



# Jersey Competition Regulatory Authority

Annual Report 2007



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# Foreword

## This is the seventh Annual Report of the Jersey Competition Regulatory Authority (JCRA).

The JCRA is an independent body, established in May 2001 by the States of Jersey, with the primary mission to promote consumer welfare through competition and measures that encourage lower prices and greater choice and innovation in the goods and services available in Jersey. The work of the JCRA is thus expected to contribute to Jersey's long term economic growth and competitiveness.

This report is made by the JCRA. It is presented to the Economic Development Minister pursuant to Article 18 of the Competition Regulatory Authority (Jersey) Law 2001. The accounts of the JCRA with respect to the financial year ending 31 December 2007 are included in this report, fulfilling the requirement of Article 17 of the same Law. This report also fulfils the requirements of Article 59 of the Telecommunications (Jersey) Law 2002 and Article 13 of the Postal Services (Jersey) Law 2004, which require the JCRA to publish an Annual Report in respect of each financial year surveying relevant developments and reviewing competition in, and restrictions on, the supply of telecommunications and postal services in Jersey.

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# Chairman's Statement



This has been an extremely demanding year for the JCRA, not only in the well publicised area of telecoms, but also in establishing the regulatory setting for our new responsibilities with respect to Jersey Post.

In addition, we have had much to do in our second year as a mergers and competition authority and have been requested to advise the Economic Development Department on a number of issues.

Pursuant to our duty to promote competition in the telecoms field, licences were granted to Cable & Wireless and Airtel to operate in the mobile telephone market. However, the Authority concluded that its objectives would not be achieved in the absence of mobile number portability (MNP) – which enables subscribers to change providers while keeping the same telephone number. Unfortunately, the negotiations to implement MNP broke down and led to Jersey Telecom filing an appeal in the Royal Court. The JCRA vigorously defended the case for MNP in Jersey, and at the conclusion of 2007 Jersey Telecom and the JCRA agreed to adjourn the appeal for the purpose of exploring whether MNP could be introduced on a cooperative basis across the Channel Islands. This adjournment subsequently led to an agreement by the three mobile operators to implement MNP across the Channel Islands by 1 December 2008 using a common solution.

I am glad to say that good progress has also been made on postal regulation. Following detailed and demanding negotiations, we were able to conclude a mutually satisfactory price scheme with Jersey Post covering core postal services. This will keep price changes well below the rate of inflation for the next three years, when the matter will be looked at again.

We have had a variety of challenges to face as a competition authority. Many potential problems have

been ironed out because of the willingness of firms to raise with us their concerns about the impact of the law on their activities and to come in, if necessary, and talk to us about them. By contrast, this year has also seen the first use of our power to impose financial penalties. We have had, in addition to a regular diet of merger applications, to wrestle with new and complex cartel and vertical distribution issues.

The Economic Development Department continues to ask us for advice, as it has the power to do. We drafted a report suggesting that the States consider the merits of structural separation before selling Jersey Telecom. In an entirely different field of economic activity, we are currently preparing a submission on the future of Jersey's retail strategy in the context of a possible new supermarket entrant.

In October, our Chief Executive, Bill Brown left us to go back to Hong Kong. He has been a tower of strength during his three years in office assumed, you may recall, in extremely difficult circumstances. That the changeover to a new Chief Executive has evolved effortlessly is due to the skills of his admirable successor, Chuck Webb, previously our Legal Adviser.

A handwritten signature in black ink that reads "Christopher Kingsland". The signature is written in a cursive, flowing style.

**The Rt. Hon. the Lord Kingsland, QC**  
Chairman

# Executive Director's Statement

2007 was a significant year for the JCRA, one typified by challenges, opportunity, and change.

The JCRA faced a number of challenges in 2007, under each of its three core areas of competence: as the enforcer of Jersey's Competition Law and as the regulator of Jersey's telecommunications and postal sectors. Under the Competition Law, for example, we faced numerous issues for the first time in Jersey, such as our first exemption application covering a distribution agreement, the first direct evidence of a potential price fixing agreement in Jersey, and the first use of our power to impose financial penalties. As detailed in this Annual Report, the JCRA successfully dealt with these and other challenges under the Competition Law during the course of 2007.

The challenges the JCRA faced in its role as the regulator of telecommunications in Jersey under the Telecommunications (Jersey) Law 2002 also were significant. A key goal in this area is to facilitate the introduction of new competition on a level playing field with the incumbent operator, Jersey Telecom (JT). Success in this regard was achieved in June 2007 with the commencement of the new mobile service offered by Jersey Airtel (a subsidiary of the Bharti Group) under the Airtel-Vodafone brand. True competition on a level playing field in mobile telecommunications still will not be achieved, however, without the introduction of mobile number portability (MNP) – enabling a subscriber to change providers but retain the same number. After JT unilaterally withdrew in late 2006 from initial efforts to introduce MNP in Jersey, in 2007 we amended the three mobile operators' licences to require the introduction of MNP. JT appealed this amendment in

the Royal Court, which the JCRA has defended vigorously. At the conclusion of 2007 JT and the JCRA agreed to adjourn the appeal for the purpose of exploring whether MNP could be introduced on a cooperative basis across the Channel Islands. Under the joint auspices of the JCRA and Guernsey's Office of Utility Regulation, JT and the other mobile operators subsequently agreed to implement MNP across the Channel Islands using a common solution by 1 December 2008.

Significant challenges also were faced in the postal sector, in the JCRA's role as regulator under the Postal Services (Jersey) Law 2004. This Law ushered in a new framework for the provision of postal services in Jersey, one that is centred on satisfying reasonable demands for postal services, and doing so where appropriate by promoting competition among providers of postal services. To this end, in 2007 the JCRA worked closely with Jersey Post on the establishment of price controls covering core postal services, which include local letters and letters sent from Jersey to destinations in Guernsey, the UK, and abroad. Once implemented in early 2008, it will keep price changes for the services included well below Jersey's rate of inflation over the next three years.

