and cooperation

**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 (Para 2.1 – 2.10)

**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? (Para 2.1 – 2.10)

**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. (Para 2.1 – 2.10)

Comments:

This is ORR's comments on questions two, three and four above on potential benefits of joint working and cooperation.

It was not fully apparent from the consultation where the cooperation gaps are between the regulators, what problem the government is trying to address or the benefits it is attempting to achieve. It would have been helpful to have had these outlined in the consultation.

Having consistent and joint view between sectors where cross-sector agreement is required can be beneficial for not only consumers but also for those being regulated and investors. Cross-industry collaboration and sharing best practice, where appropriate can create a transparent and positive environment for those being regulated and give investors confidence to invest.

There are, however, limits on the level of cooperation between regulators for two main reasons. Firstly, it is not always appropriate or possible for regulators to collaborate due to the unique inherent differences between the regulatory regimes of the individual regulators. Secondly, specific obligations each regulator owes to consumers it regulates differs in individual sectors. In some cases, a regulator has primary duty towards consumers whereas other regulators take account of consumer interests in exercising their powers and do not have explicit duty towards consumers.

It should be noted that regulators have to be mindful of all of their individual statutory duties and functions when regulating their sectors which may limit cooperation in specific areas/common interests. Regulators must also be mindful of the costs they may impose on consumers as well as the sector they regulate when collaborating with one another.

### **Options for supporting and encouraging cooperation**

**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. (Para 3.1 – 3.20)

Comments:

**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? (Para 3.1 – 3.20)

Comments:

**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? (Para 3.1 – 3.20)

Comments:

**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? (Para 3.1 – 3.20)

Comments:

This is ORR's comments on questions five, six, seven and eight above on options for supporting and encouraging cooperation.

As stated earlier in this response, ORR supports the Government's interest in encouraging cooperation between regulators. At this stage, UKRN has clear objectives, commitment from Chief Executives and an ambitious programme of joint working on the key cross-sector issues. It should therefore be given time to develop to delivery its objectives.

ORR considers that voluntary cooperation through the UKRN is the most appropriate mechanism for cooperation and shared approaches between regulators. We therefore support option 1, that is monitoring progress of UKRN and review effectiveness of UKRN in 2015. Options two (providing guidance to regulators/UKRN on the Government's overall approach to cooperation) and three (introduce a statutory duty on regulators to cooperate) are not appropriate for now as UKRN should be given adequate opportunity to demonstrate that it can succeed as a vehicle for facilitating cooperation between regulators.

Now or at any point in the future, a statutory duty or guidance would have significant disadvantages. It would further complicate regulators' duties, adding an additional route for appeal and thereby delay and possibly add extra cost to regulators' decisions. It could limit certain collaboration, excluding those bodies not considered to be economic regulators; unlike the current, more flexible voluntary system. It would also be difficult to draft a duty or guidance that provided a clear steer on what Government wants to see in terms of collaboration.

## **Annex D: Consultation Principles**

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

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Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET  
Tel: 020 7215 5000

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