



UK Regulators Network work programme 2015-16

Consultation

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About this document

This is a consultation on the 2015-16 work programme for the UK Regulators Network (UKRN).

This consultation closes on 27 February 2015.

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About the UK Regulators Network

UKRN is a network formed by the UK's economic regulators:

- The Civil Aviation Authority (CAA)
- The Financial Conduct Authority (FCA), including the Payment Systems Regulator (PSR)¹
- Office of Communications (Ofcom)
- Office of Gas and Electricity Markets (Ofgem)
- Water Services Regulation Authority (Ofwat)
- Office of Rail Regulation (ORR)
- Northern Ireland Authority for Utility Regulation (Utility Regulator)

Monitor, the sector regulator for health, participates in the network and its projects as appropriate. The Water Industry Commission for Scotland (WICS) and Legal Services Board (LSB) are contributing members which generally participate in projects as observers.

Contributors to this document

This document has been produced by the UKRN Office in consultation with all UKRN members.

¹ Although it has competition and consumer protection functions, the FCA is not classed by HM Government as an economic regulator

Table of contents

1. Summary	3
2. Introduction	4
3. Projects for 2015-16	6
4. 2015-16 work programme timing.....	12
5. Annex I – responding to this consultation	13

I. Summary

- I.1. We are consulting on our work programme for 2015-16. We identified an initial eight subjects for UKRN to work on in 2014-15. Many of those involve a substantial amount of ongoing work, so in 2015-16 we will build on the work done in the first year and re-focus our efforts on those parts of the eight that will deliver the greatest benefits. We will ensure that UKRN projects result in concrete changes in the work its members do.
- I.2. In order to take on a project through UKRN rather than as individual regulators, we should be able to answer five questions:
 - What is the problem?
 - What specific regulatory actions could result from addressing the problem?
 - Why is addressing the problem jointly more effective than doing so individually?
 - How should our actions contribute to greater benefits to consumers?
 - Which of our six objectives will this meet?
- I.3. We have considered the work we are doing under our eight project headings against these questions; we propose to continue work on these eight subjects during 2015-16, re-focusing according to the potential benefits we see accruing to consumers.
- I.4. Particularly once we get past the first phase on each project, which in many cases establishes a baseline understanding between us, we will focus on how each piece of work can deliver concrete changes in the way we do our work, and make a difference for consumers.
- I.5. The eight subjects are:
 - Cross-sector infrastructure investment
 - Consumer engagement and switching
 - Understanding affordability across sectors
 - Cross-sector resilience
 - Explaining the benefits of economic regulation
 - Organisational development
 - Market returns and the cost of capital
 - Regulating for quality

2. Introduction

Background

- 2.1. The initial nine members launched UKRN on 19 March 2014. With the addition of the Legal Services Board and the Payment Services Regulator, that nine has increased to 11.
- 2.2. UKRN's purpose and structure are set out in a memorandum of understanding, which is published on the UKRN website.² Also on the UKRN website, we published our work programme for the first year on 29 May 2014.³

UKRN's objectives

2.3. UKRN's objectives are as follows:

- *Coherent and consistent economic regulation across sectors:* we will give a clear joint view where cross-sector regulatory agreement or consistency is needed and will ensure that our actions deal effectively with cross-sector issues.
- *Affordability and empowerment:* we will work to understand cross-sector issues related to affordability of services, and work on consumer empowerment to ensure that consumers in regulated markets have the information and other tools necessary to engage effectively in markets.
- *A positive environment for efficient investment:* we will work together to improve the environment for efficient investment in the UK's infrastructure.
- *Efficient regulation:* we will make better use of scarce expertise and resources in order to improve outcomes or reduce cost.
- *Promotion of competition in the interests of consumers:* we will work, including with the CMA and through the UKCN, to improve the use of competition and regulatory levers where appropriate, making markets work better to improve outcomes for consumers.
- *Better understanding of the effectiveness of economic regulation:* we will explain and make best use of economic regulation, helping to raise understanding of what independent economic regulation can achieve, when it works best and how we can improve.