In addition to challenges, 2007 also was a year of opportunity for the JCRA – opportunity to make positive contributions to some of the most important issues currently facing Jersey. One such matter concerned the potential sale of JT, where the JCRA submitted advice to the Economic Development Minister advocating that the States consider the



possibility of structural separation. Another matter concerned the future of Jersey's retail strategy and the potential for new entry by a large supermarket competitor. In late 2007, we agreed to provide advice on this important issue to the Economic Development Minister by early 2008. In addition, throughout 2007 the JCRA provided advice to numerous States Members, States Departments, and Scrutiny Panels on a wide array of important issues.

Finally, 2007 was a year of change. Bill Brown, the JCRA's Executive Director since 2004, departed in October to return to Hong Kong. I assumed the role of Executive Director upon Bill's departure, having already served as the JCRA's Legal Adviser since 2005. Bill's able leadership throughout most of 2007 made the JCRA's accomplishments discussed in the Annual Report possible, and the organization currently stands well prepared to face the challenges, opportunities, and changes that may arise in 2008 and beyond.

This Annual Report provides greater detail on the matters summarised in this statement. For even more detailed information on the JCRA and its activities, please visit our website, [www.jcra.je](http://www.jcra.je).

**Charles Webb**  
Executive Director

# About the JCRA

## What is the JCRA?

The JCRA was set up by the States of Jersey in 2001 as an independent body, accountable to the Economic Development Committee (whose functions have now been transferred to the Economic Development Minister) with expertise in promoting competition and consumer interests through economic regulation and competition law.

## Why Competition?

The JCRA aims to facilitate competition to benefit consumers and the Jersey economy. Encouraging competition will help to improve overall economic welfare and growth in Jersey, and contribute to the quality of life of Jersey's citizens.

## Our Functions

### Competition

The JCRA is responsible for administering and enforcing the Competition (Jersey) Law 2005, which came fully into force on 1 May 2006. The aim of this Law is to prevent consumers being harmed by anti-competitive or exploitative behaviour in the market, such as price-fixing or abuse of market power.

### Advisory

We can be called on to advise the Economic Development Minister on matters of economic regulation and competition. For example, in 2007 we advised the Economic Development Minister on competition and regulatory issues concerning the shipping and ports sectors, and the proposed privatisation of Jersey Telecom. We also agreed to provide advice in early 2008 on the scope for possible future entry into Jersey's retail sector.

### Economic Regulation

In common with many jurisdictions in the European Union and further afield, the States of Jersey has decided to structure certain businesses previously carried on by the States as separate companies, albeit wholly-owned by the States. In Jersey's case this decision was taken in respect of the telecommunications and postal businesses, now run by Jersey Telecom Limited and Jersey Post Limited. The States also decided to withdraw, upon

incorporation, the statutory monopolies which Jersey Telecom and Jersey Post had previously enjoyed, to allow for the possibility of competition in these sectors. The JCRA was given the task upon incorporation of ensuring that these organisations continue to satisfy all current and prospective demands for services, while promoting competition where appropriate. This is achieved primarily through the conditions of the licences granted to Jersey Telecom and Jersey Post, which the JCRA has a statutory responsibility to enforce.

### Who we are

The JCRA is managed by a Board consisting of a Non-Executive Chairman, Executive Director, and three Non-Executive Directors. Its staff complement comprises three case officers, one junior case officer, a legal adviser, an economic adviser, a finance & operations manager, and a personal assistant.

# Board Members

## 1 The Rt. Hon. the Lord Kingsland, QC Chairman

The Rt. Hon. the Lord Kingsland, QC, was appointed Chairman of the JCRA in July 2004 and was re-appointed in July 2007. He was Shadow Lord Chancellor from 1997 to 2007, a Recorder and a Deputy High Court Judge from 1997 to 2007 and is a practising barrister, with an extensive knowledge of competition law. In addition, he is Chairman of the Board of Trustees of the Plymouth Marine Laboratory. He was appointed Queen's Counsel in 1988, a Knight Bachelor in 1990, and Privy Counsellor in 1994, the same year that he received his peerage.

## 2 Charles Webb Executive Director

Charles Webb was appointed as the JCRA's Executive Director in October 2007, having previously served as the Authority's in-house Legal Adviser since May 2005. Before joining the JCRA, Charles had spent the previous seven years as an attorney in private practice specialising in competition law and other complex regulatory matters. Charles is an internationally published author and speaker on competition law issues, both in general and specifically concerning the application of competition law and policy in small market economies.

## 3 Christopher Bright Non-Executive Director

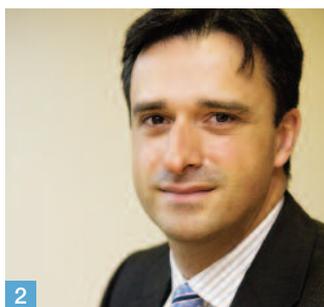
Chris Bright was appointed a Non-Executive Director of the JCRA in August 2004 and was re-appointed in August 2007. He is a solicitor in private practice, specialising in competition and regulation, as well as an accredited mediator. He is a member of the UK Competition Commission, a member of the Disciplinary Tribunal of the Accountancy Investigation and Discipline Board in the UK, and a Visiting Fellow at the Institute of European and Comparative Law, University of Oxford.

## 4 Robert Foster Non-Executive Director

Robert Foster was appointed a Non-Executive Director of the JCRA in August 2004 and was re-appointed in August 2007. He is a Commissioner of the National Lottery Commission, and Chair of the project Board overseeing the introduction of the next operator licence. He is also a Non-Executive Director, and Vice-Chair, of King's College Hospital NHS Trust in London, and a member of the Advisory Council of a venture capital company, Oxford Capital Partners. He was Chief Executive of the UK Competition Commission from 2000 to 2004. He is a Chartered Engineer and was previously an engineering manager in the electronics and telecommunications industries, then a senior civil servant in the Cabinet Office and Department of Trade and Industry responsible for innovation policy.

