

Reflections on the Ofwat Review

David Gray

Context

- Cave review
- Walker review
- BIS – Principles of economic regulation
- BIS – consumer landscape
- Ofwat – Future regulation
 - Future price limits
 - Market reform
 - Regulatory compliance

General Themes in Responses

- Pace and scale of change
- Views on competition and markets
- Financing of investment

Recommendations for Government

- Clarity on policy and roles
 - to be addressed in White Paper
- No change to Ofwat's statutory duties
 - discussion mainly focussed on sustainable development and better regulation duties.

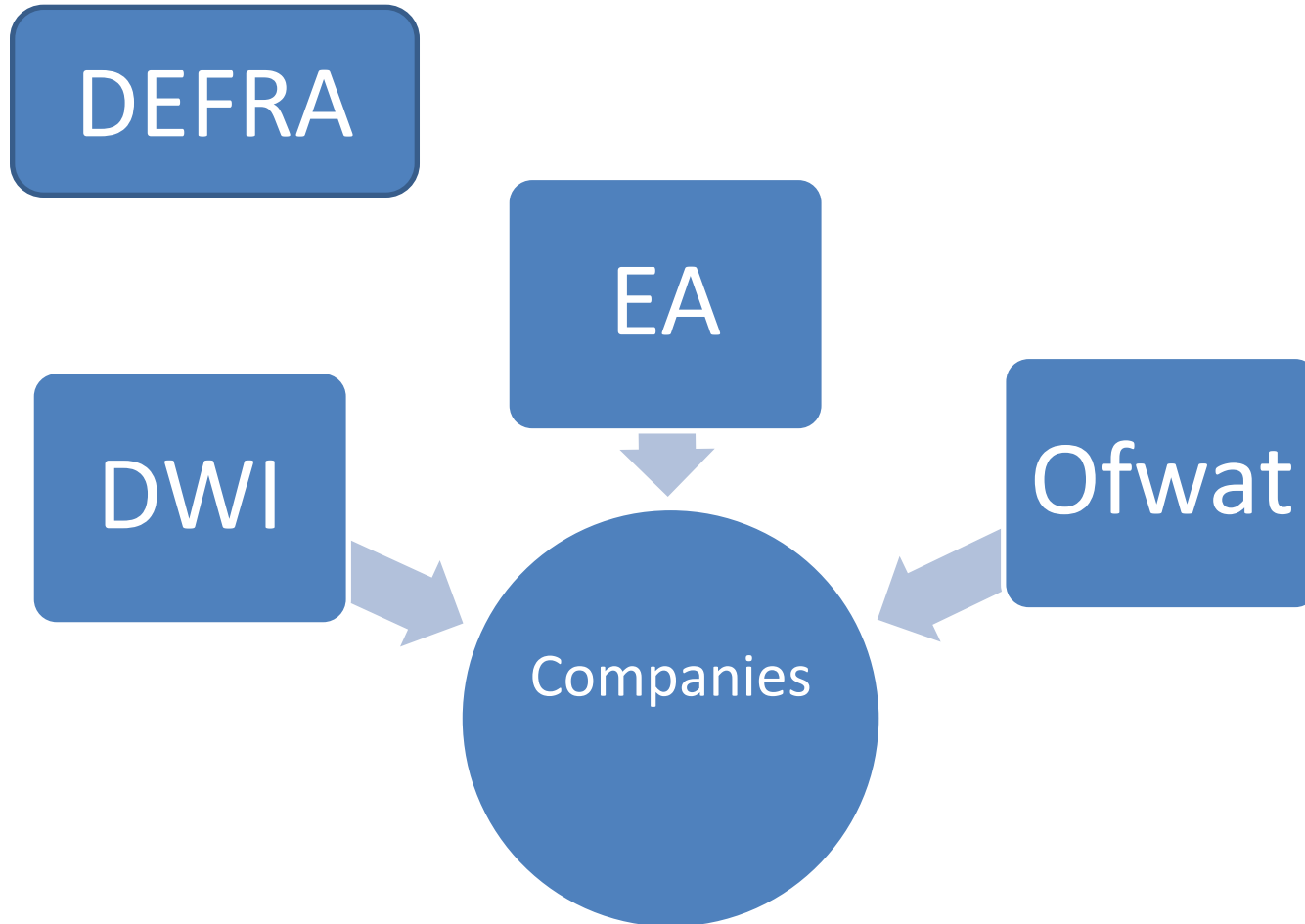
Recommendations for Ofwat

- Ofwat needs to engage more constructively and effectively with the full range of stakeholders and be more transparent in its decision-making
- Ofwat needs to reduce the burden of regulation on the companies and encourage them to be more flexible and innovative