A framework for selecting UKRN projects

- 2.4. We do not expect to collaborate on everything we do; we collaborate when doing so will result in better outcomes. The members of UKRN are all independent bodies, with our own statutory duties, focused on ensuring good outcomes for the consumers in our sectors. All the work we do is aimed at discharging those duties and serving those consumers. Where collaboration between regulators across sectors makes it possible for each regulator to discharge its duties more effectively, we should pursue that.

² www.ukrn.org.uk

³ <http://www.ukrn.org.uk/wp-content/uploads/2014/05/UKRN-2014-15-work-programme.pdf>

- 2.5. In practice there are a number of different types of potential benefit to collaboration, depending on the project. Most simply, each regulator having a better understanding of approaches taken in other sectors can offer lessons: new ideas, or experience of what has worked well, or less well.
- 2.6. Tackling problems across sectors may enable us to work more effectively for consumers. While we each work for consumers in our own sectors, most households and businesses are likely to consume services across most of our sectors. Much consumer behaviour is very specific to the sector concerned – the same people behave very differently as consumers of car insurance vs. doctors' services vs. mobile phones vs. sewerage services. However, there are some issues, such as levels of engagement, where a joined-up view is likely to enable us to understand and serve consumers more effectively.
- 2.7. Consistency of approach can provide benefits in itself, particularly for investors. There should be no presumption of consistency, and we should not aim for consistency for its own sake. Our sectors differ from one another in many respects: consumer demand, technical characteristics of products and networks and the levels of competition. However, where it is applied appropriately, consistency may provide a simpler, more coherent picture for investors to understand.
- 2.8. There are some regulatory challenges that cross the boundaries between sectors, for practical reasons. For instance, building infrastructure may require coordination between sectors.
- 2.9. It may be possible for regulators to benefit from our own economies of scale. Where we all face a similar issue, addressing it jointly may allow us to expend fewer resources than if we each did so separately.
- 2.10. There are however limits to how widely we can harness the benefits of collaboration. For many of us, economic regulation forms only a part of our duties; and it may be more important to ensure coherence on a particular issue with our other duties in our own sector than with economic regulators in neighbouring sectors. For instance, rail and aviation regulation incorporate vital safety aspects; communications involves the management of scarce spectrum and the oversight of important public service broadcasting services; in financial services, supervising the conduct of firms has to be seen alongside promoting competition; and in energy, where there is a wide range of consumer and environmental schemes to oversee, alongside the core regulatory and competition roles.
- 2.11. In order to take on a project through UKRN rather than as individual regulators, we should be able to answer five questions:
 - What is the problem?
 - What specific regulatory actions could result from addressing the problem?
 - Why is addressing the problem jointly more effective than doing so individually?
 - How should our actions contribute to greater benefits to consumers?
 - Which of our six objectives will this meet?

Consultation question: what do you think of the framework set out above for considering which work should be done through UKRN?

3. Projects for 2015-16

Introduction

- 3.1. The projects we are choosing to focus on offer the opportunity for significant benefits to UK consumers, in line with the framework above.
- 3.2. There is a strong consumer focus: we have to ensure that those involved in policy-making that affects consumer bills are aware of affordability issues across sectors. The main driver of good consumer outcomes in our markets is competition. Competition needs to be enabled on the supply side through maximising the areas of markets that are contestable; but on the demand side we need to work together so that consumers can engage in markets and can switch easily and effectively. Ideally competition would result in improved quality of service for consumers; but this will not always happen, so we can make improvements in the ways we regulate for better quality by working together.
- 3.3. We also want to make sure that there is a positive environment for efficient investment. A cross-sector focus on investment means looking at those areas where parts of the UK's infrastructure interact with each other, and making sure that these interactions happen at the lowest efficient cost. We are working to maximise the understanding of both existing and potential investors of the opportunities to invest in stable assets which operate in a predictable regulated environment. At the same time, we also have a clear focus on one of the most important elements of regulatory decision-making for investors – the cost of capital – where by working together we can improve the clarity and consistency of our decisions.
- 3.4. As well as improving the policy decisions we take, we need to work together to share best practice and create efficiencies in terms of the way we run our organisations. We are eleven separate bodies, each with distinct objectives and cultures; but we share some features in the way we operate, and can learn from each other when looking inside our organisations as well as outside.
- 3.5. In all of this work, we need to ensure that regulation's role, the benefits it can offer, and its position relative to other parts of these markets, are well understood. The UK's system of independent economic regulation is an asset both for investors in these sectors and for consumers. Our work should engage participants in the debate on how these sectors are run, and ensure that the UK gets the best possible use of this asset.

