



**OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS**

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**BUSINESS APPOINTMENT APPLICATION: Dr Philip John Rycroft CB**

1. The Committee has been asked to consider an application from Dr Philip Rycroft, former Permanent Secretary at the Department for Exiting the EU (DExEU), who sought advice on taking up an appointment as Special Adviser at Hutchison Whampoa (Europe) Limited, (Hutchison Whampoa).
2. Dr Rycroft's last day in Crown service was 12 April 2019. As Permanent Secretary, he had responsibility for leading the department in all its work on the Government's preparations for Brexit (DExEU is responsible for the negotiations to leave the EU and establishing the future relationship between the UK and EU). Dr Rycroft was previously Second Permanent Secretary at the DExEU from March to October 2017, and in both roles he has maintained his role as Second Permanent Secretary at the UK Governance Group, Cabinet Office where he led the group, responsible for constitutional and devolution issues; a role he first took up in 2015).

Appointment Details

3. Hutchison Whampoa own and run a number of businesses in the UK in telecommunications (Three), retail (Superdrug), ports (Felixstowe), property and infrastructure (UK Power Networks, Northumbria Water Group, Northern Gas Networks). It is owned by CK Hutchison Holdings Limited and its business focuses on 5 main areas: ports and related services; retail; infrastructure; energy; and telecommunications.
4. Dr Rycroft noted he previously worked for Hutchison Whampoa between March 2011 and May 2012. He expects this part time role to involve around two days of work a month. He described it as 'offering strategic advice across a broad range of UK policy, political and regulatory issues, including the development of British politics, changes in the governance of the UK, developments in the Civil Service, the evolving regulatory landscape and the development of domestic policy.' This is an advisory role and Dr Rycroft confirmed it '...will not involve any lobbying of, or direct contact with, officials or ministers.'

5. Dr Rycroft explained he had some official dealings with Hutchison Whampoa whilst in office. He described occasional contact with the regulatory affairs manager at stakeholder events. Dr Rycroft also told the Committee he had contact with many businesses that could be considered as competitors in his DExEU role. He confirmed this was as part of the Department's outreach on Brexit related issues, such as informing businesses of Government's policy and seeking the views of businesses. PR confirmed he has no contractual or other commercial dealings with any competitor businesses.

6. DExEU and the Cabinet Office were consulted on this application. The details of his application were confirmed as correct and the following information was provided:

- Dr Rycroft had planned to retire from the Civil Service at the end of December 2018, but was asked by the Government to stay on due to uncertainty concerning Brexit and in particular the impact of his leaving on the people working in the Department;
- At this stage he was aware he may rejoin Hutchison Whampoa on a part time basis on leaving office and took steps to manage any potential conflict (including perception of conflict) by stepping back from engagement with the telecoms sector from late 2018 and made arrangements with his Private Office to ensure he would not receive any relevant briefing/papers;
- He also personally stepped back from wider business engagement. The departments said Dr Rycroft actively sought to reduce any engagement with businesses, including but not limited to those in power, transport, retail, telecoms; and his deputy took over engagement in this sector from late 2018 in order to manage any potential conflict;
- Further, it noted that in relation to his engagement on Brexit policy matters 'this sector and this business were peripheral to that engagement with business.';
- DExEU confirmed it has no formal relationship with Hutchison Whampoa;
- The departments confirmed Dr Rycroft had no access to commercially sensitive information that may provide an improper advantage; and had no particular insight that would be 'particularly advantageous to this sector or this business';
- Neither Cabinet Office nor DExEU raised any concerns with the appointment subject the usual restrictions which prevent the use of privileged information and prevent lobbying the Government.

#### The Committee's Consideration

7. The Committee<sup>1</sup> considered there are inherent risks presented by this application given Dr Rycroft is seeking to move from running DExEU, the department responsible for overseeing negotiations to leave the EU and establishing the future relationship between the UK and EU, to an advisory role for a large global investment holding company.

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<sup>1</sup> This application for advice was considered by Sir Alex Allan; Johnathan Baume; Baroness Browning; John Wood; Terence Jagger; Richard Thomas. Dr Susan Liautaud was unavailable.

