Index

Titles of legal cases appear in *italics*.

AA system, *see* associations’ agreements
access to regulatory process 142, 215
energy sector
  Germany 112–15
  UK 108–10
principal–agent theory 122–3
rail sector
  Germany 136
  UK 126–9
telecommunications sector
  Germany 102–5
  UK 96–101
activism, judicial 201–2
administrative coordination costs 56, 57–9
electricity sector
  Germany 72–3
  UK 68–9
rail sector
  Germany 80–81
  UK 75–7
telecommunications sector
  Germany 65–6
  UK 62–3
administrative costs 53–87, 214–15
electricity sector
  Germany 71–3
  UK 66–70
impact of EU 81–3
and incentivisation, *see* incentivisation administrative costs
rail sector
  Germany 77–81
  UK 73–7
telecommunications sector
  Germany 63–6
  UK 56, 60–63
Agency for Postal and Telecommunications (BAPT),
  Germany 21–2
*Albany* case 197–9
*Almelo* case 189
associations
  energy sector, Germany 113, 114–15
  rail sector
    Germany 136
    UK 127–8
  telecommunications sector, UK 100–101
associations’ agreements (AA) Germany 28–30
  energy sector 112
  problems 115
  and regulatory reform 32–4
BAPT (Agency for Postal and Telecommunications) 21–2
BauGB (Federal Building Laws) and wind power plants 162
BKartA
  and energy regulation 31–2, 114, 116–17
  and rail regulation 41–3, 139
  and telecommunications regulation 23–4, 103, 105
BMPT (Ministry for Postal and Telecommunications), Germany 21–2
BMVBW, role in rail regulation 40–41
BMWA (Federal Ministry of Economics and Labour) 22, 23
  and energy regulation 30–31, 32–4
  and telecommunications regulatory regime 23
BMWi (Federal Ministry of Economics), Germany 72
  and energy sector regulation 113
Braun, D. 179
Index

Britain, see United Kingdom
British Rail 34
Building Laws, Federal (BauGB) and wind power plants 162
burden of proof, Gas and Electricity Monopolies cases 196
bureaucratic politics theory and administrative coordination 56
Burgi, N. 151
business–regulator relations 91–119, 120–43
energy sector 108–17
rail sector 126–42
telecommunications 96–108
Cartel Office, Germany, see BKartA
Cassis de Dijon case 203
CEGB and renewable energy 150–51
clawback, NRAs 4–7
competition
administrative costs, see market sustaining administrative costs and regulatory activity 85
and regulatory change 2–4
see also liberalisation
Competition Act 1998 21
competition authorities 17–18
Germany 47, 50
energy sector 31–2
rail sector 41–3
telecommunications sector 23–4
see also BKartA
UK 45, 50
energy sector 27
rail sector 38
telecommunications sector 20–21
Competition Commission (UK)
and energy sector 27
and rail sector 38
and telecommunications sector 20–21
competition law
and European Court of Justice 183–209
see also competition authorities
compliance monitoring, see implementation of regulation
concurrent working party (CWP), telecommunications sector 21
consumer protection responsibilities, rail sector 134
contract compliance, UK rail regulation 129–36
Corbeau case 189–94
cross-sector regulatory learning 48–9
DBAG, see Deutsche Bundesbahn AG
Dehousse, R. 207
Department of Environment, Transport and Regions (DETR) 37–8
Department of Trade and Industry (DTI) and energy sector 26–7
and telecommunications sector 20
derogation clause, competition law 184, 186–8
Deutsche Bundesbahn 38
Deutsche Bundesbahn AG (DBAG) 39
discrimination accusations 137–8
discretionary regime, UK telecommunications sector 101
discrimination complaints, DBAG 137–8
DTI, see Department of Trade and Industry
EBA (Eisenbahnbundesamt) 40, 139–42
economic viability test, universal services 204–5
Economics, Federal Ministry of, Germany, see BMWi
Edward, D. 200
EEG (Renewable Energy Sources Act), Germany 171–7
efficiency and public mission exception 192
Eisenbahnbundesamt (EBA) 40, 139–42
Electricity Feed Act (StrEG) 159–62, 170–71
electricity sector regulation
administrative costs 84, 85
Germany 71–3
UK 66–70
Germany 28–9, 157–62
and renewable energy, see renewable energy policies
UK 25, 163–70
Embedded Generation Working Group 169
energy policy forums, EU 109
energy sector
business–regulator relations 108–117
Germany 112–17
Index

