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2010 Strategic Plan

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17 November 2009¶

20 January 2010

Introduction & Overview

This document sets out the Strategic Plan for the Jersey Competition Regulatory Authority (“JCRA”) during the calendar year 2010. The Strategic Plan replaces the annual Aims and Objectives document issued by the JCRA in prior years. The JCRA has decided to move to a Strategic Plan, an approach which is endorsed by LECG and Charles Russell LLP in the *Review of regulatory powers, resources and functions of the JCRA as a telecommunications regulator*.

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This Strategic Plan differs from the Aims and Objectives in that for post and telecommunications, where the JCRA acts as a regulator, specific regulatory goals have been set, along with appropriate timeframes for completion. It also lists the ongoing responsibilities of the JCRA as the regulator in these areas, which the JCRA will monitor and, when necessary, enforce throughout the year.

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Under the Competition (Jersey) Law 2005 the JCRA does not act as a regulator, but as essentially a law enforcement authority. Thus, the JCRA’s role as defined under the Competition Law is not suited as well to proactive planning as in telecommunications and post. Accordingly, this Strategic Plan reviews the JCRA’s ongoing responsibilities in this area.

The JCRA continues to be guided by the core values of fairness, accountability, proportionality, and efficiency. The JCRA’s overriding goal remains the same: to promote consumer welfare through efforts that encourage lower prices and greater choice and innovation in the goods and services available in Jersey. The JCRA’s work thus contributes to Jersey’s long-term economic growth and competitiveness.

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This is not a definitive statement of the JCRA’s activities for 2010. The JCRA will keep its objectives under review and new objectives, or actions to implement the objectives, may be added as the year progresses.

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Competition Law Compliance

The JCRA acts as the enforcement authority for the Competition (Jersey) Law 2005. The primary goal of the JCRA in this role is to achieve compliance with competition law through advocacy and enforcement action. Enforcement action includes investigation and punishment of abuses of dominance, anticompetitive arrangements, and anticompetitive mergers or acquisitions.

In this role, the JCRA has ongoing responsibilities upon which it will execute throughout 2010. These are the following:

- Provide formal and informal guidance to businesses regarding their obligations under competition law.
- Investigate suspected abuses by undertakings with a dominant position in trade.
- Investigate suspected anticompetitive arrangements between undertakings.
- Administer applications for exemption.
- Administer applications for approval of mergers and acquisitions to prevent anti-competitive mergers and acquisitions.
- Investigate suspected failures to obtain JCRA approval for mergers and acquisitions when this is required.
- Promote understanding by consumers and businesses of the competition law through presentation and publications.
- Advise on proposed States legislation and review existing States legislation regarding the effects on competition.
- Contribute to the development of competition law and policy in small jurisdictions, through participation in forums such as the International Competition Network.

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Postal Regulation

The JCRA acts as the regulator under the Postal Services (Jersey) Law 2004. The JCRA's primary goal under this Law is, where reasonably practicable, the satisfaction of all current and prospective demands for postal services both within Jersey and between Jersey and the rest of the world. This is to be done, wherever appropriate, by promoting competition for postal services.

After the incorporation of Jersey Post, the JCRA implemented a price control over core postal services, as well as awarded licenses to two other providers of postal services. Looking ahead, major priorities of the JCRA in postal regulation include the possible renewal of this price control and the award of additional postal licences. Increased competition for postal services has the potential to bring greater choice and lower prices to postal users; however, such decisions must be taken in light of the universal service obligation fulfilled by Jersey Post.

Pursuant to this mandate, the JCRA's specific regulatory targets in 2010, and their expected dates of completion, are listed below:

- Issue decisions on the licence applications of Citipost D.S.A. Ltd and Hub Europe Limited (1st Quarter) Deleted: Final decision
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- Consider and consult on Jersey Post's size-based pricing proposals (1st Quarter) Formatted: Indent: Left: 0 cm
- Consider implementation of Postal Users Council (1st Quarter)
- Update efficiency review of Jersey Post (1st to 2nd Quarter)
- Direct Jersey Post under Condition 23 of its postal licence concerning the production of regulated accounts (2nd Quarter) Formatted: Superscript
- Produce first annual statistical review of Jersey postal and logistics markets (3rd Quarter)
- Review Jersey Posts price control (2nd to 4th Quarter) Deleted: 3rd &
- Issue decision on the renewal of Hi-Speed Freight Services Limited Interim Licence (3rd to 4th Quarter) Deleted: Update efficiency review
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In addition to these specific goals, the JCRA has several ongoing responsibilities in its role of postal regulator, which it will monitor and, when necessary, enforce throughout the year:

- Consider changes to the scope of the Jersey Post's universal service obligation in light of the rapidly changing postal business.