Potential benefits by project

- 3.6. We are proposing to continue working on the eight themes we identified for our first year, re-focusing effort on those projects which will deliver the greatest benefits for consumers, and where there is the greatest possible benefit from working jointly rather than individually. Below we describe each project in terms of the benefits it could deliver to consumers, with the assessment based on the framework set out in the previous section.

Cross-sector infrastructure investment

- 3.7. Efficient investment in infrastructure is critical to the UK economy. It is important to ensure that regulators across sectors are enabling current and potential investors to engage with their sectors, sharing best practice, and minimising any barriers that might exist due to different regimes in each sector. This is particularly true in the context of the full infrastructure pipeline expected in coming

years and decades – £466 billion according to the recent National Infrastructure Plan. Any cross-sector inefficiencies in seeing through this plan could cost consumers a significant amount.

- 3.8. We started this work in 2014-15 with four workstreams, two of which we will complete in 2014-15, and two of which will continue into 2015-16.
- We recently published our investors guide to regulated sectors, which is the main documentary output of that workstream.⁴ However, we should now consider engaging with investors, using the guide as a vehicle. We plan to do this during the course of 2015-16, in tandem with our work on cost of capital.
 - We also recently published our first document on infrastructure interactions.⁵ We will continue to work to establish the nature and extent of any problems in this area through the remainder of 2014-15. We will develop any proposals we think are justified during the first half of 2015-16.
 - We also completed reports on innovation and strategic investment ahead of need, but will not be continuing work on these areas into next year. These pieces of work compared approaches across sectors; Ofcom is now picking up its own piece of work on innovation, drawing on the network of other regulators as required.
- 3.9. It is important to carry out this project across sectors for two reasons. First, investors in infrastructure often look across regulated sectors, rather than just at one sector. Many of our sectors offer investments which fulfil a particular role in an investment portfolio – they offer inflation-protected, stable returns over the long term. It makes sense to communicate with investors across sectors, as well as in individual sectors. Second, some of the practical elements of infrastructure investment and build are inherently cross-sector: for instance many investments in new or upgraded infrastructure have to cross existing in-situ infrastructure, with inevitable costs.
- 3.10. The benefits of this should feed through to consumers in two ways:
- First, by ensuring the lowest-possible cost of attracting investment capital in regulated sectors, as a result of investors having a greater understanding of the sectors and the level of risk involved.
 - Second, by ensuring that the extra costs inherent in one network having to interact with another are kept to a minimum.

Consumer engagement and switching

- 3.11. Engaged and active consumers who make well-informed decisions drive effective competition between firms, by rewarding those firms which best satisfy their needs. Understanding the factors that affect consumer engagement and consumers' ability to access, assess and act on information is crucial to regulators in ensuring effective competition.
- 3.12. This year we have completed a comparative report across the financial services, energy, communications and healthcare sectors.⁶ This has allowed us to consider, in a common way, the barriers that reduce consumers' levels of engagement and switching. We are continuing to embed the lessons from this work in the work of individual regulators.

⁴ <http://www.ukrn.org.uk/wp-content/uploads/2014/07/UKRN-Investor-Guide.pdf>

⁵ <http://www.ukrn.org.uk/wp-content/uploads/2014/07/UKRN-infrastructure-interactions-FINAL.pdf>

⁶ <http://www.ukrn.org.uk/wp-content/uploads/2014/12/Statement-Consumer-engagement-and-switching.pdf>

- 3.13. This work has also led us to identify areas where greater understanding across sectors would enable us to ensure that competition in each individual sector is working most effectively. We are exploring which of these should yield most benefits, including seeking views from stakeholders.
- The effectiveness of consumer awareness campaigns in trying to change perceptions, both around the benefits and costs of shopping around and switching.
 - The effectiveness of information disclosure, particularly those examples designed to change perceptions and act as a trigger for consumers to engage (drawing on insights from behavioural economics).
 - The role of innovation in intermediaries, recognising emerging developments in intermediaries may offer opportunities to improve market participation for many consumers including those with lower levels of capability and capacity to engage. These developments are also likely to present regulatory challenge.
 - Improving the operation and effectiveness of switching processes.
- 3.14. This work should allow us each to deliver benefits to consumers in our own sectors by ensuring that they are as empowered as possible to take advantage of competition and exercise their rights to switch. Unlike some UKRN projects, these benefits are likely to accrue in the longer term, as a result of how we respond to market developments, rather than in immediate concrete changes to regulatory policy.