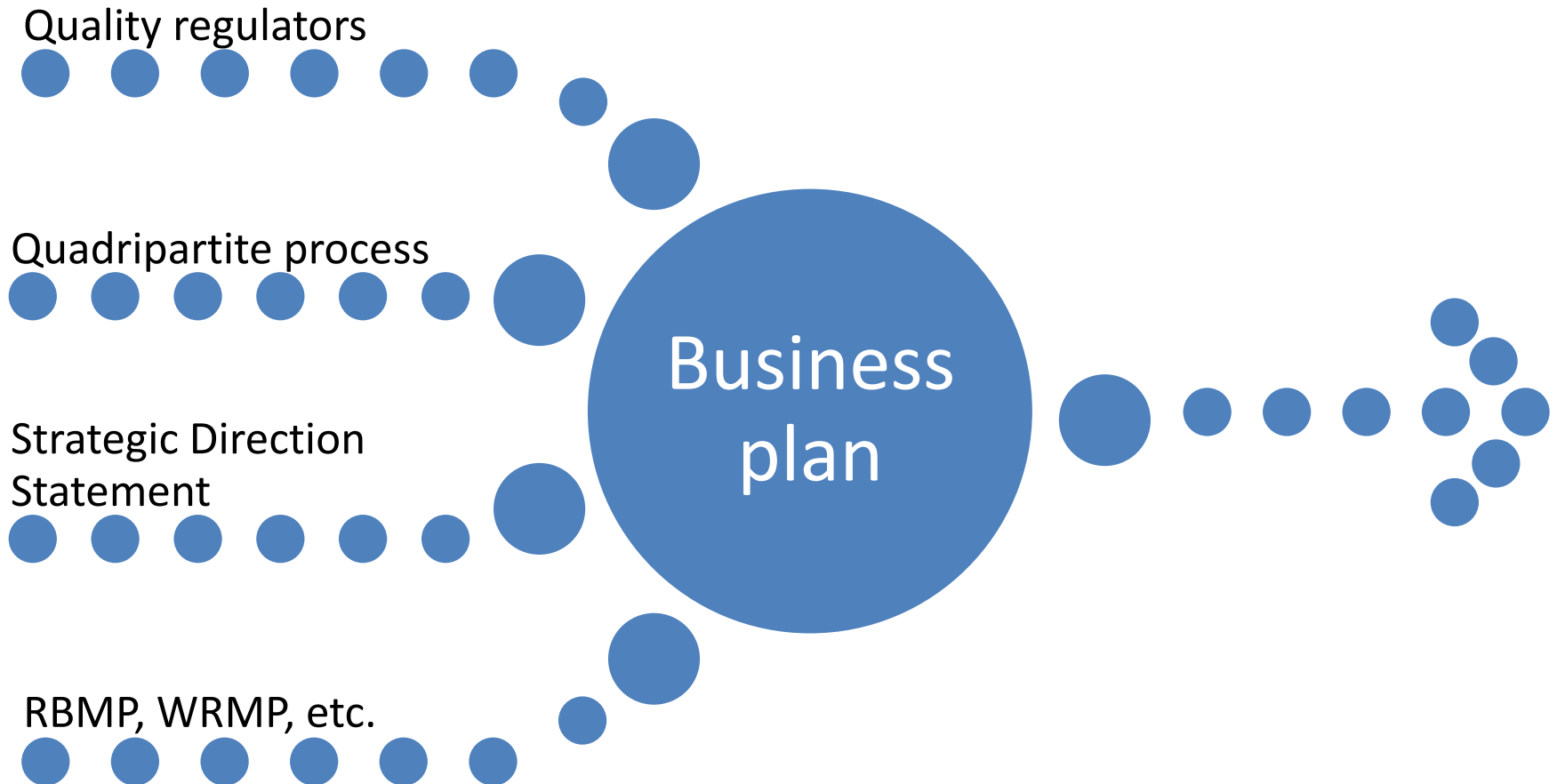
Consumer Representation

- The functions currently carried out by CCWater – advice, complaints and advocacy – are essential and should be retained in any new arrangements
- CCWater should continue in its current role as representative for water customers

Regulatory Framework



Inputs to Business Plans



PR09 Decision stages



Recommendations for Ofwat (1)

- Engagement with other regulators, etc.
 - primacy of decision making – various options considered
 - more joined up approach (particularly by Ofwat)
 - “agree or explain” approach to other regulators & quadripartite process

Recommendations for Ofwat (2)

- **Burden of regulation**
 - substantial reduction required
 - clear targets and timetables
 - price review as well as compliance
 - external monitoring of progress – role for NAO
- **Incentives**
 - balance between penalties and positive incentives for behavioural change
 - innovation

Recommendations for Ofwat (3)

- Licence reform
 - simplification & standardisation, CLM, competition
- Consultation and engagement
 - transparency, involvement of stakeholders, etc.
- Accountability and Value for Money
 - outcome-based measures, role of NAO
- Governance
 - role of non-execs
- Company consultation on significant new charging proposals
 - role for CCWater as consultee

Recommendations for Government

- Clarity on policy and role
 - competition & markets
 - social tariffs
- Statutory duties
 - consumer duty
 - financing duty
 - functions duties

 - sustainable development
 - better regulation

Reflections

- Sustainable development
- Independence
- Governance and accountability
- Policy

Sustainable Development

- Pure economic regulator
 - no SD role – responsible for funding decisions on SD obligations imposed by others
- SD as primary duty
 - WAG “central organising principle”
