



INFORMATION PAPER
REGULATING POSTAL SERVICES IN JERSEY
AN OVERVIEW

1. Introduction

This information paper introduces some of the issues relating to the forthcoming regulation of postal services in Jersey. The intention of this document is to encourage debate on the various ways forward for the Jersey postal market.

Under Part 3 of the Postal Services (Jersey) Law 2004 ('the Law') the JCRA has a series of duties, including promoting competition in postal services as well as efficiency, economy and effectiveness. The aim of the JCRA, through the Law, is to give postal users better choice and value, whilst encouraging innovation and efficiency amongst postal operators. Under the Law, the duties of both the JCRA and the Economic Development Committee ('EDC') also extend to performing its legal functions so as to protect the interests of postal users in Jersey, further the economic interests of Jersey, impose minimum restrictions for those involved with postal services, and ensure that sufficient financial and other resources are available by those conducting the postal services.

1.1. Background

The Law was approved by the States in March 2004, and received Royal Assent in July 2004. The Law seeks to abolish the exclusive privilege of the States in postal services, make new provisions regarding postal services that concern Jersey and enable the staff, assets and liabilities of the Committee for Postal Administration to be transferred to one or more companies.

The States of Jersey agreed on 28 September 2004 to bring into force on 11 October 2004, inter alia, those Articles of the Law that allow the Authority to issue licences to postal operators and that allow the States, by later regulations, to transfer the staff, assets and liabilities of the Committee for Postal Administration to companies. The effective date by which this is due to take place will be 1 May 2005.

The Telecommunications (Jersey) Law was enacted in 2002, making the JCRA a telecommunications regulator. The Postal Law will give the JCRA similar regulatory and licensing powers over the postal sector. The JCRA's main powers will exist to further the interests of consumers through promoting competition, whilst ensuring that postal services satisfy all current and prospective demands.

2. The JCRA's objectives in liberalisation

The Postal Services (Jersey) Law 2004 establishes a new regulatory framework for Jersey's postal services. Under the Post Office (Jersey) Law 1969, Jersey Post provides postal services under a statutory monopoly. The rationale for the statutory monopoly has been that, in order to ensure the provision of a universal postal service, it has been necessary to provide Jersey Post with a market protected from competition. The new Law provides for the possibility that the universal postal service can continue to be provided in a more open market. In spite of the existence of the statutory monopoly, a number of courier companies have been operating in the island and may wish to apply for Licences. There may, therefore, be a multiplicity of players. The JCRA has to determine the most suitable method for regulating competition in the Jersey postal market and how this might be best achieved.

Jersey is in a position to learn from other countries, notably the UK, where the introduction of competition in network industries has brought about tangible benefits for the consumer.

The structure of the postal services industry across Europe is beginning to change. In the UK for example, Royal Mail has recently proposed the introduction of size-based pricing, which changes the postal pricing structure from one primarily based on the weight of a mail item to one primarily based on size (and to a lesser degree weight) of a mail item. The proposal represents a major change to Royal Mail's pricing structure and if implemented, would affect most postal users to varying degrees. The JCRA will be following the developments closely to gauge their impact on the Jersey postal services market.

2.1 Ensuring the provision of a universal service

Whilst one of the duties of the JCRA will be to ensure that a universal service is provided to all postal addresses in Jersey, this does not automatically equate to protecting any one operator's ability to provide it. The JCRA may however, assess the extent to which a change in the licensed area could have an impact on the provision of a universal service.

2.2 Promoting efficiency, economy and effectiveness in commercial activities connected with postal services in Jersey.

The JCRA will incentivise operators to deliver efficiency improvements. A reserved set of services or activities, insulated from competition, would not encourage efficiency to the same extent as a free market. The new Law provides a reserved area which is licensed. This is not reserved for one sole player and the fact that a reserved licensed area exists, does not mean it is insulated from competition.

The JCRA recognises that in performing its functions under the Law, there is a real tension between competition and efficiency. This tension is particularly relevant as postal is fundamentally, by nature, highly mechanistic and labour intensive. The problem is even more

pronounced in a tight labour market such as Jersey, but introducing more competitors to the market might lead to greater consumer benefits.

2.3 Performing its functions under this Law in such manner as it considers is best calculated to further the economic interests of Jersey

This objective will help ensure that the JCRA's regulatory practice will provide a system that is proportionate to the size of the Island, particularly licensing costs and one that is both objective and transparent. Actual and potential market participants should be in a position to understand the workings of the regulatory system with the minimum of difficulty, whilst fully understanding the limits of acceptable competitive behaviour.

2.4 Following the European Approach to Liberalisation

The approach to liberalisation of postal services in Jersey will be in line with that which is taking place in Europe. In the process of introducing further competition, the European Commission's approach has been to promote a gradual and controlled market opening, whilst maintaining the universal service. In 2002, further competition was introduced into the postal sector in the EU by proposing to liberalise the sector in three steps:

- **Step 1** – January 2003: The reserved area is set at 100g or 3 times basic tariff, combined with full opening of the market for outbound cross-border mail;
- **Step 2** – January 2006: The reserved area will be reduced to 50g or 2.5 times basic tariff; and
- **Step 3** – January 2009: Full liberalisation will take place.

