

**PROPOSED DIRECTION TO JERSEY POST LIMITED
CONCERNING THE REQUIREMENT TO PUBLISH 21 DAYS IN
ADVANCE NEW PRICES, DISCOUNTS OR SPECIAL
SERVICES**

INITIAL NOTICE

1. The Jersey Competition Regulatory Authority (“JCRA”) issues this Initial Notice (“IN”) under Article 24 of the Postal Services (Jersey) Law 2004 (“the Law”) concerning a proposed Direction which it intends to make (subject to any views and representations expressed during the consultation period) to Jersey Post Limited (“JP”) regarding the duty of JP to publish 21 days in advance of them coming into force any new prices, discounts or special services for any Licensed Services or any Postal Services provided to fulfil the Universal Service Obligation (‘USO’).

Background

2. In November 2010, the JCRA received a complaint against JP alleging a failure in its duty to publish prices in respect of its Licence Condition 20.2 for the introduction of a trialed unsorted product for Play.com.
3. In JP’s response to the JCRA of 23 December 2010, it stated that after Citipost DSA Ltd (“Citipost”) was awarded a Class 1 licence on 8 October 2010, Citipost offered Play.com special rates in an attempt to win this business from JP. JP said it responded with a counter offer of a number of bundled services and although Play.com had accepted its offer, as at 23 December 2010, contracts had not yet been signed. JP also added that a similar offer to Play.com was later made to the Indigo Lighthouse Group (“ILG”).
4. JP further argued that the sortation service was only a trial and therefore not subject to the requirement to publish under Licence Condition 20.2.
5. JP also stated that the timescale over which negotiations were conducted between Play.com, JP and Citipost did not allow enough time to comply with Licence Condition 20.2.
6. JP argued that Condition 20.2 is no longer appropriate given these USO services (for bulk mail) are, in its view, now competitive and not part of the price control. JP has therefore requested a review by the JCRA of the need for this condition.
7. Condition 20.7 of JP’s licence allows the JCRA the discretion to waiver Condition 20 in whole or in part where the Licensee demonstrates to the satisfaction of the JCRA that it does not have a dominant position in a relevant market.

8. As JP has neither demonstrated nor attempted to demonstrate that it is not dominant in the market for the provision of bulk mail services.
9. At the time of the alleged breach of Licence Condition 20.2, the JCRA had granted licences on 8 November 2010 to Citipost DSA Ltd and Hub Europe Ltd.
10. The JCRA also does not accept that the service offered by JP to Play.com or ILG, represented a 'trial' given that the end result of its negotiations with Play.com culminated in an agreed offer. In any event, even if it was a trial, JP was required to notify under Condition 20.2.
11. This Initial Notice under Article 24 of the Law is a proposal to direct JP to comply with its Licence Condition 20.2.
12. The JCRA intends to publish full non-confidential texts of any representations or objections received in response to this Initial Notice. Respondents to this consultation should therefore clearly identify all confidential information contained in their responses.
13. The proposed Direction to JP regarding its requirement to publish details of new prices, discounts or special services is set out in Annex A to this Initial Notice.

Any objections or representations regarding this Initial Notice must be received no later than midnight on 17 May 2011 and may be supplied either in hard copy or electronically, addressed (as appropriate) to:

Paul Hamilton
Postal Case Officer
Jersey Competition Regulatory Authority
2nd Floor Salisbury House
1 – 9 Union Street
St Helier
Jersey JE2 3RF

E-mail: p.hamilton@jcra.je

14 April 2011

ANNEX A

PROPOSED DIRECTION TO JERSEY POST LIMITED

Under the terms of its Licence issued on 1 July 2006, by Order of the Board pertaining to Jersey Post Limited Class II Licence Condition 20.2.

WHEREAS

The Board of the JCRA has determined the requirements for Jersey Post Limited in the matter of compliance with its Licence Condition 20.2.

THE BOARD OF THE JCRA NOW DIRECTS

that ---

1. JP is in breach of condition 20.2 of its licence for a failure to notify.
2. JP shall publish the full details of its offer to Play.com and Indigo Lighthouse Group and any other offers to other customers immediately on its website.
3. JP shall provide the JCRA with fully cost-justified prices of the bulk mail services offered to Play.com and Indigo Lighthouse Group and any other customers by no later than one month after the serving of the Direction.

Unless the JCRA receives written representations or objections to the Initial Notice, then the Direction will become effective on 18 May 2011. If such written representations or objections are received, then the procedures detailed under Article 24(5) of the Law take effect.

14 APRIL 2011

BY ORDER OF THE BOARD OF THE JCRA