## 5 Richard Povey Non-Executive Director

Richard Povey was appointed a Non-Executive Director of the JCRA in May 2005. He has extensive industrial experience, particularly in the petrochemical, mechanical and electrical engineering, and telecommunications sectors. He held a number of senior management positions in Swire Pacific Ltd in Hong Kong and Taiwan between 1979 and 1996. Since 1996, he has held non-executive positions for various fund management and industrial companies. He is currently a Non-Executive Director of Opsec Security Group plc and Henderson Far East Income Ltd.



# Our Values

We believe it is important for any organisation to have a set of values to guide its work. The JCRA is no exception. Such values help enable the businesses, consumers and others we deal with to know what to expect of us, and our Board and staff to act in a consistent and fair manner. Our values encompass:

## Fairness

The JCRA has to be fair and objective. We are committed to ensuring that Jersey consumers and businesses understand our processes and how the JCRA goes about its business. We intend to listen to all relevant views of consumers, businesses, and all parties who wish to be heard.

## Accountability

We are accountable to Jersey citizens through their political representatives, namely the Economic Development Minister and his colleagues, and through the legal framework. The Minister can issue directions and guidance to the JCRA in telecoms and postal matters. We have a Service Level Agreement with the Minister, regulating the grant funding for the administration of the Competition (Jersey) Law 2005.

## Proportionality

Our actions will be proportionate to the problems we seek to remedy.

## Efficiency

Our resources will be tightly managed and we will aim for maximum efficiency in our operations.

# Our Performance in 2007

In 2007, we had five main aims. The first four relate to our statutory responsibilities: enforcing the Competition (Jersey) Law 2005, advising the government on matters of competition and economic regulation, implementing telecommunications policy, and implementing postal services policy. The fifth relates to our core values, referred to in the previous section.

## Aim 1

**To ensure compliance by businesses with the Competition (Jersey) Law 2005.**

The JCRA has continued in its role as the enforcement authority under the Competition (Jersey) Law 2005 (the Law), which came into full force on 1 May 2006.

## Objective

Pursue suspected or potential infringements of the Law following complaints, or on own initiative.

## Performance

Continuing prior efforts to eliminate recommended or fixed fees in trade associations in Jersey and thereby ensuring that customers can shop between competitors based on price, in 2007 members of the Jersey Driving Instructors' Association agreed to abolish their recommended hourly charges for driving lessons, in response to the JCRA's intervention. Furthermore, in response to JCRA intervention the Jersey Estate Agents' Association confirmed to its members that its previous practice of recommending fees that its members should charge for services has been abolished.

Late in 2007, JCRA intervention prevented a proposed price fixing agreement from going forward. Specifically, a company in Jersey provided the JCRA with evidence that one of its competitors had requested that the two companies fix prices. This evidence was in the form of text messages, which clearly demanded the two companies agree on a common price. The JCRA intervened and the agreement was prevented.



Finally, at the end of 2007 the JCRA levied its first fine for an infringement of the Competition Law, against Autogrill S.p.A., for failing to comply with the Law's requirements concerning mergers and acquisitions.

In all, seven investigations were opened during the year, of which six were completed, and one still active at the year end. Of the six investigations which were active at the start of the year, four were completed during 2007.



#### Objective

Deal with applications for exemption of potentially anti-competitive agreements.

#### Performance

The JCRA granted an exemption for a vertical distribution agreement between Esso Petroleum Company Limited and Roberts Garages Limited. The exemption included conditions that limit the agreement's exclusivity term, in the interests of promoting greater competition.

The JCRA also renewed (subject to conditions) a previous exemption granted to a cooperative among general medical practitioners to provide 'after-hours' medical services.

#### Objective

Deal with requests for guidance on possible anti-competitive arrangements/abuse of dominant position.

#### Performance

One request for statutory guidance was received, which was provided by the JCRA. The details are confidential.

#### Objective

Deal with applications for approval of mergers and acquisitions.

#### Performance

Six applications were received, of which four were approved unconditionally, one approved subject to conditions (Spar/C.I. Newsagents), and one application withdrawn voluntarily at the request of the applicants. In addition, the JCRA approved three applications in early 2007 that had been received in late 2006.

#### Objective

Ensure understanding by businesses of the Law.

#### Performance

We launched a new initiative to build awareness of the Law and, to this end, consulted on a draft guideline on vertical agreements.

# Our Performance in 2007



## Aim 2

**Advising the States on competition and regulatory matters.**

### Objective

Monitor proposed States legislation and review existing States legislation for potential effects on competition and advise relevant Minister.