8. The Committee agreed with both departments' assessment here. Although Dr Rycroft had some broad stakeholder engagement, this was not specific to any decision making on Brexit matters and he had no commercial/contractual responsibility or involvement in his role at DExEU (which confirmed it does not have any commercial relationship with Hutchison Whampoa). It is also relevant to the Committee's consideration that Dr Rycroft previously worked with Hutchison Whampoa. The Committee concluded that the risk of this role being seen as a reward for decisions or actions Dr Rycroft took in office is low.

9. The Committee noted Dr Rycroft's involvement in the Brexit negotiation and planning process. The Committee was concerned that Dr Rycroft could be seen to offer an unfair advantage in relation to the broad access to the information he would have had (for example, knowing possible approaches to labour mobility or trade agreements). This may be seen to offer an insight to Hutchison Whampoa unavailable to its competitors (which cover a broad area, across five sectors). However, there are several mitigating factors here. The Committee recognised the level of information seen by Dr Rycroft would likely have been high level and aimed at delivering the Brexit negotiations and establishing the future relationship between the UK and EU. The Committee also gave weight to DExEU and the Cabinet Office's view here: that there is not a specific risk in relation to access to information and any risk here is low. The Committee also recognised that Brexit negotiations are ongoing and policy is evolving quickly. It is of course possible that any information he had access to has already, or will shortly become, public; and that it will no longer be relevant as the process of exiting the EU alters and progresses. It is particularly relevant that there is now a new Government in place with new negotiating aims and objectives.

10. The risk here is broad and relates to any corporation operating internationally, rather than being a specific conflict related to Hutchison Whampoa. When considering how to mitigate both the real and perceived risk Dr Rycroft could be seen to offer an unfair advantage the Committee considered it would be appropriate to apply a specific condition that prevents him advising on matters related to the UK's exit from the EU - where it relates to knowledge gained only from his involvement in negotiations in office.

11. In addition to the standard condition which prevents individuals' from drawing on privileged information, the Committee considered it would be appropriate to impose a ban on advising on the terms of a bid or contract relating to the work of the UK Government; and the extended lobbying ban. This limits the risks Dr Rycroft could be seen to offer an unfair advantage with regard to any dealings with the UK Government Hutchison Whampoa.

12. As with all applications from former Permanent Secretaries, the Committee would advise a waiting period of at least three months from his last day office, which has now passed. The Committee considered that in imposing the conditions below, the risks that Dr Rycroft would offer any particular unfair insight as a result of the specific role he held in office are appropriately mitigated; and which would instead draw on his wide range of skills and experience in government.

13. Under the Government's Business Appointment Rules, the Prime Minister accepted the Committee's advice that Dr Rycroft's application to work with Hutchison Whampoa should be subject to the following conditions:

- a three month waiting period from his last day in Crown service (not starting before 12 July 2019)

- that he should not draw on (disclose or use for the benefit of himself or the organisations to which this advice refers) any privileged information available to him from his time in Crown service;
- for two years from his last day in Crown service, he should not provide advice to Hutchison Whampoa (Europe) Limited, its parent company CK Hutchison Holdings Limited (including a consortium or other arrangement in which it is involved), or its subsidiaries, partners or clients, on Brexit related issues, insofar as it as it pertains to the negotiating position of the UK Government prior to the date upon which you left Crown service, whether generally or regarding trade negotiations; and
- for two years from his last day in Crown service he should not become personally involved in lobbying the UK Government on behalf of Hutchison Whampoa (Europe) Limited, its parent company CK Hutchison Holdings Limited (including a consortium or other arrangement in which it is involved), or its subsidiaries, partners or clients. Nor should he make use, directly or indirectly, of his Government and/or Crown Service contacts to influence policy or secure business or funding on their behalf.

14. 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.

15. The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant/Minister "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."

16. I should be grateful if you would ensure that we are informed as soon as Dr Rycroft's takes up this appointment, or if it is announced that he will do so (I enclose a form for this purpose). We shall otherwise not be able to deal with any enquiries, since we do not release information about appointments which have not been taken up or announced, and this could lead to a false assumption being made about whether he had complied with the rules.

17. I should also be grateful if you would ask that Dr Rycroft informs us if he proposes to extend or otherwise change the nature of this role, as depending on the circumstances, it may be necessary for him to make a fresh application.

18. Once Dr Rycroft's has taken up or announced this appointment, we will publish this letter on the Committee's website and in the relevant annual report.

Yours sincerely

Catriona Marshall  
Committee Secretariat