



JCRA CONSULTATION

Postal Services Licence Conditions

Introduction

Consultation Document

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1. INTRODUCTION

The JCRA is developing new licence conditions in preparation for a liberalised postal sector in accordance with legislation that has been approved by the States and is likely to come into force in May 2005.

The postal market in Jersey is to be opened up to competition and the JCRA may draw up and issue licences to postal operator providers of postal services in Jersey. A key element of the regulatory framework is therefore the licensing regime that will apply to Jersey Post (“JP”), the present incumbent public postal operator, and any new entrants to the market who operate within the licensed area of 500grams and £1.30.

This consultation is concerned with the licence conditions that will apply in the postal sector.

This document does not constitute legal, technical or commercial advice; the JCRA is not bound by this document and may amend it from time to time. This document is without prejudice to the legal position or the rights and duties of the JCRA to regulate the market generally.

2. STRUCTURE OF THE PAPER

This paper is structured as follows:

- section 3 details the consultation procedure and timetable;
- section 4 provides an overview of the proposed licences conditions to a Class II Licensee - Public Postal Services Operator;
- section 5 provides more detail on certain specific conditions on which comments are invited;
- Appendix 1 sets out the draft postal licence conditions to a Class 1 Licensee – Postal Operator’s Licence

- Appendix 2 sets out the draft postal licence conditions to a Class 2 Licensee – Public Postal Operator’s Licence
- Appendix 3 provides a table explaining the purpose of each of the conditions

Respondents are requested to comment on the proposed conditions as set out in Appendix 1 and Appendix 2.

Respondents are also requested to respond to the questions set out in sections 4 and 5, in relation to the completeness of the conditions, their appropriateness and whether they achieve the stated objectives.

3. CONSULTATION PROCEDURE AND TIMETABLE

The consultation period will run from **Wednesday 1 December 2004 until Tuesday 4th January 2005**. Written comments should be submitted before **5.00pm on Tuesday 4th January 2005 to:**

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Jersey Competition Regulatory Authority
6th Floor
Union House
Union Street
St. Helier
Jersey
JE2 3RF

E-mail: p.hamilton@jcra.je

All comments should be clearly marked “Comments on Draft Postal Services Licence Conditions Consultation Document”.

All comments are welcome, but it would make the task of analysing responses easier if comments reference the relevant question numbers from this document. The JCRA intends to make responses to the consultation available for inspection. Any material that is confidential should be put in a separate Annex and clearly marked so that it can be kept confidential.

Respondents should note that JCRA consultations are subject to strict time limits. Comments can be received by the JCRA within the specified consultation period. However the JCRA will not consider any documents received after the final date and time for submission notified in each consultation document. Respondents should note that the JCRA will not be responsible for any delays incurred either by the post or electronic delivery systems and thus should respond in a timely fashion.

4. PROPOSED LICENCES - STRUCTURE

The first thing an Applicant will have to do is to decide whether a Licence is required. Licences will be required from all legal entities who wish to operate at or below the limits of **500 grams and £1.30 (“the Licensed Area”)**. A licence issued to an individual may not be used for the benefit of any company of which the individual is a director. Such a company must have its own licence.

The JCRA has proposed a licensing structure with two classes of licence. A Class I licence applies to a Postal Operator who may wish to compete within the licensed area, other than an operator designated as a Public Postal Operator. A Class II licence applies to an operator designated as a **Public Postal Operator**, who has additional licence conditions specifically relating to the provision of the universal service obligations. It is proposed that Jersey Post, as the incumbent, will be designated as a Public Postal Operator.

The appropriate application form will then have to be completed. This will be available on the JCRA website during the course of this consultation. (This document will not be part of the consultation process).

In preparing the draft licence conditions, the JCRA has taken account of its duties under Article 8 of the Postal Services (Jersey) Law 2004. Where on the one hand, one of its primary duties is to ensure that as far as reasonably practicable, postal services are provided both within Jersey and between Jersey and the rest of the world, the JCRA also has a number of secondary duties, one of which is to promote competition in the postal services market, where this is best calculated to further the short-term and long-term interests of users within Jersey of postal services.

In addition, in preparing the draft licence conditions, the JCRA has assumed the market structure where there is one incumbent Public Postal Operator (Jersey Post), and one or more smaller operators.. In this structure it is important to balance the regulatory obligations that Jersey Post will need to comply with in order to ensure the universal service obligations are satisfied whilst also having regard to the need for Jersey Post itself to be able to operate in a commercial manner. At the same time, there is a need to recognise the changing nature of the postal sector generally and ensure that the licences contain sufficient flexibility to cope with those changes.