### Objective

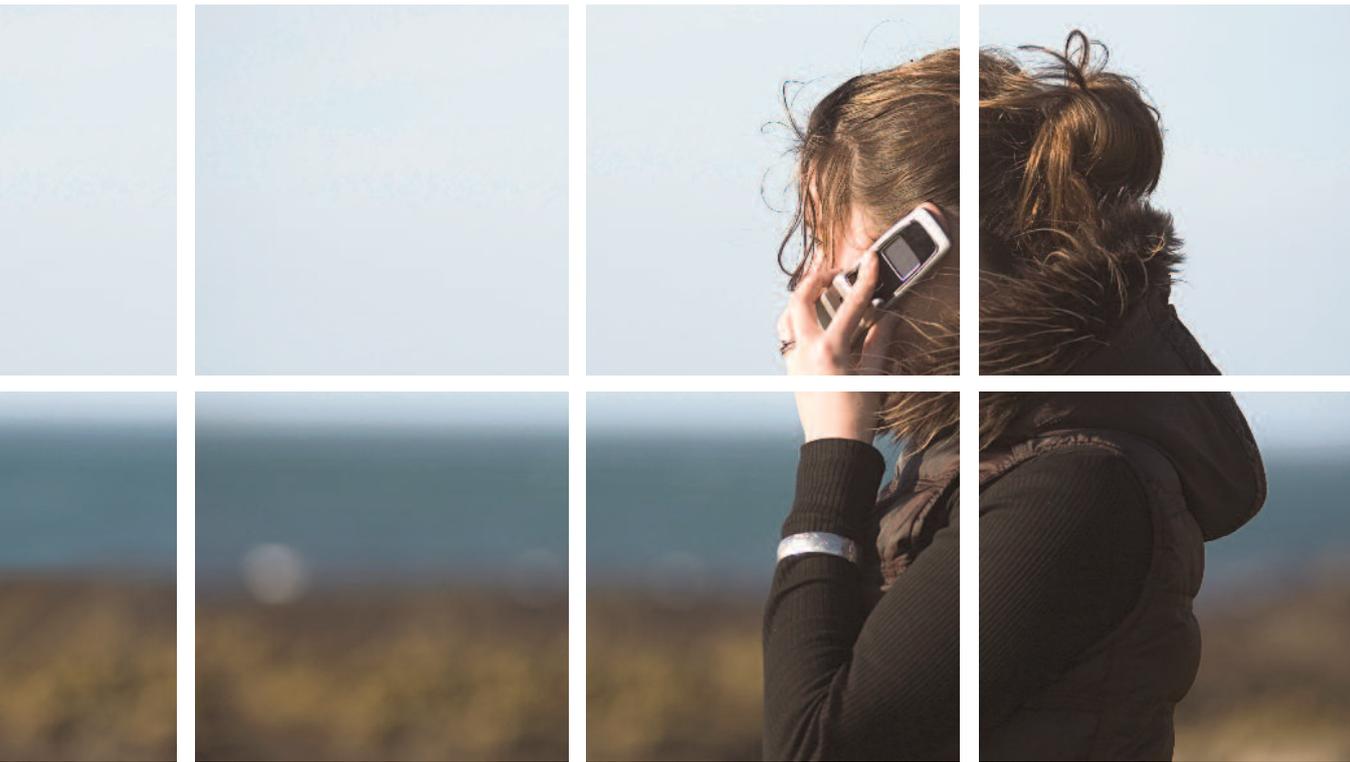
Advising the Economic Development Minister on competition/regulatory matters.

### Performance

On numerous occasions in 2007, we advised the States, States Departments and Scrutiny Panels on proposed legislation and other propositions and initiatives.

### Performance

We provided advice to the Economic Development Minister concerning the proposed sale of JT and on promoting competition in the shipping and ports sectors. At the end of 2007, we agreed to provide advice to the Economic Development Minister in early 2008 on possible future entry into Jersey's retail sector by a large supermarket.



### Aim 3

**To promote the interests of telecommunications users in terms of quality, value for money, and (where possible) choice.**

We continued in 2007 to take active steps to achieve this aim. These efforts resulted, for example, in the introduction of further competition to Jersey Telecom (JT) in the mobile sector.

#### Objective

Facilitate new entry into telecommunications markets in Jersey.

#### Performance

As a result of our efforts with Ofcom (the UK communications regulator) to make the necessary spectrum available, Jersey Airtel (a subsidiary of the Bharti Group) was able to launch its new mobile service in Jersey in June, under the Airtel-Vodafone brand.

In August, we amended the licences of Jersey's three mobile telephony providers to provide mobile number portability (MNP) by February 2008. Subsequently, JT filed an appeal to the amendment to its licence, which the JCRA contested vigorously. During the start of 2008, a cooperative way forward on MNP appeared to have been reached with the three operators.

#### Objective

Investigate practices by operators which restrict competition or otherwise breach their licence obligations, and take effective remedial action.

#### Performance

We issued a final notice and guideline to JT concerning compliance with the price publication requirements in JT's licence.

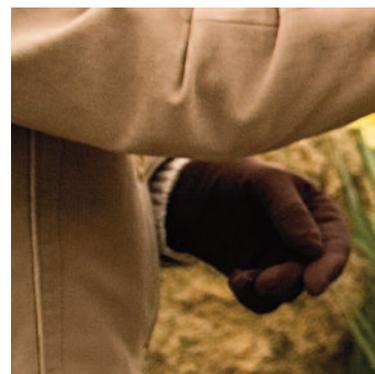
#### Objective

Review appropriateness of price caps on JT's fixed and mobile services.

#### Performance

We extended JT's current price caps and commenced a review of these caps, with a decision expected in 2008.

# Our Performance in 2007



## Aim 4

To promote the interests of postal users in terms of quality, value for money and (where possible) choice.

We continued our role as the regulator of Jersey's postal sector under the Postal Services (Jersey) Law 2004.

## Objective

Protecting postal users from potentially excessive postal charges.

## Performance

We conducted an intensive review of Jersey Post's business and finalised a three year price control on core postal services, which will come into force in early 2008.

## Objective

Assess the scope for introducing competition in postal services, to the extent consistent with the considerations set out in the Postal Law.

## Performance

The JCRA proposed issuing a licence to Regency Holdings Limited, a matter that was still pending at the end of 2007.

In late 2007 we commenced work with Jersey Post on assessing the costs of providing the Universal Service Obligation, which is due to be completed in mid-2008.





#### Aim 5

##### Implementing our core values.

We continued in 2007 to put our core values into practice.

#### Objective

Implement transparency in our operations.

#### Performance

We published a draft guideline on the application of the Competition Law to vertical agreements.

We published a draft of our 2008 Aims and Objectives for consultation.

Where possible, we aim generally to consult publicly before finalising our positions. For example, our Direction on Jersey Post's price controls was issued following an extensive consultation process.

#### Objective

Putting proportionality into practice.

#### Performance

In our dealings with businesses, we strive to resolve compliance issues where possible through discussions rather than formal enforcement action.

