

JERSEY COMPETITION REGULATORY AUTHORITY

INITIAL NOTICE OF THE PROPOSED GRANT OF A CLASS I POSTAL OPERATOR'S LICENCE TO HUB EUROPE LIMITED

Under Article 24 of the Postal Services (Jersey) Law 2004

The Jersey Competition Regulatory Authority ("JCRA") in exercise of its powers under Article 15 of the Postal Services (Jersey) Law 2004 ("the Law") proposes to grant to Hub Europe Limited ("Hub Europe") a Class I Postal Operator's Licence. The Licence would permit the conveyance of Large Letters and Packets, subject to a Minimum Volume Requirement, but not the conveyance of Letters.

The Law requires the JCRA to perform its functions in a manner consistent with the duties set forth in Article 8(1) and 8(2). The JCRA's consideration of these duties is detailed below.

Consideration of Hub Europe's application in the light of the JCRA's duties under the Law

I. Considerations under Article 8(1) of the Law

1. The JCRA has a primary duty under Article 8(1)(a) of the Law to perform its functions in such manner as is best calculated to ensure that (so far as in its view is reasonably practicable) postal services are provided, both within Jersey and between Jersey and the rest of the world, as satisfy all current and prospective demands for them, wherever arising. In considering whether postal services satisfy demands under Article 8(1)(a), under Article 8(3) the JCRA must have regard, *inter alia*, to whether the services are rapid, of high quality and reliable, and are affordable by and accessible to the highest number of business and domestic users.
2. The evidence suggests that there is demand, both current and prospective, for the postal services which would be subject to the proposed Licence. Specifically, eight of the main fulfilment companies in Jersey were interviewed about the desirability of having other providers of postal services to satisfy their requirements. All eight were supportive of the introduction of further competition which should lead to a reduction of prices, an improvement in quality of service (such as rapidity of delivery) and the choice of services on offer.
3. The scope of Article 8(1)(a) also requires the JCRA to consider the effect, if any, that the grant of a Licence to Hub Europe may have on existing Licensees to satisfy demands for postal services. In the current context this principally concerns the effect upon Jersey Post Limited's (JPL) ability to provide the USO in Jersey.

4. JPL's Licence requires it to defray the cost of the USO from profits generated by its Licensed Services and allows it to cross-subsidise the USO from other parts of the business¹. JPL currently uses revenues derived from services it provides to fulfilment companies to help offset the cost of providing the USO. Thus any loss of business on its services to fulfilment companies could have a detrimental effect on its ability to fund the USO.
5. The JCRA has recently carried out significant work with its professional advisers on the cost of providing the USO and has carefully considered the impact of additional competition on JPL's ability to provide the USO.
6. For the following reasons, the JCRA does not consider that the grant of a Licence to Hub Europe result in JPL no longer being able to provide the USO. In no particular order, these reasons are:
 - Jersey Post International Limited has sufficient cash reserves which could be used in part to fund the USO if JPL were to lose a substantial amount of business to Hub Europe;
 - That JPL has scope for efficiency savings which could be used to contribute to the cost of the USO;
 - The proposed Licence expressly limits the format of the items that Hub Europe will be permitted to convey, and the customers in Jersey will be able to provide their services to, namely:
 - a) the proposed Licence is expressly limited to the conveyance of Large Letters and Packets only, and not the conveyance of Letter Format mail; and
 - b) the proposed Licence has a Minimum Volume Requirement, which means that under the proposed Licence, Hub Europe can only convey mailings of 50 or more items for Large Letters, and/or mailings of 25 or more items for Packets.
 - The JCRA still retains a discretion to introduce a USO funding mechanism should JPL be able to show that the provision of the USO represents an unfair burden on JPL².
7. In terms of the matters set out in Article 8(3), Hub Europe has told the JCRA that it will offer injection of items into European Networks providing quicker delivery times into Europe than currently offered by Jersey Post. It also states that it will offer a variety of logistical solutions ensuring that customers will have a choice of services including a choice of "final mile" delivery. Reliability will be enhanced by the ability to track every item sent through Hub Europe's system. In addition, Hub Europe proposes cost savings and better "cut-off" times than those currently offered by JPL. The JCRA has no grounds to doubt any of these statements.

¹ See Conditions 12.2 and 24.1.

² See Condition 12.2 of JPL's Licence and Condition 19 of the proposed Hub [Europe](#) licence.

8. The JCRA therefore believes that the proposed grant of the Licence to Hub Europe is consistent with its duty under Article 8(1)(a) of the Law.

II. Considerations under Article 8(2) of the Law

9. Article 8(2) of the Law specifies additional duties to which the JCRA must have regard, although only in so far as is consistent with its primary duties under Article 8(1). The JCRA's consideration of these Article 8(2) duties is set forth below.

