

Annex 1

Minutes of RPC meeting
Monday 12 December 2016
1 Victoria Street

Attendees

Chairman

Michael Gibbons

RPC Secretariat

Committee Members

Jonathan Cave

Alex Ehmann

Nicole Kar

Jeremy Mayhew

Martin Traynor

Sarah Veale

Ken Warwick

Better Regulation Executive officials

FCA - Head of Strategy
- Strategy & Competition

RPC Comms advisor

Apologies provided

Jeremy Mayhew

1. Matters arising

Minutes of November Committee meeting

1. Minutes of November meeting were agreed subject to the inclusion of comments sent in by two committee members. Also, names would be redacted from the public version.

Matters arising

2. The following matters arising were discussed:
 - **Letter to BSI to engage on standards as alternatives** – Officials in the secretariat have since contacted BSI at working level – No letter now needed.
 - **Letter to OIRA to offer collective expertise of the RPC following Trump announcement to move to one-in, two-out** – Letter has been sent
 - **RPC branding paper** – Comms advisor to produce –rebranding paper for February 2017 committee meeting (**action**) **Paper has since been** discussed at the COMMS awayday held on 31 January.
 - **Risk Register** – updated version to be tabled at February 2017 committee meeting **Committee Awayday (January)** – An awayday on predominantly COMMS issues to be arranged. Not all members were available but those with main comms interest participated in a half-day session on 31 January.

2. Ministerial reporting

3. The secretariat introduced the next six monthly update paper (Annex 3). This was still work in progress. The report provided information on the quality of Departmental IAs and included some feedback on the submissions from regulators. The report was intended to provide a transparent account of Departmental performance, including highlighting aspects of good practice and positive examples. This was intended to facilitate better interaction and sharing of good practices between Departments.

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4. The report also presented some early reflections on the RPC's new role in the validation of regulators' actions. This was still early in the process for regulators and so the RPC was not in a position to report on individual regulator performance at this stage, but would be able to do so when more regulator assessments were received over the next few months.
5. £1.7 billion of INs and OUTs had been validated or had come into force this year. As with previous periods, the regulatory landscape had been dominated by a small number of significant measures and high volumes of relatively low impact measures. Overall the BIT scoring had been skewed by a couple of large measures, such as 'Cheque Payments' and 'Auto Enrolment'. Generally, certain themes had come up a lot in the report relating to Red opinions, such as justifying assumptions, proportionality, quality of drafting, and explanation of the figures. Although the majority of departments did a good job there was a concern at the increased number of Red opinions. This had been helped by the IRN (Initial Review Notice) process. There was no change in terms of which departments do well and which departments feature at the bottom of the league table.
6. The Committee welcomed the report, saying the coverage was thorough but it needed a lot of tidying up; and terms such as "significant/major etc." were somewhat ambiguous and should be replaced by quantified percentages.
7. The Chairman asked BRE to say what they think that the RPC should be seeing such as the significant/large PIRs, although there was push back from some Departments, especially with regard to the 'RPI/CPI Pensions Change', which DWP were not undertaking. This was one of the largest OUTs in the previous Parliament. BRE agreed that it was a reasonable request and said that that they were in discussion with DWP and the Minister to resolve this issue.

3. Financial Conduct Authority (FCA)

8. The Chairman introduced the FCA representatives, saying that the RPC had had a number of meetings with the FCA and that there was a growing awareness of the key issues arising. He added that the RPC was keen to have a dialogue with the big regulators.
9. The FCA introduced their paper (Annex 2) and slides. These set out their approach to implementing the Small Business Enterprise and Employment Act and some of the challenges that they faced. The FCA was keen to work closely with the RPC.
10. The FCA is a large regulator and covers a vast waterfront. It regulates the conduct of more than 56,000 businesses and is also the prudential regulator of 24,000 of them. The market it regulates is very diverse, from the conduct of the largest international investment banks to the service of high street mortgage broker to a furniture shop selling on credit. As a result, a lot of things the FCA does are caught in the Enterprise Act. A significant role of the FCA which differs from most other regulators is detailed single or multi firm supervision. This role combines a focus on firms' internal processes and procedures so firms can rectify compliance themselves and proactively work with the FCA to support compliance. Much of this is treated as casework or guidance.