Understanding affordability across sectors

- 3.15. The growing pressure on cost of living in recent years has been well documented; while each regulator has been thinking about the impact of affordability of services on consumers in its own sector, it is also important to consider it across the regulated sectors, which between them cover a wide range of services that are important to consumers.
- 3.16. Our initial report on this, which is being published shortly, assembles information across the sectors on current affordability issues, as well as comparing help available to consumers experiencing affordability problems. It looks at the current situation, with historic data.
- 3.17. One next step from a historic examination of affordability is to look to the future, and to examine the factors that are likely to affect bills in the next ten years. And a second is to consider whether and how we can better align and improve our vulnerability strategies across sectors, to find ways of making the best possible help to consumers.
- 3.18. Each regulator already does considerable work on affordability and vulnerability within its own sector. But we should gain a greater understanding of these issues from looking at them across sectors, particularly bearing in mind that the same consumers may find themselves in circumstances that make them vulnerable in more than one sector at once.
- 3.19. Consumers should experience the benefits of this work as a result of all policy-makers in these sectors, whether regulators, Government or others, being better informed as to the effects of likely changes in bills. On the second piece of work, we would expect there to be concrete steps that we can take to improve the help available to vulnerable consumers.

Cross-sector resilience

- 3.20. Networks in the sectors we regulate need to be sufficiently able to withstand disruption, e.g. from interrupted communications or extreme weather, to be able to continue providing a good service to consumers. These networks are increasingly interlinked and interdependent; it is important that we understand the risks this might present to resilience.
- 3.21. Our cross-sector resilience project is focussed on finding ways for the regulators to tackle challenges to the resilience of the UK's national infrastructure which have cross-sector implications. Most often, these shared challenges arise because multiple sectors face common threats (such as those from flooding or cyber-attack), or because of the interdependency created when the sectors rely on one another (such as the use of electricity by finance, telecoms and railway companies).
- 3.22. The objective of the first stage of this project has been to provide background and context for work that could follow in the next phase. We have investigated how resilience, and in particular cross-sector resilience, works across the different sectors represented in UKRN.
- 3.23. We are proposing to complete a second phase of work before the start of the next year, which establishes ways of cooperating more effectively on cross-sector incident planning and response. By the very nature of the types of threat this work would try to prepare for, this is work that can only usefully be done across sectors rather than by each regulator individually.
- 3.24. The benefit of this work will be felt by consumers in the greater resilience of the system of networks represented through UKRN against an assortment of threats. It may be that the mechanisms that we put in place are never used – indeed that would result in the best outcomes for consumers – but if these types of cross-sector threats emerge, an effective response by regulators across sectors should result minimise outages and maximise service quality.

Explaining the benefits of economic regulation

- 3.25. The UK has very effectively used independent economic regulation to help ensure efficiency, quality of service, environmental standards and fair trading, to the benefit of both consumers and investors. It is important to ensure that these benefits are widely understood, and that the best use is made of economic regulation.
- 3.26. We each have deep knowledge of how independent economic regulation has been used in our own sector to drive benefits for consumers. Putting this knowledge together across sectors provides a better account of what independent economic regulation can achieve, its limits, and the circumstances in which it works best, and how it can be most effectively used to meet the challenges facing the UK's economy.
- 3.27. Our work in this area is programmatic rather than output-driven, and will continue through 2015-16. It involves engaging with politicians, think-tanks, industry stakeholders, consumer bodies, government officials and commentators to ensure that all concerned have the best possible understanding of the system of independent economic regulation, and the benefits it can offer.
- 3.28. The system of independent economic regulation has delivered benefits to consumers in the past in terms of choice, quality, investment, innovation, efficiency and value for money. By ensuring that regulators, policy-makers and commentators have the best possible understanding of the system of

independent economic regulation, we can ensure that this system develops and improves, to deliver those benefits into the future.