UK 108–12
regulatory regimes 24–34
Germany 27–34
UK 24–7
Environment, Transport and Regions,
Department of (DETR) 37–8
ERT case 188
European Commission, role in
competition law 206
European Court of Justice 183–209, 216
European Union
competition law 183–209
regulators, access to
energy sector 109–10, 114–15
rail sector 127–9, 136
telecommunications sector 98–9,
103–5
and utilities regulation 81–3
ex ante control, principal–agent
relationship 121–2
ex post control
principal–agent relationship 121–2
see also implementation of regulation

Fair Deal for Consumers, A 163
Federal Building Laws (BauGB) and
wind power plants 162
Federal Ministry of Economics, see
BMWi
Federal Ministry of Economics and
Labour, see BMWA 22, 23
Federal Railway Agency (EBA) 40,
139–42
firebell ringing, rail sector 130–31, 137
France v. Commission 206
free movement of goods and European
Court of Justice 183–209

Gas Act 1995 25
Gas and Electricity Monopolies cases
194–7
gas sector regulation
Germany 29–30
UK 24–5
Germany, regulatory regimes 45–7
compared with UK 47–52
electricity sector 71–3
energy sector 27–34, 112–17
Federal Cartel Office, see BKartA
railway sector 38–43, 77–81, 136–42

and renewable energy policy 147–8,
157–62, 170–77
telecommunications sector 21–4,
63–6, 102–8
government influence on regulatory
regimes 44–5, 46–7, 49–50, 213–14
rail sector 131–3, 140–41
energy sector 111–12, 162–70, 178
telecommunications sector 103, 106
Great Britain, see United Kingdom
Gyselen, L. 199

Hall, P.A. 149
High Level Communication Group
(HLCG) 104
Höfner case 188
horizontal level regulatory access,
telecommunications 97–8
hydroelectric power 174–5

implementation of regulation 215–16
energy sector
Germany 115–17
UK 110–12
principal–agent theory 123–5
rail sector
Germany 137–42, 142–3
UK 129–36, 142–3
telecommunications sector
Germany 105–8
UK 101–2
incentivisation administrative costs
55–6, 57–9, 85–6
electricity sector
Germany 71–2
UK 68
rail sector
Germany 79–80
UK 74–5
telecommunications sector
Germany 64
UK 61–2
independence of regulators 111
information asymmetry
and non-compliance 129–31
telecommunications regulation, UK
101
information exchange 92–3
institutional isomorphism and
business–regulator relations 94
Index

issue networks 100

judiciary, role in competition law 200–202
Justice, European Court of 183–209

liberalisation
energy sector 24–34
rail sector 34–43
and regulatory change 3–4
telecommunications sector 18–24

managing implementation, see implementation of regulation
market-correcting regulation, European Court of Justice 183–209
market structure, effect on monitoring 135–6
market sustaining administrative costs 55, 57–9
electricity sector, Germany 71
rail sector
  Germany 77, 79
  UK 74
telecommunications sector
  Germany 63–4
  UK 60–61
Merci case 188
mimic isomorphism and business–regulator relations 94
ministerial influence, see government influence on regulatory regimes
Ministry of Economics, Federal, see BMWi
Ministry for Postal and Telecommunications, Germany (BMPT) 21–2
Mitchell, C. 151
MMC (Monopolies and Mergers Commission), see Competition Commission
monitoring contracts, see implementation of regulation
monitoring, in principal–agent relationship 121
Monopolies and Mergers Commission (MMC), see Competition Commission
Müller, W. 72
multiple regulatory authorities
rail 128, 134–5, 141
telecommunications 97–8
multiple sectoral structure, and compliance monitoring 135–6, 142
NARA (Negotiated Network Access Regime Agency) 33
national courts
  and proportionality assessment 207–8
  and public mission exception 189–90
necessity test
Gas and Electricity Monopolies cases 194–5
  and public mission exception 193–4
Negotiated Network Access Regime Agency (NARA) 33
negotiated Third Party Access (nTPA) 113–14
NETA (New Electricity Trading Arrangements) 164–5
Network Rail 132, 133–4
New Electricity Trading Arrangements (NETA) 164–5
New Labour reform of renewable energy policy, UK 162–70, 178
NFFO (non-fossil fuel obligation) 151–7
non-compliance, rail sector 129, 137–9
non-fossil fuel obligation (NFFO) 151–7
non-market value, universal services 204–7
normative theory of administrative change, and administrative costs 55
nTPA (negotiated Third Party Access) 113–14

