

POSTAL SERVICES (JERSEY) LAW 2004

PRICE CONTROL

FINAL NOTICE

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

On 19 November 2010, the Jersey Competition Regulatory Authority ('JCRA') published an Initial Notice under Article 24(1) of the Postal Services (Jersey) Law 2004 (the 'Law'). In this Initial Notice, the JCRA proposed to place a control on Jersey Post that will limit the prices of certain of its products and extend the initial price control that was applied for the period 1 January 2008 – 31 December 2010 for a further year to 31 December 2011. These products were defined in Appendix 1 of the Initial Notice attached to the Determination.

The JCRA proposed a one year price control that caps the overall revenue Jersey Post can earn on the services within the price controlled area, the "allowed revenue". The allowed revenue takes into account changes in the overall price level reflected in the Jersey Retail Price Index ('RPI'). In determining the cap on revenue, the JCRA sought to ensure that the revenues Jersey Post can be expected to earn from the regulated products would be sufficient to finance the efficient direct costs and a fair contribution to the efficient indirect costs (mainly the postal counter network), plus a reasonable profit margin.

The JCRA invited written representations or objections concerning the proposed exercise of this specified regulatory function and requested that they be made to it by 24 December 2010. The JCRA received 1 response to the consultation from the Communications Workers Union ('CWU'). A summary of this representation concerning the proposed decision, and the JCRA's consideration of it, is set out below. The CWU representation is published on the JCRA's website.

Having considered the written representation from the CWU, the JCRA now intends to proceed with the proposed regulatory functions as set out in the Initial Notice. This proposed regulatory function shall come into effect on 18 February 2011.

The remainder of this Final Notice summarises the CWU's representation received by the JCRA, and the JCRA's responses there to, in compliance with Article 24(5) of the Law.

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Representation from the CWU and the JCRA's comments

- The CWU stated that they support the JCRA's general approach of targeting regulation where needed for the protection of consumers and to deregulate where it has introduced competition. However the CWU is concerned about the proposed liberalisation of the mail market and the impact that this will have on the universal service.
- This point is more relevant to the recent Initial Notices that the JCRA has issued with respect to issuing Class 1 postal operator's licences. We do not believe that this point is relevant to the price control.
- The CWU accept that the JCRA will want to maintain a control over Jersey Post's prices for 2011, although it should be subject to review and, where necessary, that products should be removed from the price control as competition develops. The CWU is disappointed that no steps have been taken to exempt packets from the control next year.
- The JCRA agrees that best regulatory practice generally only applies a price control to an incumbent operator's products/services for which it is dominant and which do not face any competition. The JCRA would point out that the application of the price control applies to packets but not to bulk mail packets which is subject to competition and therefore outside of the control.
- The CWU argue that the price control should be based on an 'RPI + Y' formula, as opposed to the current 'RPI - X' measure, with 'Y' representing additional allowed revenue to support the universal service. They also believe that the business is being left in an impossible position with its main shareholder refusing to fund the universal service and the Minister for Economic Development, and the JCRA, proposing that this should be self financing and independent of cross subsidy from other parts of the business.
- Both the JCRA and Jersey Post acknowledge that long term, in the absence of State subsidies which the Minister for Treasury and Resources has ruled out, the USO should be self funding. Additionally we both agree that the USO should not continue to rely on cross subsidies from the fulfilment sector. As a result, JP is already embarking on a path to make the necessary savings and the JCRA is exploring with Jersey Post ways in which to reduce regulatory costs for both organisations, whilst still applying regulatory controls where appropriate. Whilst Jersey Post still is dominant in the provision of basic postal services which do not face competition, the JCRA is of the view that applying a price control using the generally accepted principles of RPI-X formula is an appropriate way to ensure that postal users are protected from higher than necessary prices and additionally, this mechanism provides extra incentive to Jersey Post to reduce its cost base to more efficient levels.
- The CWU point out that the JCRA needs to recognise the need to provide greater freedom to Jersey Post to allow it to generate greater revenue going forward. We have

also called for the JCRA to levy other operators to help safeguard the universal service.

- The JCRA argues that the structural decline in the mail market has been the main driver for Jersey Post to match its revenues to its costs with mail volumes having decreased by some 25% over the past 5 years and Jersey Post forecasts that these are set to continue at a rate of 7% pa over the next 3-5 years. The introduction of competition in the market has so far had a much lesser affect on Jersey Post's revenues. The introduction of a compensation fund would only be considered after the JCRA has determined that JP can reduce its costs no further, after all other possibilities of delivering mail more efficiently have been exhausted and after the JCRA has considered on whether Jersey Post's USO licence requirements should be further relaxed in addition to the current proposals to reduce the number of delivery and collection days from 6 to 5. The JCRA believes that if the USO still represents an unfair burden after all these matters have been fully taken account of, then it will consider at that stage whether or not the introduction of a compensation fund is deemed to be necessary.
- The CWU stated that it is disappointed that the JCRA has failed to recognise the imperative to protect the universal service, but that it is also planning to reduce the USO on deliveries and collections from 6 days per week down to 5 days per week, which they say is having the affect of damaging postal services on the Island.
- This point is not directly relevant to the JCRA's proposal to apply a price control to Jersey Post for 2011. However, notwithstanding this, the need to reduce the USO daily delivery and collections from 6 days pw to 5 days pw has arisen out of the structural decline in the mail market through more and more customers switching to e-substitution and other alternative ways of sending mail. The request for the reduction was made in November 2010 by Jersey Post to the JCRA in order to help reduce its costs to match the volume of mail it now currently handles. This is not a problem which is solely isolated to just Jersey, but is also being witnessed by most postal authorities throughout the world. Currently, in the European Union for example, of the 27 Member States, 21 currently have 5 day per week delivery service. Outside of the EU, both the USA and Guernsey are considering also to reduce their weekly collection and delivery services from 6 days to 5 days. The important point to recognise is that the postal industry as we know it, is rapidly changing and postal authorities need to adapt to the changing market.

Conclusion

- Having considered this matter in light of the representations and objections received from the CWU, the JCRA has decided to proceed with issuing the of the Determination of the 2011 price control to Jersey Post.
- In accordance with Article 24(9)(a) of the Postal Law, this Determination shall take effect from 18 February 2011.

17 January 2011

By Order of the Board of the JCRA