# JCRA Financial Statements 2007

Due to the nature of the Authority's work and the Laws upon which it is based, the JCRA may only account for income in order to meet its costs during the year. It must also ensure that it receives enough income during the year in each of the three areas it covers – competition, telecoms regulation and postal regulation – to fund them separately given that cross-subsidisation is not permitted. A working balance is maintained at all times, but for the purposes of the financial statements, deferred income adjustments are made to match income with costs. Further information on the specific balances at the year end is detailed below. These accounting entries therefore gave rise to a surplus of £1 once again in 2007.

2007 was a busy year from an operational point of view, with new office space sought given that the previous lease had neared expiration and the previous premises were no longer suitable. After a lengthy search for well priced accommodation in a suitable location, a new nine year lease was signed in June with a nine month rent free period at the commencement. To time with the move, the outdated IT system was replaced and a disaster recovery solution implemented.

In line with the Service Level Agreement between the JCRA and the Economic Development Department (EDD), grant funding for the Competition Law continued to be received quarterly in advance. There was deferred grant income

carried forward at the year end in the sum of £192,744 (2006: £274,961). This deferred income will, at EDD's option, either be paid back to EDD or carried forward to offset funding in 2008. Income of £56,058 (2006: £60,596) was received in the form of mergers and acquisitions fees. As previously mentioned in this Annual Report, the JCRA's first fine under the Competition Law was issued during the year in relation to the non-filing of an acquisition. Although this is due to be paid to the JCRA, under the Law this must then be paid on to EDD and is therefore not accounted for within the income and expenditure account, as the JCRA is merely acting as a collection agent.

Deferred 2007 telecommunications licence fee income carried forward from 2007 was £85,045 (2006: £80,373). Based on budgeted costs, which includes continuing work on mobile number portability and competition issues, the Class III and Class II licence fees for 2008 have once again been set at 0.75% of regulated turnover, subject to subsequent adjustment in the light of actual costs.

Class II postal licence fees from Jersey Post continued to be received quarterly in advance at an annual rate of £300,000 and at the year end there was deferred postal licence fee income of £85,268 (2006: £3,138). It is intended that part of this deferred income will be repaid to Jersey Post in early 2008.

# Report and Financial Statements

For the year ended 31 December 2007

## Jersey Competition Regulatory Authority (Incorporated in Jersey, Channel Islands)

### Members

The Rt. Hon. the Lord Kingsland, QC  
Chairman

Charles Webb  
Executive Director  
Appointed 19 October 2007

Christopher Bright  
Non-Executive Director

Robert Foster  
Non-Executive Director

Richard Povey  
Non-Executive Director

William Brown  
Executive Director  
Resigned 19 October 2007

### Secretary

Paul O'Toole

### Auditors

RSM Robson Rhodes (Jersey) Limited  
PO Box 179  
40 Esplanade  
St Helier, Jersey JE4 9RJ

### Bankers

HSBC  
PO Box 14  
St Helier, Jersey JE4 8NJ

### Registered Office

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

# Members' Report

The Members of the Authority present their report and financial statements for the year ended 31 December 2007.

## Activities

The principal activities of the Authority during the year were the regulation of the telecommunications and postal industries and the administration and enforcement of the Competition (Jersey) Law 2005.

## Results

There was a surplus for the year of £1 (2006: surplus £1).

## Members

The Members in office when these financial statements were approved are shown on page 17.

## Auditors

The auditors throughout the year were RSM Robson Rhodes (Jersey) Limited.

By order of the Members



**Paul O'Toole**  
Secretary

## Statement of Members' responsibilities in respect of the financial statements

The Competition Regulatory Authority (Jersey) Law 2001 requires the Members to prepare financial statements which shall be in accordance with generally accepted accounting principles and show a true and fair view of the surplus or deficit of the Authority for the year and of the state of the Authority's affairs at the end of the year.

In preparing financial statements the Members should:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Authority will continue in business;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements.

The Members are responsible for keeping accounting records which are sufficient to show and explain the Authority's transactions and are such as to disclose with reasonable accuracy, at any time, the financial position of the Authority and to enable them to ensure that the financial statements comply with the Law. They are also responsible for safeguarding the assets of the Authority and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Members confirm that these financial statements comply with these requirements.

# Independent Auditors' Report

We have audited the Authority's financial statements for the year ended 31 December 2007, on pages 20 to 25. These financial statements have been prepared on the basis of the accounting policies set out therein.

This report is made solely to the Authority's Members, as a body in accordance with Article 17 of the Competition Regulatory Authority (Jersey) Law 2001. Our audit work has been undertaken so that we might state to the Authority's Members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's Members as a body, for our audit work, for this report, or for the opinions we have formed.

## Respective responsibilities of Members and auditors

As described in the Statement of Members' Responsibilities, the Authority's Members are responsible for the preparation of the financial statements in accordance with applicable Jersey law.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements, which have been prepared in accordance with United Kingdom accounting standards, give a true and fair view. We also report to you if, in our opinion, the Authority has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

We read other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. The other information comprises the Chairman's Statement, the Executive Director's Statement and the commentary on the annual financial statements. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements. Our responsibilities do not extend to any other information.

## Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the Members in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Authority's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

## Opinion

In our opinion the financial statements give a true and fair view of the state of affairs of the Authority as at 31 December 2007 and of its surplus for the year then ended.

