

Regulatory Policy Institute Annual Westminster Conference

Wednesday 27 April 2016, One Great George Street, London SW1P 3AA.

Issues in market governance and regulatory governance

The gathering will take a broad look at market and regulatory governance issues, so the focus will be on the institutional arrangements for the making of relevant decisions rather than on any particular decisions that have or might be taken.

The four sessions – each led by two platform speakers each allocated about 30 minutes for general discussion – are:

- 1. Governance arrangements for major infrastructure decisions and projects (Chair David Gray, GEMA; speakers Richard Price, UKRN, and Bridget Rosewell, NIC).**

These types of decisions/projects typically involve multiple public bodies and are often characterised by unclear division of responsibilities and lines of accountability. Research on *ex post* performance is not encouraging: for example, it indicates that benefit-to-cost ratios tend to be systematically over-estimated, often by very high margins. One obvious question is whether better governance arrangements are a key to better performance, or is it more a matter of improving technical assessment capabilities?

- 2. Market governance: competition policies and business conduct regulation (Chair Peter Freeman, CAT; speakers George Yarrow, RPI, and Mary Starks, FCA).**

Competition law is a general aspect of market rules, but sectoral regulators are also entrusted with much wider rule-making powers within their own domains. Decisions in the two areas can easily come into conflict with one another: for example exercise of sectoral powers, which can involve detailed, prescriptive restrictions on business conduct, may have the effect of restricting competition. The speakers will cover questions such as: Are there common principles that can give coherence to these different aspects of market governance? How well are current arrangements doing in addressing the relevant trade-offs?

- 3. Governance of devolved regulation: quis custodiet ipsos custodes? (Chair John Swift QC; speakers Dame Deirdre Hutton, CAA, and John Wotton, CMA).**

The devolved powers afforded to regulators are a source of substantial market power and the existing institutional arrangements consequently provide for checks and balances in the way that such powers are exercised. The checks and balances involve both external (e.g. appeals, parliamentary scrutiny) and internal (non-executive directors) elements, aspects of each of which will be covered by the speakers, with the intention of promoting a general discussion about how well current arrangements are working.

4. Network governance in changing circumstances (Chair, Jenny Block, Pinsent Masons; speakers Martin Crouch, Ofgem, and Cathryn Ross, Ofwat).

Much of the still dominant approach to network governance rests on conceptual frameworks developed in an earlier period when, at least in sectors such as energy and water services, there were clearer distinctions based on simpler economic linkages between ‘naturally monopolistic network activities’ and potentially competitive activities. The relevant context now is rather more complex and dynamic, with increased economic entanglement between network operations and a widening range of service markets that rely upon networks, raising the question: is there a case for a fundamental re-think of underlying conceptual frameworks? The speakers will consider the challenges in the energy and water sectors.