

# **UK experience since 2003 and outlook**

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The British utility regulation model: beyond competition and incentive regulation?  
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# The starting point

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⌘ Practice, which is evolving rapidly, continues to outstrip theory (*David Newbery*)

But don't forget ...

⌘ Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist (*J M Keynes*)

⌘ And we have not had true RPI-X for a long time (if ever!)

# Where were we in 2003? Challenges...

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- Challenges to the model
- The 1997 review: questioning legitimacy
  - domestic v industrial gains
  - 'fat cats'
  - transparency of procedures
  - patchy development of competition – in the UK and Europe – and inconsistent approaches to regulation
- ⌘ Alleged inadequacy of investment incentives
- ⌘ Competition Act v licence powers

# A reminder

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- ⌘ “There will always be good reasons for retaining regulation ... Because we are explicit about having multiple objectives, it is very unlikely that one policy instrument – a price cap for instance – will be sufficient ... Regulation must remain ever-alert and ever-changing.” (*Dan Corry*)
- ⌘ Arguments about ‘failure to give reasons’ really a disagreement about relevant outputs?
- ⌘ Impossibility of distinguishing ‘policy’ and ‘delivery’

## ...and implications

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- ⌘ Need to accept that the key utility networks are inevitably public-private partnerships, and that regulation has multiple objectives
- ⌘ Implications:
  - ⌘ political involvement in determining outputs and objectives
  - ⌘ subject to this, presumption of competitive delivery (ie for regulator not government to decide scope and role of market mechanisms and supply competition)
  - ⌘ need for alignment between regulatory and merger frameworks
  - ⌘ more explicit consideration of risk allocation and implications for both the cost of capital and opex and capex allowances

# A (personal) review of the past ten years

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- Development of the RAB model
- Development of price review procedures
- Focus on competition
- Extension of the model
- Financing
- Role and structure of regulators

# Development of the RAB model

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- RIIIO
- But was this a fundamental change?
- Main difference is 8 year review periods plus more emphasis on uncertainty mechanisms
- Will it survive 8 years?
- Lessons of the PPP

# Development of price review procedures

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- Emphasis on companies 'owning' their plans and engaging with customers more effectively
- Fast-tracking a natural consequence
- But this requires trust - lessons from rail franchising?
- Greater complexity of controls (eg in water) may create internal contradictions in regulators' approach

# Focus on competition

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- Competition the best way of promoting customer interest?
- But can conflict with effective price control approaches
- ... and not all Ministers believe in it!
- Was the reliance on SLC right for 'public services'?
  - NHS; integrated public transport etc

# Extension of the model

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- Greater consistency
  - CAA
- New 'utilities'
  - Highways Agency
- A more effective basis for raising finance
  - nuclear power

# Financing

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- The emergence of IUK and the NIP
- Originally a strategic framework to remove political risk
- ...
- ... but now mainly about new sources of finance
- Is that really a problem? Do regulators need do more than get the cost of capital (more or less) right?
- Does that argue more for regulators being more transparent and collaborative than for Government to intervene?

# Role and structure of regulators

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- Continuing skirmishes over boundary between policy and implementation
  - energy
  - water
  - rail (despite HLOS and SoFA)
  - communications
- Numerous reviews (including by IUK) but no clear blueprint
- CMA an opportunity?
- Prospects for UK Regulation Network

# What about the next ten years?

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- Continuing development of price review procedures
- But main issue will be relationship between regulators and Government
- Three possible outcomes:
  - regulators collaborate to reclaim lost ground (with support from strong CMA)
  - regulators become 'agents' of Government except on narrow technical issues (cf the Highways Agency 'monitor')
  - continuing muddle
- What happens if the lights go out?