- SD as secondary duty
 - primary responsibility elsewhere but duty serves to emphasise importance
- Clarity of definition & guidance

Independence

- Obviously a good thing – but what does it mean?
- BIS Commitment 2: “The government will preserve the independence of economic regulators.”
 - legally distinct and functionally independent
 - not [to] seek or take direct instructions
 - autonomous decisions, separate annual budget, etc.

Independence from Government

- Power of direction
- DECC review of Ofgem

“Government will set out a strategic policy statement for the energy sector and will define those strategic goals to which Ofgem should contribute. The Government will seek legislative provision to require Ofgem to take its independent regulatory decisions within the context of these goals.....”

Chris Huhne, May 2011

Independent decision making

- Taking decisions in isolation or taking part in other processes?
Recommendation 2 - “In principle Ofwat decisions should be consistent with the outcome of the quadripartite process.”
- Is it acceptable to “fetter the Authority’s discretion”?
- Examples
 - Ofgem – DN sales
 - CAA – constructive engagement
 - CAA – Future Airspace Strategy

Governance and Accountability

- “The question of who regulates the regulators has not been answered and has not gone away”
 - House of Lords Select Committee on Regulators 2007
- Transparency
- Outcomes & outcome-based objectives
 - a role for the National Audit Office?
- Consumer appeal rights

Policy

- What is policy?
 - sector specific – or should the policy just be to have independent economic regulators?
- Mechanisms for imposing obligations?
 - separate bodies – e.g. DWI, EA
 - specific legislation – e.g. Renewable Obligation
- Reporting on the cost of government intervention?
 - economic regulators
 - NAO

A possible approach?