RSM Robson Rhodes (Jersey) Limited  
Jersey, Channel Islands  
27 February 2008

## Balance Sheet

As at 31 December 2007

	Notes	2007 £	2006 £
<b>Fixed Assets</b>			
Tangible fixed assets	3	103,389	33,171
<b>Current Assets</b>			
Debtors and prepayments	4	50,154	67,682
Cash at bank		509,900	522,534
		<u>560,054</u>	<u>590,216</u>
<b>Current Liabilities</b>			
Creditors: amounts falling due within one year	5	537,997	497,942
Net Current Assets		<u>22,057</u>	<u>92,274</u>
<b>Total Assets Less Current Liabilities</b>		<u><b>125,446</b></u>	<u><b>125,445</b></u>
<b>Retained Surplus</b>	6	<u><b>125,446</b></u>	<u><b>125,445</b></u>



For and on behalf of the Members: Charles Webb  
27 February 2008

## Income and Expenditure Account

For the year ended 31 December 2007

Notes

	2007 £	2006 £
<b>Income</b>		
Licence fees	717,343	564,565
Economic Development Department grant	407,216	411,694
Bank interest	19,078	13,806
Mergers and acquisitions fees	56,058	60,596
Application fees	500	101,500
Sundry income	1,003	4,360
	<b>1,201,198</b>	<b>1,156,521</b>
<b>Expenditure</b>		
Salaries and staff costs	781,005	685,961
Consultancy fees	44,175	286,580
Operating lease rentals	63,338	41,359
Travel and entertainment	9,028	14,721
Conference and course fees	23,316	9,589
Depreciation	20,741	22,476
Administration expenses	22,174	16,320
Legal and professional fees	123,344	605
General expenses	35,844	21,361
Audit and accounting fee	15,963	24,985
Advertising and publicity	5,305	4,745
Repairs and maintenance	25,360	11,160
Heat, light and water	3,085	2,187
Recruitment	25,953	13,594
Loss on disposal of fixed assets	591	95
Internet web page design	1,975	782
	<b>1,201,197</b>	<b>1,156,520</b>
<b>Surplus for the year</b>	<b>6</b>	<b>1</b>

### Recognised gains and losses

There are no recognised gains and losses other than the surpluses of the Authority of £1 in the years ended 31 December 2007 and 31 December 2006.

## Cash Flow Statement

For the year ended 31 December 2007

	Notes	2007 £	2006 £
<b>Net cash inflow from operating activities</b>	8	<u>59,838</u>	<u>44,023</u>
<b>Returns on investment and servicing of finance</b>			
Interest received		19,078	13,806
<b>Capital expenditure and financial investment</b>			
Payments to acquire tangible fixed assets		(91,550)	(24,273)
Proceeds from sale of fixed assets		-	245
Management of liquid resources		<u>(100,000)</u>	<u>(350,000)</u>
<b>Decrease in cash</b>		<u><b>(112,634)</b></u>	<u><b>(316,199)</b></u>

## Reconciliation of net cash flow to movement in net funds

For the year ended 31 December 2007

	2007 £	2006 £
Decrease in cash in year	(112,634)	(316,199)
Cash used to increase liquid resources	<u>100,000</u>	<u>350,000</u>
Change in net funds	(12,634)	33,801
Net funds at 1 January	<u>522,534</u>	<u>488,733</u>
<b>Net funds at 31 December</b>	<u><b>509,900</b></u>	<u><b>522,534</b></u>

## Analysis of net funds

	1 Jan 2007	Cash flows	31 Dec 2007
Cash at bank	172,534	(112,634)	59,900
Current asset investments	350,000	100,000	450,000
<b>Total</b>	<u><b>522,534</b></u>	<u><b>(12,634)</b></u>	<u><b>509,900</b></u>

The notes on pages 23 to 25 form an integral part of these financial statements.

## Notes

### 1. Incorporation

The Authority was incorporated in Jersey on 1 May 2001 as a body corporate under the terms of the Competition Regulatory Authority (Jersey) Law 2001.

### 2. Accounting policies

#### Accounting principles

The financial statements are prepared under the historical cost convention and in accordance with accounting principles generally accepted in the Island of Jersey, incorporating United Kingdom accounting standards.

#### Interest receivable

Interest on bank deposits is accrued on a daily basis.

#### Fixed assets

All fixed assets are initially recorded at cost.

#### Depreciation

Depreciation is provided on all tangible fixed assets, at rates calculated to write off the cost over their estimated useful lives in equal instalments. The depreciation rates used are as follows:

Leasehold improvements	– remaining lease term
Computer equipment	– 33% per annum
Fixtures and fittings	– 10% per annum
Other equipment	– 20% per annum

#### Leasing commitments

Rentals payable under operating leases are charged in the income and expenditure account on a straight line basis over the lease term.

#### Pensions

The Authority provides a defined contribution pension scheme. Contributions are charged in the income and expenditure account as they become payable in accordance with the rules of the scheme.

#### Grants

Grants and income received from the Economic Development Minister are recognised on receipt of the funds. Any unused funds at the financial year end are either deferred or repaid to the Minister. Deferred grant income as at 31 December 2007 amounted to £192,744 (2006: £274,961).

#### Telecoms licence fees to Class II and Class III Operators

Licence fees are set on the basis of cost recovery under Article 17 of the Telecommunications (Jersey) Law 2002. The Authority's costs are determined on an annual basis and these are recovered by applying a percentage to the licensed revenues of the Operators on the basis of relevant pro-rata turnover, or if appropriate an annual fee.

The percentage for 2007 was 0.75% (2006: 0.75%).

The Operators are invoiced quarterly in advance and fee income is recognised when invoiced.

Should fee income exceed costs the balance is treated as deferred revenue. Deferred licence fee income as at 31 December 2007 amounted to £85,045 (2006: £80,373).

#### Postal licence fees to Class II Operators

Licence fees are set on the basis of cost recovery under Article 18 of the Postal Services (Jersey) Law 2004. The Authority's costs are determined on an annual basis and these are recovered by applying a percentage to the licensed revenues of the Operators on the basis of relevant pro-rata turnover, or if appropriate an annual fee.

The fee for 2007 was set at £300,000 (2006: £150,000).

The Operators are invoiced quarterly in advance and fee income is recognised when invoiced.

Should fee income exceed costs, the balance is treated as deferred revenue. Deferred licence fee income as at 31 December 2007 amounted to £85,268 (2006: £3,138).