Although Step 1 should now be fully implemented throughout Europe, it is important to note that the French Authorities did not apply the EC Directives as directed by the European Commission. This resulted in the French Authorities being sued. The French Postal Services Law is currently being discussed in Parliament, meaning that France has not implemented Step 2 as it should have.

Outside of mainland Europe, the strategy of the UK postal regulator, Postcomm, has been to introduce competition in three phases. This strategy was based on Postcomm's conclusion that a phased deregulation was the best means of safeguarding the provision of the universal service, and was necessary to help create an efficient Royal Mail at the core of the postal market.

Postcomm has divided the deregulatory process into three phases:

- **Phase 1** (January 2003 to March 2005) established competition in bulk mail (individual mailings above 4,000 items) representing around 30% of the UK letter market by value together with consolidation services, which require other operators to pass mail over to Royal Mail for final delivery and certain specialised business services;

- **Phase II** (1 April 2005 to 31 March 2007) when Postcomm intends to adjust the above restrictions to open a further 30% of the market;
- **Phase III** (April 2007 onwards) when all restrictions on market entry will be abolished.

It should be noted however, that Postcomm are currently proposing an even faster route than listed above to ending Royal Mail's monopoly. On 20 September 2004 Postcomm released a consultation paper detailing their plans to advance their current timetable for full market opening by 15 months to 1 January 2006.

3 Postal Services and the Postal Sector

3.1 Definition of Postal Services

Postal services are a form of delivery or transportation service for carrying goods from one point to another. Whilst there is no clear dividing line between postal services and other delivery services, such as those offered by commercial shippers or freight forwarders, postal services can be distinguished from these other forms of delivery service in the sense that the "core business" of postal services is the delivery of addressed goods for which the nature and volume of goods is such as to support regular, scheduled, dense deliveries in a region. The ability to exploit economies of scale and scope in delivery through regular, scheduled, dense deliveries distinguishes mail services from other delivery services.

The goods that fall most directly within this "core business" include personal letters; postcards; bills; invoices; payments; direct advertising; and written personal communications of various kinds. In most OECD countries the daily volume of these goods is such as to support regular, scheduled delivery rounds throughout most of the country. In addition there are important markets which are closely related to the market for letter mail and are usually included within the wider postal sector. These include:

- **Express mail:** which differs from normal letter mail in that it is mail which is delivered more quickly than the normal scheduled dense deliveries in a region. Because the mail is delivered quickly, the volume is insufficient to support a dense delivery network.
- **Parcel services:** the shipping and handling of packages can be distinguished from the ordinary letter mail because most households do not receive packages on a regular basis and there is insufficient traffic to sustain a regular, dense delivery network.
- **Unaddressed mail services:** such as door-to-door delivery of newspapers or direct advertising mail.

In the UK, most letter mail (four pieces in five) is generated by businesses, whilst individuals account for only 20% of mail generated. On the other hand, individuals are the recipients of 55%

of all mail generated whilst, in the case of parcels, individuals generate only 15% of parcels and are the recipients of over 70%.

Bulk mail is produced by a relatively small number of users. Typically, the largest 100 customers of the incumbent postal operator generate a large proportion of the total volumes and revenues. The largest 10% of all mail customers typically produce well over 80% of all the mail produced, and in some European countries these customers are themselves often important potential entrants into at least some sectors of the business of mail delivery.

The Postal Chain of Production

There are several distinct activities which are typically combined to provide postal services. The figures in brackets¹ represent the approximate composition of letter mail operational costs for postal operations in Europe. It is not known at this stage whether the same compositions apply to the Jersey Market.

- a) **Collection**- the delivery of item from the customer (or from a location near the customer) to the first sorting point (10%);
- b) **Outward sorting** – the initial sorting of the mail items into bundles to be delivered to the subsequent sorting office (18%);
- c) **Transport** – the delivery of mail from the primary sorting office to the final sorting office (2%);
- d) **Inward sorting** – the sorting of mail items for final delivery (5%); and
- e) **Final delivery** – the door-to-door delivery of mail items (65%).

3.3 Reserved Area

An important concept in postal services is that of the reserved area. With the exception of Sweden, Finland and New Zealand, the vast majority of OECD countries grant a legal monopoly to the incumbent operator over certain mail services. These are known as ‘reserved services’. In the EU, Member States may not reserve for the postal incumbent, the delivery of items for a price more than five times the standard tariff for a mail item in the first weight class of the fastest standard category and weighing not more than 350 grams. Under the Postal Services (Jersey) Law 2004, the reserved area has been defined as those postal services reserved for Jersey Post, the delivery of items for a price not exceeding £1.30 and weighing not more than 500 grams.