- Consider any applications for new postal licences, pursuant to the criteria set out in the Postal Law.
- Consider any applications for the modification or revocation of existing licences, pursuant to the criteria set out in the Postal Law.
- Investigate practices that may infringe the Postal Law, licences issued under the Postal Law, or the Competition Law with respect to the provision of postal services, and take appropriate remedial action.
- Monitor Jersey Post's quality of service pursuant to the JCRA Direction.

Telecommunications Regulation

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The JCRA acts as the regulator under the Telecommunications (Jersey) Law 2002. The JCRA's primary goal under this Law is, where reasonably practicable, the satisfaction of all current and prospective demands for telecommunication services both within Jersey and between Jersey and the rest of the world. This is to be done by, wherever appropriate, by promoting competition for telecommunication services.

After the implementation of mobile number portability and increase in competition and consumer choice that has resulted from it, the JCRA's attention has turned to the provision of fixed-line telecommunication services, including broadband. To this end, many of our priorities in 2010 arise from the recent review of Jersey Telecom, and are intended to ensure fair and non-discriminatory access to JT's network. This should, in turn, facilitate greater choice and competition for broadband and other fixed-line telecommunication services, to the benefit of users in Jersey.

Pursuant to this mandate, the JCRA's specific regulatory targets in 2010, and their expected dates of completion, are listed below:

- Issue decision on the potential publication of Jersey Telecom separated accounts and amend the relevant requirements in Jersey Telecom's telecommunications licence, as appropriate (1st Quarter)
- Issue decision on telecommunications market power analysis (1st Quarter)
- Formation of a inter-operator working group concerning the implementation of new fixed-line wholesale access products and NGN implementation (1st Quarter)
- Publish statistics on Jersey's telecommunications markets (1st Quarter)
- Assist the EDD in implementation of the amendments to the Telecommunications (Jersey) Law 2002 (1st – 2nd Quarter)

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- Ensure implementation by JT of Regulaid cost accounting recommendations for 2009 Separated Accounts (1st – 2nd Quarter)
- Work with Jersey Telecom to ensure appropriate separation of wholesale and retail functions, as identified in the Regulaid Report (1st – 3rd Quarter)
- Implement wholesale RIO price controls on Jersey Telecom (3rd – 4th Quarter)
- Consider price controls on other wholesale products, including ADSL, leased lines (4th Quarter)

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In addition to these specific goals, the JCRA has several ongoing responsibilities in its role of telecommunications regulator, which it will monitor and, when necessary, enforce throughout the year:

- Consider any applications for new telecommunication licences, pursuant to the criteria set out in the Telecommunications Law.
- Consider any applications for the modification or revocation of existing licences, pursuant to the criteria set out in the Telecommunications Law.
- Investigate practices that may infringe the Telecommunications Law, licences issued under the Telecommunications Law, or the Competition Law with respect to the provision of telecommunication services, and take appropriate remedial action.
- Ensure appropriate interconnection between operators.
- Maintain and update the Jersey Mast Locator Website.

Other Responsibilities and Implementation of our Core Values

In addition to our specific regulatory and law enforcement responsibilities detailed above, the JCRA has other responsibilities. The primary one of these is to provide advice, when requested, to the Minister for Economic Development (“Minister”) on matters relating to markets, competition, monopolies, utilities, or matters connected with the provision of goods or services, under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001. Traditionally, the JCRA also has provided advice to States Departments, States Members and Scrutiny Panels on matters related to markets and competition.

Pursuant to this role, during the 1st Quarter of 2010 the JCRA will deliver its advice to Minister on the motor trade sector in Jersey, pursuant to the terms of reference received in September 2009.

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Additionally, in this role the JCRA has ongoing responsibilities upon which it will execute throughout 2010. These are the following:

- If and when requested, provide advice to the Minister under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001.
- If and when requested, provide advice to other States Departments, States Members, and Scrutiny Panels.

The JCRA strives to implement its core values of fairness, accountability, proportionality, and efficiency across all areas of activity (competition law enforcement, postal regulation, and telecommunications regulation). Pursuant to this, throughout 2010 the JCRA will strive to:

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- Further increase efficiency in all areas of activity.
- Further reduce compliance burdens in a manner that does not compromise on the core goals of the laws the JCRA is responsible for administering and enforcing.
- Further increase transparency in a manner that protects commercial and personal confidentiality. To this end, in 2010 the JCRA will consider establishing and publishing case management timelines, based on international best practice.

Finally, in October 2009 the JCRA announced the formation of a Pan-Channel Islands Regulatory Working Group, in cooperation with Jersey's Economic Development Department, the Commerce & Employment Department of Guernsey, and Guernsey's Office of Utility Regulation. A goal of this group is to explore the options for establishing a joint approach to Pan-Channel Islands regulation and competition law enforcement. An additional goal in 2010 will be to continue the work of this forum to further regulatory cooperation between Jersey and Guernsey, to the benefit of consumers and businesses in both Bailiwicks.

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