

Editorial News

Commission of Inquiry into the Regulation of Privatised Utilities

A Commission of Inquiry into the regulation of privatised utilities has been established by the Hansard Society and the European Policy Forum. Privatised utilities, investors, consumers and regulators are being invited to put their case to the Inquiry which will sit for the next twelve months.

The Commission is headed by the Warden of Wadham College, Oxford, John Flemming FBA, and includes as members the former Director General of the Office of Fair Trading, Professor Sir Bryan Carsberg, John Baker, Chief Executive, National Power; economists Professor John Vickers and Dr Bill Robinson and Labour peer Lord Barnett.

The remit of the Commission is to review the present regulatory regimes for the private utilities, and to recommend changes in the light of experience and the evolving structures of the industries.

The focus of the Commission's work is on how regulatory decisions after privatisation are and should be made in the telecommunications, electricity, gas, water and railway sectors in the United Kingdom. The Commission will consider the implications for decision making of the privatisation of public utility suppliers, the establishment of independent regulatory bodies (such as OFTEL, OFGAS, OFFER, and OFWAT), the extension of competition in supply and the growing impact of European and British competition and administrative law.

The Commission will examine three major aspects of regulation. First, it will look at the boundaries of the activities of the various regulatory bodies. Second, it will analyse how regulation is and should be carried out, this will include the nature of regulatory organisations, their powers, their processes of decision making, and their accountability to other bodies such as Parliament, Ministers, and users. It will also cover the role of various interests (such as privatised utilities, new entrants, users, and equipment suppliers) in the regulatory decision making process. Third, the criteria used by regulators in making substantive decisions will be considered; this will include the objectives and duties of regulators.

Commenting on the Commission's establishment Frank Vibert, Director of the European Policy Forum said:

"It is now clear that many of the problems affecting privatised utilities are problem of regulation. The moment is opportune for a thorough re-examination of the way in which the regulatory system can be improved in the light of experience."

David Harris, Director of the Hansard Society said:

"Previous Hansard Society Commissions along the lines of private Royal Commissions have been influential in shaping public debate. The regulation of privatised utilities raises major issues of public accountability important in a parliamentary democracy. The Society is delighted to be working with the European Policy Forum to examine this subject."

More Problems for Industry?

The Leeds woman who is suffering from the incurable asbestos-related cancer, mesothelioma, has won her test case at Leeds High Court. The company involved was the world's largest manufacturer of asbestos products. Many more people who have contracted mesothelioma as a result of living close to the factory in the Armley area over 40 years ago may now be in a position to bring claims against the company.

The cancer victim set out to prove that the company knew of the harmful effects of the asbestos dust escaping from its Armley factory in the period up to 1951, when she and many other children played in the streets near the factory.

Holland J has now ruled that the company knew of the harmful effects of asbestos as early as 1933, and so should have protected people who lived in the Armley area from that date. The judgment means that people exposed to asbestos in Armley between 1933 and 1958 and who have developed an identifiable asbestos-related disease may now be able to bring a claim. There are already a large number of cases waiting to come to court and, because of the length of time taken for the disease to develop, tragically many more people are expected to become ill in the coming years.

Adrian Budgen, a partner with the plaintiff's solicitors, Irwin Mitchell, says that he is delighted for her and other mesothelioma sufferers who can now claim compensation. While one can sympathise with this view, what will it mean for industry?

How much foresight must a company have of future injury to bystanders? This is obviously a matter for some concern particularly to those in the business of producing man-made products.

Conference

ESC is holding its Second ESC Intellectual Property Dispute Symposium "Intellectual Property Litigation: Fight or Flight" on 6 and 7 December at the Hotel Bristol Stephanie in Brussels. This conference covers a wide area of expertise with speakers from the Netherlands, USA, Belgium, Germany, Denmark, Switzerland and the UK.

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