



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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Dear Mr Crouch,

You sought the Committee's advice about taking accepting a commission under the terms of your independent consultancy. The Committee has now considered your application.

Commission details

You advised the Committee that, following a competitive tender process, you proposed to take up a new assignment under your independent consultancy, working for the Council of European Energy Regulators (CEER), a not-for-profit Belgian company whose members are European energy regulators (including Ofgem). CEER acts as a platform for cooperation, information exchange and assistance between Europe's national energy regulators and is their interface at EU and international level.

You said you would assist CEER to prepare a consultation document on the topic of '*dynamic regulation to enable the digitalisation of the energy sector.*' Your assignment is due to complete by March 2019 and take approximately 18 days of your time (you are one of two people working on the study.)

You explained that the consultation is about the impact that digitalisation (trends in digital technology - more accessible data, analysis and communication etc) will have on European energy sectors, how that benefits/impacts/creates risks for consumers, and how regulation could or should adapt. The consultation will be informed by desk research of published material (including US, Australian experience etc), interviews with companies - predominantly companies operating in European countries other than the UK and European associations (generally based in Brussels), attendance at and participation in CEER meetings and events, and collaboration with CEER members who have their own views on these topics.

Your assignment will provide material for CEER to use to launch its own consultation - which will be a published consultation seeking views from its stakeholders.

You confirmed that the commission will not involve lobbying of the UK Government. You do not expect the work to involve contacting Ofgem proactively, but you expect Ofgem will choose to be represented in some of the meetings with CEER (as a member of CEER) and may want to provide input/comments.

You informed the Committee that you worked with CEER whilst at Ofgem, but not directly in the last two years you were there and only met CEER people at public conferences in that time

(although as CEER includes Ofgem, you obviously met Ofgem employees who were working on CEER issues as part of their Ofgem duties).

Ofgem was consulted on the commission and has no concerns regarding this assignment. *'There are no potential conflicts and the work Martin will be completing does not go against previous advice given by ACOBA i.e. lobbying government, not using privilege information etc.'*

The Committee's consideration

The Committee¹ agrees that this commission is consistent with the terms of your independent consultancy - to advise on issues relating to developments in the energy sector.

The Committee noted that there is, naturally, a relationship between CEER and Ofgem but the nature of that relationship minimises the potential for the commission to be perceived as a reward for decisions made in office. Further, you explained that you did not directly work with CEER in the last two years you were there, which the Committee considered further reduces the risks associated with this application.

The Committee took into account the narrow scope of your assignment, which is focused on providing material for CEER to use to launch a published consultation seeking views from its stakeholders. While you may have contact with officials in Ofgem in connection with this work you have confirmed that the commission will not involve lobbying of the UK Government. The Committee concluded that the risk of the commission providing CEER or its members with an unfair advantage is therefore low.

Under the Government's Business Appointment Rules, the commission with CEER should be subject to the same conditions that apply to your independent consultancy, namely:

- you should not draw on (disclose or use for the benefit of yourself or the organisations to which this advice refers) any privileged information available to you from your time in Crown office;
- for two years from your last day in Crown service, you should not become involved in or advise on matters relating to any enforcement cases opened by, or pending in, Ofgem during the time that you were responsible for enforcement at Ofgem;
- for six months from your last day in Crown service, you should not become involved in or advise on matters relating to "R//O-2" and Ofgem's Retail Price Cap;
- for two years from your last day in Crown service, you should not provide advice to any company or organisation on the terms of, or with regard to the subject matter of, a bid or contract relating directly to the work of Ofgem;
- for two years from your last day in Crown service you should not become personally involved in lobbying the UK Government on behalf of those you advise under your independent consultancy or their subsidiaries, partners or clients. Nor should you make use, directly or indirectly, of his Government and/or Crown Service contacts to influence policy or secure business or funding on their behalf; and
- for two years from your last day in Crown service, before accepting any commissions and or/before extending or otherwise changing the nature of any commission, you should seek advice from the Committee. The Committee will decide whether each commission is consistent with the terms of the consultancy and consider any relevant factors under the Business Appointment Rules, including whether additional conditions should be imposed.

¹ This application for advice was considered by Sir Alex Allan; Jonathan Baume; Baroness Angela Browning; Lord Michael German; Dr Susan Liautaud; Baroness Helen Liddell and John Wood. Terence Jagger and Richard Thomas were unavailable.

By 'privileged information' we mean official information to which a Minister or Crown servant has had access as a consequence of his or her office or employment and which has not been made publicly available. Applicants are also reminded that they may be subject to other duties of confidentiality, whether under the Official Secrets Act, the Civil Service Code or otherwise.

The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant *"should not engage in communication with Government (Ministers, civil servants, including special advisers, and other relevant officials/public office holders) – wherever it takes place - with a view to influencing a Government decision, policy or contract award/grant in relation to their own interests or the interests of the organisation by which they are employed, or to whom they are contracted or with which they hold office."*

I should be grateful if you would let me know when you take up this commission, or if it is announced that you are to do so. This will enable the Committee to publish this letter on the Committee's website, and where appropriate, refer to it in the relevant annual report.

Yours sincerely,

Nicola Richardson
Committee Secretariat