Organisational development

- 3.29. While the sectors covered by, and statutory duties of, UKRN members vary significantly, there is more common ground in terms of the types of analysis we do, and therefore the tasks we undertake and the types of staff we employ. We should consider whether we can usefully increase the level of coordination in how we address these issues.
- 3.30. Our sectors vary in a number of ways: the types of service offered, the way those services are priced, the importance or otherwise of network infrastructure, levels of investment, the extent and nature of competition, the attitudes and behaviour of consumers, and the way our economic regulation duties, for those of us that have such duties, relate to our other objectives such as safety or various public interest goals.
- 3.31. Despite these differences, there are a number of common features in terms of the way we run our organisations, particularly when it comes to the parts of our work which are most common between us – considering ways of making markets work more effectively. We employ some similar types of staff – for instance regulatory economists, lawyers or finance experts. The fact that we require some similar types of skills means that there is some common ground in the types of training that our people require. And there are other business activities that we share – risk management, for example, or our governance and the way we make decisions.
- 3.32. As a result of this common ground, there should be benefits from working together on some of these issues. We may be able to share resources, and we should be able to learn from each other. The first stage in doing this, for the remainder of this year, is to identify the main opportunities for these kinds of benefits, before a subsequent piece of work in 2015-16 which will aim to realise them.
- 3.33. These benefits could be transmitted to consumers in two broad ways: either by improving the quality of the work that we do, and therefore improving the outcomes for consumers, or by enabling us to do our work more efficiently, thereby minimising the overall cost of regulation across sectors.

Market returns and the cost of capital

- 3.34. Many of the members of UKRN have to consider the level of appropriate returns on regulated assets. In many sectors the cost of capital figure, or the allowed return, is a single number that is very visible and important to regulated firms and investors, and as a result comes in for much scrutiny. We expend significant resource in developing our proposals in this area.
- 3.35. Much of this assessment is rightly sector-specific, reflecting the many differences between our sectors as set out above under “organisational development”, as well as differences in underlying market risk. But there may be parts of this work that are more generic. On these latter aspects in particular, it should be possible to learn from each other, drawing on our collective expertise and experience to ensure that each regulator’s assessment is as effective as it can be. We should also be able to cooperate to ensure that we are communicating these assessments in a way which is as clear and transparent as possible to investors, thus ensuring that the cost of investment is kept as low as possible.

- 3.36. In order to do this, we will over the course of the remainder of this year and into 2015-16 consider what mechanisms we could put in place to allow us effectively to pool our expertise. This is starting with a short factual summary of the outputs of recent work on cost of capital across our sectors. We will then ensure that each of us fully understands the approach that the others take; just this step should already allow us all to come to more effective decisions.
- 3.37. Again the benefit of this may be felt by consumers in either or both of two ways. Most significantly, if we were able to improve investors' understanding of the way we establish allowed returns to such an extent that they required a return on investment that was even 0.1% lower, this would translate into significant savings on a consumer's annual bill, due to the large investment sums involved. Secondly, we may be able to achieve efficiencies in terms of the resources we each individually devote to this work.