## Notes

### 3. Tangible fixed assets

	Leasehold improvements £	Computer equipment £	Fixtures and fittings £	Other equipment £	Total assets £
<b>Cost</b>					
At 1 January 2007	3,985	65,573	16,795	14,462	100,815
Additions	33,841	54,954	2,755	-	91,550
Disposals	-	(33,730)	-	(6,640)	(40,370)
<b>At 31 December 2007</b>	<b>37,826</b>	<b>86,797</b>	<b>19,550</b>	<b>7,822</b>	<b>151,995</b>
<b>Depreciation</b>					
At 1 January 2007	1,672	44,957	7,007	14,008	67,644
Charge in the year	3,709	14,998	1,813	221	20,741
Disposals	-	(33,140)	-	(6,639)	(39,779)
<b>At 31 December 2007</b>	<b>5,381</b>	<b>26,815</b>	<b>8,820</b>	<b>7,590</b>	<b>48,606</b>
<b>Net book value</b>					
At 1 January 2007	2,313	20,616	9,788	454	33,171
<b>At 31 December 2007</b>	<b>32,445</b>	<b>59,982</b>	<b>10,730</b>	<b>232</b>	<b>103,389</b>

### 4. Debtors and prepayments

	2007 £	2006 £
Prepayments	25,723	29,310
Trade debtors	18,957	36,640
Sundry debtors	5,474	1,732
	<b>50,154</b>	<b>67,682</b>

### 5. Creditors: amounts falling due within one year

	2007 £	2006 £
Accruals	67,003	94,108
Deferred grant income	192,744	274,961
Deferred licence fee income	176,812	83,511
Other deferred income	1,250	12,358
Trade creditors	90,574	23,047
Social security	9,614	9,957
	<b>537,997</b>	<b>497,942</b>

### 6. Movement on retained surplus

	Income and Expenditure Account £
At 1 January 2007	125,445
Surplus for the year	1
<b>At 31 December 2007</b>	<b>125,446</b>

### 7. Taxation

Article 16 of the Competition Regulatory Authority (Jersey) Law 2001 provides that the income of the Authority shall not be liable to income tax under the Income Tax (Jersey) Law 1961.

## Notes

### 8. Note to the cash flow statement

Reconciliation of surplus for the year to net cash inflow from operating activities:

	2007	2006
	£	£
Operating surplus	1	1
Depreciation	20,741	22,476
Interest on current asset investments	(19,078)	(13,806)
Loss on disposal of fixed assets	591	95
Decrease/(increase) in debtors	17,528	(41,351)
Increase in creditors	40,055	76,608
<b>Net cash inflow from operating activities</b>	<b>59,838</b>	<b>44,023</b>

### 9. Related parties

#### The transacting parties are:

- The Economic Development Minister
- Jersey Competition Regulatory Authority (JCRA)

#### Relationship

The JCRA acts independently of the States, but is accountable to the Economic Development Minister in respect of its funding for the Competition Law which is also covered by a Service Level Agreement. The Minister acts as a conduit for requests from other Ministers who may require the JCRA to carry out projects. The JCRA reports formally to the Minister on an annual basis.

#### Transactions

In 2007 the Economic Development Minister provided funds to the JCRA in order that work on the Competition Law could be carried out.

#### Amounts involved

- £274,961 brought forward as deferred grant income, as agreed from 2006 (of which £170,000 was refunded to EDD during the year).
- £480,000 received during the year under the Competition (Jersey) Law 2005 grant.
- £15,000 received in respect of advice given to the Minister on competition matters.

#### Amounts due to the Economic Development Department at the balance sheet date

	2007	2006
	£	£
Deferred grant income (included in creditors)	192,744	274,961

### 10. Financial commitments

At 31 December 2007 the Authority had annual commitments under non-cancellable operating leases as set out below:

	2007	2006
	£	£
Operating leases which expire:		
Not later than one year	6,745	-
In more than one year but less than five years	-	34,545
Later than five years	42,108	-
	<u>48,853</u>	<u>34,545</u>

The Authority entered into a new nine year lease from 21 June 2007 which included an initial nine month rent free period.

### 11. Pension commitments

The Authority provides a defined contribution pension scheme for its Executive Director and employees. The assets of the scheme are held separately from those of the Authority in an independently administered fund. Contributions of £104,895 (2006: £74,276) were charged in the year and there were no unpaid contributions at the year end.

# Corporate Governance Guidelines

## 1. The Jersey Competition Regulatory Authority (JCRA) and the Economic Development Minister (the Minister)

1.1 The JCRA (The Authority) is an autonomous body and entirely independent in its decision taking from the States of Jersey. But under powers of the Competition Regulatory Authority (Jersey) Law 2001 (the CRA Law), Article 10(1) the Economic Development Minister, “may give to the Authority written guidance, or general written directions, on matters relating to corporate governance, that is relating to the systems and arrangements by and under which the Authority is directed and controlled”. The following are the Corporate Governance Guidelines as agreed between the Economic Development Minister and the Authority.

## 2. What is Corporate Governance?

2.1 “Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance.”  
- OECD April 1999.

## 3. Constitution of the Authority

3.1 The Authority is a statutory body corporate established under Article 2 of the CRA Law. The governing body is a Board of Members which directs regulatory, licensing, financial and operational and strategic policies of the Authority.

## 4. Functions of the Authority

4.1 The functions of the Authority are set out in Article 6 of the CRA Law which states:-

- 1) “The Authority shall have such functions as are conferred on it by or under this or any other Law or any other enactment.
- 2) The Authority may recognise or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods and services to which the Authority’s functions relate.

3) The functions of those bodies shall include one or more of the following –

- (i) the provision to the Authority of advice, information and proposals in relation to any one or more of those matters;
  - (ii) the representation of the views of any one or more of those persons.
- 4) The Authority may, on request by the Minister, provide the Minister with reports, advice, assistance and information in relation to any matter referred to in paragraph (2).
- 5) The Authority shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.”

## 5. Constitution of the Board

5.1 Article 3 of the CRA Law requires the Board to consist of a Chairman and at least two other members.

5.2 Currently the Members of the Board comprise of a Non-Executive Chairman, an Executive Director, and three Non-Executive Members. Two of the Members live in Jersey and three in the United Kingdom.