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11. An interpretation of the exclusions was given, seeking the views of RPC. The varied nature of the work meant that there was a need to apply consistency across the FCA. These what? covered
 - Package of reforms
 - Systemic financial risk
 - L1 casework; and
 - L2 Education, communications and promotional campaigns
12. The FCA representative concluded by explaining their internal process with regard to how they handle QRPs. He referred to evidence gathering, proportionality, keeping burdens on their stakeholders to a minimum, modelling analysis, dealing with exclusions and how they seek to add value in complying with the Enterprise Act. They said that they would be submitting about 45 completed IAs/submissions per annum initially, at the rate of five per week, increasing over time once they had initial feedback on the early ones. FCA would not be submitting NQRPs, but would provide a broad summary in their annual report.
13. The committee welcomed the approach by the FCA in developing QRPs and NQRPs, especially with regard to the cost benefit analysis and the methodology being used to identify the impacts. They also welcomed the clear identification of the costs that were being passed to businesses. The committee raised a number of queries on the approach to assessments by the FCA. These included:
 - Proportionality with regard to the balance of treatment between large and small firms.
 - Packaging of competition and non-competition measures, which could result in the blurring of the boundaries between the two, and non-pro-competition measures being passed off as competition measures and being excluded. It was important to distinguish between competition and consumer protection.
 - Concern about the high number of expected exclusions from the FCA on categories, such as systemic financial risk, education and guidance.
14. FCA explained that proportionality was built into their approach. They have a duty to consult and involve their members. They think carefully about the impact of regulations on their stakeholders, taking into consideration the different sizes of the organisations.
15. With regard to pro competition and exclusions, FCA explained that they were developing their processes by working closely with their competition team, which looks at market studies. Where there was uncertainty, they consulted with both BRE and RPC. The Chairman welcomed the latter approach saying that where there was doubt it was worth having a discussion. FCA concluded by saying that as their processes developed and further QRPs were submitted, the process would be refined over time.

4. Updates

COMMS

16. The RPC Comms advisor provided a verbal update of the recent meetings with key stakeholders.

Meeting with Lord Foster of Bath

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17. A constructive meeting was held with Lord Foster of Bath on 28. Lord Foster is a former government minister and current liberal democrat BEIS spokesperson representing 120 Liberal Democrats in the House of Lords. The role of RPC was explained to Lord Foster. He was keen to ascertain how the RPC could help him and his colleagues to navigate and scrutinise Bills laid before them. Lord Foster suggested that the RPC meet with the House of Lords and (and the Commons) 'Delegated Powers and Regulated Reform Committee' which is a cross party committee that analyses upcoming legislation. The meeting was concluded with Lord Foster asking for copies of IAs and opinions related to the current Digital Economy Bill. These were emailed to him.

Meeting with Policy Connect

18. A meeting was held on 7 December with the Chief Operating Officer and Sustainable Policy Manager of Policy Connect, a leading network company hosting an All-Party Parliamentary Group (APPG). It administers the Climate Change APPG chaired by Caroline Lucas MP of the Green Party. Policy Connect is an organisation drawing on membership from industry, charities, academia and various fora in respect of the following APPGs'; Climate Change, Sustainable Resource, Carbon Monoxide, Health, Design & Innovation, Manufacturing and Skills & Employment. It was felt that the best way to work with them would be to bring consultation IAs and related Opinions to their attention. Although it is not RPC's role, many stakeholders complained that they weren't consulted by Departments. Whilst there is no guarantee of a 'catch all' system, it was felt it would make RPC work easier if those businesses affected by emerging regulation had their say, up front - in principle it should mean that the final IAs presented to the RPC were better thought through and more reflective. In addition, having this new connection would mean that if Board members had any questions regarding an IA, they could contact Policy Connect rather than via the RPC.

Other planned meetings

19. There were further stakeholder meetings planned with:
- Citizens' Advice Bureau – 14 December 2016.
 - Natural England 19 January 2017
 - Local Government Association - Date to be confirmed.

RegWatch Europe

20. The, Deputy Head of Secretariat, (DHoS) presented the paper on RegWatch Europe (Annex 4) setting out that the RPC was taking its turn to host, chair and provide the secretariat services for the Network for 2017. This was so that the burden did not fall on to any one member above others. The RPC would host two meetings in 2017. The paper set out the strategic approach, which would be to maintain a well-connected and engaged network of members and further enhance the positive impact of the network, influencing the work of the OECD and the Regulatory Scrutiny Board (RSB).

21. The DHoS explained that here were a number of challenges and opportunities, the challenges being resourcing, finance and technology. The RPC would be stretched in attending and servicing the meetings. Engagement with wider stakeholders would require additional staff and funding, the need to better utilise technology and improvements to the RPC website. On the plus side, there would be opportunities to exploit, such as branding, to provide a more co-ordinated network and technology which would bring about improved efficiency and effectiveness in networking. There would also be benefits for the RPC, such as being able to influence regulatory activity in the OECD and other organisations.

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22. All of this depended on the extent to which the members wished to be involved. The committee agreed that this was a good development and a number of members said that they wished to be involved in the forthcoming RegWatch events. The committee would be updated on developments and invited to take part.