Regulating for quality

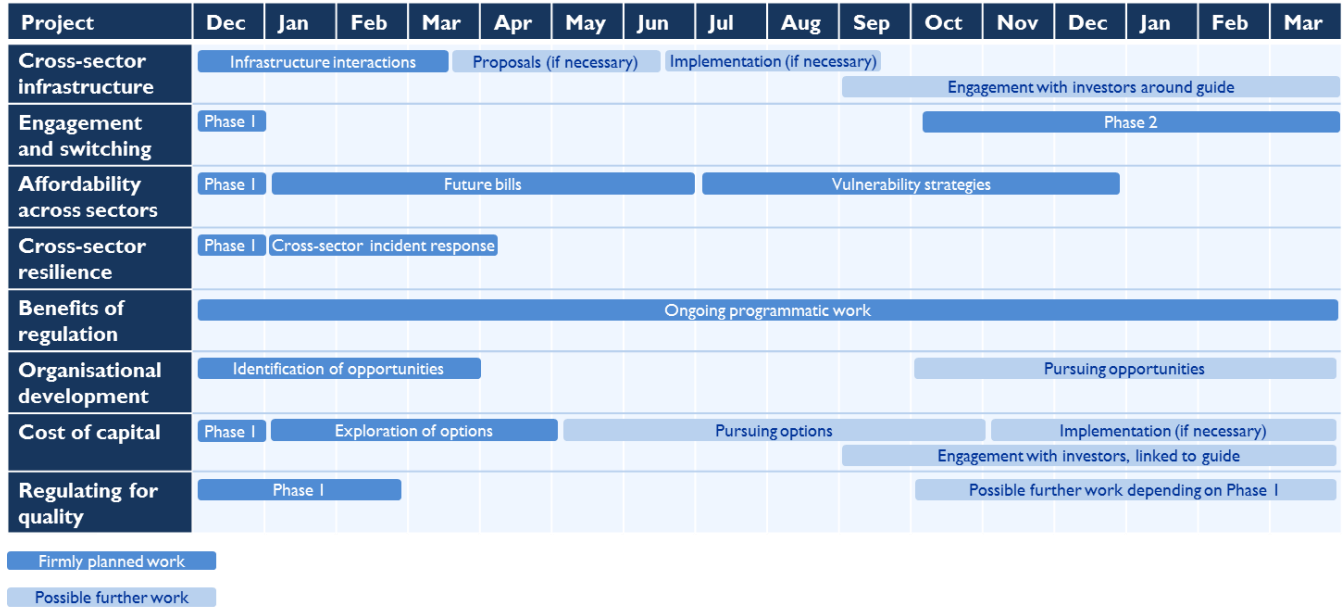
- 3.38. Many of UKRN's members have to consider how to ensure that retail and wholesale consumers are provided with a high-quality service. Often just measuring this can be challenging, as can defining and ensuring satisfactory quality levels. We should compare approaches and share best practice across sectors.
- 3.39. The role of quality of service varies across sectors, depending on the nature of the product, the market (particularly the level and nature of competition), and the behaviour of consumers. Our role in influencing quality is in some sectors mainly at a wholesale level, and in others more in retail markets. However, there are common themes in terms of the consumer journey, from connections / service commencement, through the quality of the product itself, to addressing faults or service disruption and complaints-handling. Some are common across all sectors – e.g. complaints-handling; where others are less so – e.g. repairs are an important issue in telecoms but not in rail. Whatever the sector, we need to be careful to ensure that we do not regulate in areas where outcomes would be better left to competition; otherwise we risk gold-plating outcomes and increasing costs for consumers.
- 3.40. Those common themes mean that there are likely to be lessons that we can learn from each other across sectors, in terms of understanding consumers and finding out what kinds of regulatory intervention are effective and which less so. The work could result in UKRN members altering what they do in their own sectors based on what has worked, or not worked, in other sectors.
- 3.41. By the time we publish our final work programme for next year, we should have published a first report on regulating for quality. Using this as a base, we will consider whether there are any further pieces of work which would yield benefits over and above continuing each to work on this subject in our own sectors.
- 3.42. The benefits of this should be felt by consumers in terms of better quality of service in these important sectors.

Consultation question: do you agree with this description of the possible benefits accruing to consumers from these eight projects?

4. 2015-16 work programme timing

4.1. Taking into account the above description of the possible benefits that could be produced by each project, we arrive at a plan for next year that looks like the chart below.

Figure 1: 2015-16 work programme timing



Consultation question: what do you think of the proposed timing above?

5. Annex I – responding to this consultation

5.1. We invite stakeholders' responses to this consultation to be made by 5pm on 27 February 2015.

5.2. Responses can either be emailed to will.hayter@ofcom.org.uk or posted to:

Will Hayter

UKRN Office

Ofcom, Riverside House

2a Southwark Bridge Road

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5.3. If you have any questions, you can either email will.hayter@ofcom.org.uk or contact him on 020 7783 4197.

5.4. All responses should be accompanied by a cover sheet setting out:

- the name of the respondent, the organisation being represented and relevant contact details;
- whether you consider that part, or all, of your response should be treated as confidential, with any relevant explanation; and
- that you agree to the publication of your response on the UKRN website.

5.5. We will seek to publish all responses to this consultation on the UKRN website (where appropriate). If part of your response is confidential, it would be helpful if you could also submit a non-confidential version of your response redacting all confidential information.