5.3 The appointment of Board Members is undertaken by the Minister. Vacancies which arise on the Board are filled through the use of an open and transparent process. The Minister follows the procedures recommended by the Jersey Appointments Commission – a body set up by the States of Jersey to overview all public sector appointments. A vacancy is usually advertised and once a suitable candidate is identified, a recommendation is made to the Minister. Under the provisions of the CRA Law, the appointment of the Chairman is a matter reserved for decision by the States of Jersey on the recommendation of the Minister. The other Board Members are appointed by the Minister after it has consulted with the Chairman. The Minister shall notify the States of the appointments.

5.4 Under the provisions of the CRA Law, Members are appointed for terms not exceeding five years and upon expiry of such period are eligible for reappointment.

## 6. Operations of the Board

- 6.1 The Board sets strategic policy and the implementation of these policies is undertaken by the Executive.
- 6.2 The Board usually meets at least monthly or bi-monthly and will hold additional meetings when circumstances require it. In advance of each meeting, Members are provided with comprehensive briefing papers on the items under consideration. The Board is supported by the Board Secretary who attends and minutes all meetings of the Board.
- 6.3 The quorate number of Members to hold a Board meeting is 3, two of which must be Non-Executives with one acting as Chairman.
- 6.4 Article 9 of the CRA Law empowers the Board to delegate any of its powers to the Chairman, one or more of its Members, an officer or employee of the Authority or a committee whose member or members are drawn only from the Members, officers and employees of the Authority. However, the Board is not authorised to delegate this power of delegation or the function of reviewing any of its decisions.
- 6.5 The Board holds an annual away day. This event, which may also be attended by senior staff, is an opportunity for the Board to conduct an evaluation of its performance during the year and discuss strategic issues for the year ahead and possible changes to the *modus operandi*.
- 6.6 The Board maintains an annual budget and publishes its aims and objectives for the following year. In the last quarter of each year, the Executive Director prepares a draft aims and objectives document and budget incorporating amongst other things any strategic issues raised by the Board at its annual away day. The budget is considered by the Board by December of each year.
- 6.7 The Board monitors the performance of the Authority against the aims and objectives document through reports at its regular Board meetings. Performance against budget is monitored by the presentation of quarterly management accounts to the Board and ad-hoc financial presentations as and when appropriate.

6.8 The Authority has agreed with the Economic Development Department a policy on travel.

6.9 The Executive Director makes recommendations to the Minister in respect of fees paid to the Non-Executive Board members.

## 7. Committees of the Board

- 7.1 Article 7(1) of the CRA Law enables the Authority to establish committees.
- 7.2 The Board established two committees; an Audit Committee and a Remuneration Committee. The members of these committees are appointed from within.
- 7.3 The key duties of the Audit Committee are –
- To review annually the Authority's application of corporate governance best practice, including the appointment of internal auditors, and setting the scope and reviewing the output of their work;
  - To review the mechanisms for ensuring the effectiveness of the Authority's internal controls;
  - To consider certain matters relating to the external audit of the Authority's annual financial statements (including reviewing those financial statements prior to their consideration by the Board).
- 7.4 Whilst the Audit Committee's terms of reference include the consideration of the annual appointment of the external auditor, the actual appointment of the auditor is a matter reserved to the Finance and Economics Minister under Article 17 of the CRA Law.
- 7.5 The members of the Audit Committee are Robert Foster (Chairman), Richard Povey and Christopher Bright. The Executive Director is expected to attend the meetings of the Audit Committee in an advisory capacity.
- 7.6 The key duties of the Remuneration Committee are –
- To consider the remuneration of the Executive Board Member and advise the Minister;
  - To agree the budgetary level of the annual pay review for staff based upon market remuneration analysis;
  - To consider and agree any variations to the structure of the remuneration package that may be proposed from time to time.

# Corporate Governance Guidelines

7.7 The members of the Remuneration Committee are Christopher Bright (Chairman), Richard Povey and Robert Foster.

## 8. Openness, Integrity and Accountability

8.1 The Authority abides by the principles of openness, integrity and accountability – and those standards which are widely recognised as being applicable to public service, and to the conduct of all involved in public life.

8.2 In the discharge of its duties, the Authority will ensure:

- That subject to the appropriate level of confidentiality, it maintains an openness in its public affairs, in order that the public can have confidence in the decision-making processes and actions of public service bodies, in the management of the Authority's activities, and in the Board Members and staff of the Authority itself;
- That it maintains at all times an appropriate degree of integrity in the conduct of its affairs. Integrity comprises both straightforward dealing and completeness. The Authority bases its integrity upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of its funds and management of its affairs;
- That it is fully accountable in the application of the public funds and that these are properly safeguarded, and are used economically, efficiently and effectively.

8.3 The three fundamental principles, defined above in terms of public sector bodies, have been refined to include the findings and recommendations of the Nolan Committee on Standards in Public Life. The Authority will make its best efforts to abide by Nolan's seven general principles that underpin public life as follows:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

## 9. Audit & Accounts

9.1 While the Authority is an independent body, it is accountable for its overall performance to the States of Jersey through the Minister.

9.2 Article 17 of the CRA Law requires that the Authority shall keep proper accounts and proper records in the accounts and prepare a report and accounts in respect of each financial year and provide these to the Minister no later than four months after the year end. The Minister shall lay a copy of the accounts provided before the States as soon as practicable after he receives the report.

9.3 It is also a requirement of the CRA Law that the accounts are audited by auditors appointed by the Finance and Economics Minister and be prepared in accordance with generally accepted accounting principles.

## 10. Other Matters

10.1 Under powers granted by Article 10 of the CRA Law, the Minister may, after first consulting with the Authority and where it considers that it is necessary in the public interest to do so, give to the Authority written guidance, or general written directions, on matters relating to corporate governance which may include matters relating to accountability, efficiency and economy of operation of the Authority.

10.2 The Board has a Service Level Agreement with the Minister in respect of the Competition Law grant made from the States of Jersey.