OFCOM (Office for Communications) 19–20
OFFER 25, 70
Office of Fair Trading, see OFT
Office of Gas and Electricity Markets, see OFGEM
Office of Rail Passenger Franchising (OPRAF) 35–6
Office of Rail Regulation (ORR) 35, 37–8, 76–7, 78, 132
Office of Telecommunications, see OFTEL
OFGAS 25
OFGEM (Office of Gas and Electricity Markets) 25–6, 112, 169
administrative costs 69–70
OFT (Office of Fair Trading)
and energy regulation 112
and rail regulation 38
OFTEL (Office of Telecommunications)
19–21, 62, 101
access to 97
relationship with EU regulators 99
OPRAF (Office of Rail Passenger
Franchising) 35–6
ORR (Office of Rail Regulation) 35,
37–8, 76–7, 78, 132
pension schemes and EU competition
law 197–9
photovoltaic power, Germany 175
planning regulations and wind power
Germany 162
UK 155–6
political influence, see government
influence on regulatory regimes
principal–agent theory
and incentivisation 55–6
and regulation 120–25
proportionality principle 187–8
and competition law 197–200, 202–3
and national courts 207–8
and public mission exception 190–94
Prosser, T. 38, 149
public-mission exception, competition
law 184, 186–99
Rail Law, Germany (AEG) 39, 42
Rail Passenger Franchising, Office of
(OPRAF) 35–6
Rail Regulation, Office of (ORR) 35,
37–8, 76–7, 78, 132
rail sector regulation 34–43, 120–43
EU 81–3
Germany 38–43, 77–81, 136–42
UK 34–8, 73–7, 126–36
Railtrack 35
lack of asset register 74–5
non-compliance 129
railways, administrative costs 84, 85
regional development agencies and
renewable energy 168
RegTP (Regulatory Authority for
Telecommunications and Post)
22–4, 63–6, 103, 105–8
regulated self-regulation, energy sector,
Germany 27–34
regulation, evolution of 2–8
regulator–regulatee interaction 120–43
regulatory access, see access to
regulatory process
regulatory agency dominance 48–9
Germany 45–6
UK 43–4
Regulatory Authority for
Telecommunications and Post
(RegTP) 22–4, 63–6, 103, 105–8
regulatory change evolution 2–8, 212–14
REN programme for energy efficiency
and renewable sources 158–9
Renewable Energy Agencies 168
renewable energy policies 147–79,
216–17
UK 68, 152–7, 162–70, 177–8
Renewable Energy Sources Act (EEG)
171–7
Renewables Obligation (RO) 68,
165–70, 178
reputation game
energy sector regulation 111
telecommunications sector 101
restraint judicial 201–2
Ross, M. 204, 205
safety responsibilities, rail sector 134
sanctioning in principal–agent
relationship 121
Scharpf, F.W. 205, 206
self-regulatory regime, energy sector,
Germany 27–34
services of general economic interest,
see universal services
Smith, A. 169
social protection schemes and EU
competition law 197–9
solar power, Germany 175
Strategic Rail Authority (SRA) 36–7, 76,
131–2, 133, 134
StrEG (Electricity Feed Act) 159–62,
170–71
suitability test and public mission
exception 191–2
sustainable energy policies, see
renewable energy policies
Tacke, Alfred 72
Telecommunications Act 1984, UK 19
telecommunications sector
administrative costs 56, 60–66, 83
business–regulator relations 96–108
regulatory regimes 18–24
Germany 21–4
UK 18–21
Thomas, S. 151
trade associations, see associations
Transport Act 2000 36–7
Tridimas, T. 200

United Kingdom, regulatory regimes 43–4
compared with Germany 47–50
electricity sector, administrative costs 66–70
erenewable energy policy 68, 152–7, 162–70, 177–8
telecommunications sector 18–21, 56, 60–63, 96–102
universal services 184–6
as non-market value 204–7
and proportionality 199–200
public mission exception 186–99
Utilities Act 2000 111–12, 163
utilities reform, administrative costs 53–87
vertical institutional level regulatory access, UK telecommunications 98–9
Watson, J. 169
wind power
Germany 158–9, 161–2, 174
UK 153, 155–6, 167–8