A. Article 8(2)(a)

10. The JCRA has a duty under Article 8(2)(a) to perform its functions in such manner as it considers best calculated to protect and further the short and long term interests of users within Jersey of postal services and to perform them, wherever it considers appropriate, by promoting competition among persons engaged in commercial activities connected with postal services in Jersey.
11. The benefits of competition in terms of the benefits which it brings to users in the way of lower prices, greater choice and innovative products and services are well known. In the postal sector, the recent Hooper Report³ looked at policies which may be needed to ensure the continued provision of the universal service. As regards competition, the Report concluded that competition between postal operators can support the universal service by encouraging cost reductions by the universal service provider, and therefore greater efficiency. Furthermore, such competition should encourage innovation in the products and services offered which can create further revenue streams which may be used to support the universal service (see, in particular, page 95 of the Report).
12. The Hooper Report did, however, recognise that whilst competition is beneficial to consumers it does also entail some risks, such as a reduction in the revenue stream available to support the universal service. It also stated that some forms of competition can be inefficient if they take advantage of constraints which might be placed upon the universal service provider. On balance, however, the Report concluded that these risks were manageable.
13. As noted at paragraphs 4 to 6 above, the JCRA has considered the potential risks to JPL's provision of the USO but for the reasons set out in paragraph 6 does not consider that the grant of the proposed Licence to Hub Europe would prevent JPL from continuing to satisfy the USO. For those reasons the JCRA

³ Hooper (2008) "*Modernise or decline: Policies to maintain the universal postal service in the United Kingdom*". This can be accessed at: <http://www.ber.gov.uk/files/file49389.pdf>. In addition to this report the JCRA has had regard to other reports to help inform its thinking. These include: WIK-Consult (2009) "*The role of Regulators in a more competitive postal market*" available at http://ec.europa.eu/internal_market/post/doc/studies/2009-wik_regulators.pdf; WIK-Consult and ITA Consulting (2009) "*Evolution of the European postal market since 1997*" available at http://ec.europa.eu/internal_market/post/doc/studies/2009-wik-evolution_en.pdf.

believes the grant of the Licence is consistent with its duty under Article 8(2)(a).

B. Article 8(2)(b)

14. The JCRA has a duty under Article 8(2)(b) to perform its functions in such manner as it considers best calculated to promote efficiency, economy and effectiveness in commercial activities connected with postal service in Jersey. It is widely recognised that the introduction of competition serves to increase productive, dynamic and allocative efficiencies. Currently JPL is the only provider of the services in Jersey intended to be offered by Hub Europe. The grant of the proposed Licence would therefore facilitate the promotion of competition for postal services and thereby advance the Article 8(2)(b) objectives.

C. Article 8(2)(c)

15. The JCRA has a duty under Article 8(2)(c) to perform its functions in such manner as it considers is best calculated to further Jersey's economic interests. The JCRA still holds the views it expressed in the consultation of the proposed grant of a Licence to Citipost DSA Limited⁴ that increasing competition in postal services to fulfilment companies in Jersey could potentially enable them to cut their costs and become more competitive against fulfilment companies located in other jurisdictions. Further, by opening up new entry routes into Europe which promise faster delivery times to European destinations than is currently possible⁵, the services Hub Europe plans to introduce could further benefit Jersey. The grant of the Licence would therefore be in the economic interests of Jersey.

D. Article 8(2)(d)

16. The JCRA has a duty under Article 8(2)(d) to perform its functions as it is best calculated to impose a minimum of restrictions on persons engaged in commercial activities connected with postal services in Jersey.
17. The proposed Licence does have restrictions on the format of items and the customers (in terms of quantities of items) that Hub Europe may deal with. The JCRA has included these restrictions in the proposed Licence to limit its application to fulfilment companies in Jersey. The JCRA would review these restrictions in 2013, in light of market developments.

⁴ Consultation on Citipost DSA Ltd's application for a Class I postal operator's Licence, published 8th April 2009, available on the JCRA website.

⁵ Hub say they can offer a J+4/5 day service to Europe compared to J+5/6 days for JPL.

E. Article 8(2)(e)

18. The JCRA has a duty under Article 8(2)(e) to have regard to the need to ensure that postal providers have sufficient financial and other resources to conduct those activities.
19. The JCRA has been provided sufficient evidence to satisfy itself that Hub Europe has sufficient financial and other resources to conduct the activities to be covered by the Licence.
20. Similarly, for the reasons given in paragraph 6 above, the JCRA does not believe that the grant of the Licence will result in JPL having insufficient financial and other resources to satisfy its current USO obligations.

F. Article 8(2)(f)

21. Article 8(2)(f) requires the JCRA to have regard to any special needs of persons who are disabled, have limited financial resources or other special needs. The JCRA believes that the grant of the Licence will be neutral in terms of its effect on the categories of persons identified in Article 8(2)(f).

III. Date when the proposed Licence will take effect

22. The draft Licence will take effect on 1 May 2010 unless the JCRA receives representations or objections about the proposal prior to that date, in which case the effective date will be specified in any Final Notice issued by the JCRA under Article 24(5) of the Law.
23. A copy of the draft Licence is available for inspection between the hours of 09-00 and 17-00 Monday to Friday at the offices of the JCRA (address set out below). A copy is also available on the JCRA's website, www.jcra.je.

IV. Period for written representations or objections

24. Any written representations or objections in respect of the proposal to grant this Licence may be made by midnight on **30 April 2010** to the JCRA at:

Jersey Competition Regulatory Authority
2nd Floor, Salisbury House,
1-9 Union Street,
St. Helier, Jersey
JE2 3RF

Or by e-mail to p.hamilton@jcra.je or by fax to + 44 (0) 1534 514991

29 March 2010

By order of the Board of the JCRA