It is the JCRA’s view that this approach will provide the flexibility to ensure that the needs of the Jersey market can be met by tailoring the regulatory regime to meet the demands of a small island economy.

The table below summarises the conditions contained in the draft licence. Section 5 contains more detail on key conditions.

Condition	Comment
1	Sets out the definitions and interpretations which in turn define the scope of the licence.
2 – 11	Set out the scope, the licence fee, the characteristics of the licence and the provisions relating to enforcement and the conditions relating to suspension, revocation, renewal or modification of the licence.
12 – 16	Set out the universal service obligation and those conditions related to postal schemes, consumer protection and service levels required of a Class 2 Public Postal Operator.
17 – 19	General conditions relating to the provision of postal services, and compliance with other obligations and the legal obligations in respect of access to land.
20 – 24	Conditions relating to regulated services, fair competition, cross subsidisation, separation of accounts, undue preference and unfair discrimination.

Q 4.1: Do Respondents consider that this range of conditions covers all relevant matters? If not, what additional conditions should be included and why?

Q 4.2: Do respondents consider that there are any conditions in this draft licence that are unnecessary? If so, which ones and why?

5. SIGNIFICANT CONDITIONS

This section describes in detail some of the more complex conditions that are included in the draft licences, most of which refer to a Class 2 licence.

5.1 Universal Service Obligation/Public Service Conditions

Universal Service (Condition 12)

The purpose of the condition is threefold:

- to impose on the Licensee the requirement to provide the level of universal service, i.e. a minimum level of service at an affordable price and a uniform tariff to all users, within the Bailiwick of Jersey. This is known as the Universal Service Obligation ('USO');
- to provide for the sharing of the cost of the USO should it be shown to be an unfair burden; and
- to provide for the Licensee to contribute to the cost of USO, whether or not it has a USO itself.

Postal Schemes (Condition 13)

This condition allows the Public Postal Operator to make postal schemes specifying any of the changes, and other conditions that are to apply to postal services provided by the Licensee.

Protecting the Integrity of the Mail (Condition 14)

This deals with the written procedure in relation to the protection of the mail, theft, loss, damage or interference.

Development of Postal Facilities or Services (Condition 15)

The Licensee shall develop and operate the Postal Facilities so as to progressively achieve standards in line with international best practice during the Term.

Many of the people of Jersey rely entirely on the incumbent operator for the provision of their postal services and, notwithstanding the proposed liberalisation and the introduction of competition into the market, this is likely to continue to be the case for some time. Therefore the regulatory regime must seek to ensure that the operation and maintenance of the network and services of the incumbent Public Postal Operator in the market continues at a sufficiently high level to meet the reasonable needs of the users of the service. This condition seeks to ensure that the JCRA receives sufficient information to meet this requirement and monitor the company's network and service development.

Q 5.1.1: Do Respondents consider that these conditions meet the objective of universal service obligation? If not why, and what changes would you suggest to meet the objectives?

Q 5.1.2: Do Respondents consider these conditions are appropriate and help to safeguard the interests of the postal users in Jersey within a commercial, but not fully competitive, market? If not, please give your reasons and suggest alternatives.

Consumer Protection (Condition 16)

The JCRA will endeavour to ensure that postal users in Jersey are provided with a high quality service within Jersey and the rest of the world, and it will also have due regard to promoting competition in the postal market place where this will benefit the consumer.

Therefore it is essential that all licensees, including Jersey Post are aware of their requirements to provide high quality service to their customers. In addition, rectifying service in the event of disruption and dealing with complaints from users in a speedy and efficient manner will also be of importance. The JCRA considers that a system should be in place to enable users to address such issues directly to their chosen service provider or operator. Therefore the requirement in this condition for the publication of a consumer code setting out the manner and means

in which such issues can be brought to the attention of an operator, addressed and reported on, is seen as being a key ingredient in achieving this aim.

Q 5.1.3: Do Respondents consider this approach balances the needs of consumers and the duties of Licensees appropriately? If not please suggest alternative ways of achieving consumer confidence and high quality services?

6. CONCLUSION

In conclusion, Respondents are requested to comment on the matters set out in sections 4 and 5 of this paper. It would assist in the consideration of responses if the question numbers in the above sections were quoted in any replies.

Respondents are also requested to comment appropriateness of the conditions in Appendix 1 and 2 and on the intent and objective of those conditions, as set out in Appendix 3. Comments on any additional conditions, which respondents believe should be included, are also welcome.