The size of the proposed reserved area planned for the Jersey Postal market is greater than the similar area reserved in the United Kingdom (350 grams and £1.00) and greater than the maximum

¹ Source: EC [1992] p.281

permitted reserved area in Europe under the latest Postal Services Directive (350 grams before 31 December 2002; 100 grams from 1 January 2003; 50 grams from 1 January 2006 with corresponding figures for postage in UK terms of £1.00; £0.80 and £0.65 respectively).

Under the Law, however, the States has the discretion to vary these limits as deemed appropriate.

3.4 Universal Service Obligations

The aim of the Universal Service Obligation ('USO') is to offer users easy access to the postal network and to ensure satisfactory conditions with regard to the frequency of collection and delivery.

There is widespread acknowledgement that access to a basic postal service is a universal right. This was endorsed by the Universal Postal Union (UPU) in 1999. In contrast to the UK's legislation, the Jersey Law does not specifically define what level of services should comprise the universal postal service.

However, under the Law, the JCRA has a primary duty under Article 8

“to ensure that so far as 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”.

3.5 Nature of the Jersey Postal Services Market

There are approximately 40,000 postal addresses in Jersey. Jersey Post is the incumbent operator employing some 400 staff; of whom approximately 250 work in collection, processing and delivery of mail. The courier market on the Island is well developed with some 21 other enterprises, including small scale bank and legal messenger style services, competing, whilst not head to head, alongside Jersey Post.

It is anticipated that an efficiency study will be conducted as part of the regulatory process. It will be a useful efficiency indicator to assess the number of staff per head of population using benchmarks drawn from elsewhere.

Jersey Post also operates a number of additional services, including Philately, Pro-Mail (Bulk Mailing Service) and Fulfilment Services.

4 The case for regulation

Economic regulation may be justified where persistent market power will not be eroded through competition. An incumbent postal operator may be able to exercise market power persistently when the cost structure of the industry is such that only one firm can survive in equilibrium.

One of the most significant developments in contemporary regulatory thinking has been the

recognition that the presence of a monopoly component in one segment of an industry need not imply an absence of competition in other segments. Instead, in certain circumstances, it will be appropriate to permit competition in related segments through either separation of the monopoly into a distinct firm or through careful regulation of access to the monopoly component of an integrated firm.

Liberalised postal markets are usually divided between two sectors; the unregulated, fully competitive area and the ‘reserved’ or ‘licensed’ area’, under which competition is either regulated or prohibited completely. As discussed in Section 3 of this paper, the reserved area is defined by weight and price thresholds and is a central concept to any discussion of postal liberalisation.

In the case of Jersey’s postal sector, it must be determined whether or not segments of the postal sector exhibit increasing returns to scale. If there are some segments which exhibit increasing returns to scale, the JCRA is of the belief that the pros and cons of the different regulatory approaches for controlling market power need to be carefully considered. On the assumption that barriers to entry are high for a competitor to offer the equivalent services within the reserved area as Jersey Post, the JCRA believes that the most appropriate form of regulation is to regulate access to the services of the monopoly segments in order to stimulate competition in the remainder of the industry.

Economic studies have found mixed evidence of economies of scale in the transportation and sorting of mail, although economies of scale are present in final delivery. These are most pronounced when the mail is deferrable (allowing fewer, higher volume deliveries) and delivery density is high (large number of delivery points per delivery journey), whereas the economies of scale are weakest (and entry is most likely) when the mail is highly time-sensitive (cannot be deferred) and when delivery density is low.

4.1 Europe

It is useful to look towards the European case for regulation to examine the path Jersey may endeavour to follow. In formulating proposals for the liberalisation of the European postal market, the main findings from the European Commission have been that:

- the universal service has not been undermined by the opening of the postal market;
- the incumbent still holds onto the majority share – well over 90% of the market;
- postal markets continue to grow under competitive arrangements;
- rivalry between operators means that customers benefit from more innovative, responsive and efficient services;
- the enforcement of fair access arrangements is critical to ensuring effective competition; and

- a price control regime is necessary to ensure that postal users receive the benefits of opening the market.

4 Conclusion

This document has introduced the key issues which need to be considered in light of the forthcoming liberalisation of the postal market in Jersey. With the background to regulation of the postal sector now having been introduced, the JCRA will issue a series of specific consultation papers regarding a number of important issues.

The JCRA very much welcomes the views of companies currently involved in providing postal services to the island, companies who hope to provide such services in the future, individuals and businesses who have a specific interest in various types of postal services with views on the quality, affordability and availability of services they use, and of course the general public.

The JCRA intend to initially consult on four main areas concerning the provision of Postal Services in the Island. It is hoped that responses will be received from a cross section of the community who have comments and ideas on how the industry may best be regulated. The JCRA Consultation Documents to be issued this year will be:

- Categories of Postal Licences, Licence Fees and Application Procedure
- Universal Service Obligations
- Licence Conditions
- Compensation for late deliveries and undelivered or lost mail

If you wish to receive copies of these documents as they are released please contact Miss Sophie Le Sueur, Assistant Case Officer on 01534 514997 or s.lesueur@jcra.je. The consultation papers will also be available on the JCRA website www.jcra.je.