

# JERSEY COMPETITION REGULATORY AUTHORITY

## ANNUAL REPORT 2004





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# FOREWORD

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This is the fourth 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 purpose of promoting greater competition in the Island for the benefit of businesses and consumers. Jersey is committed to encouraging competitiveness and improving services; the JCRA is dedicated to the economic prosperity of Jersey and intent upon securing and maintaining its competitive advantage.

This report is made by the JCRA. It is presented to the Economic Development Committee, 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 2004 are included in this report, fulfilling the requirement of Article 17 of the same Law. This report also fulfils the demands of Article 59 of the Telecommunications (Jersey) Law 2002, which requires 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 services in Jersey.

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# CHAIRMAN'S STATEMENT



In July last year a new management team was appointed to oversee the running of the Jersey Competition Regulatory Authority. I was honoured to be invited to fill the post of Chairman and am most fortunate to have such an able and talented team with which to work. Christopher Bright and Robert Foster, the two Non-Executive Directors, bring a wealth of experience to the Board, while Bill Brown, who took up his duties as Executive Director in October, has already proved himself to be an invaluable asset in implementing the JCRA's objectives and ensuring its smooth operation. Leslie Bowbrick's experience as a Director since 2002 has proved to be extremely helpful to the new Board Members.

A crucial ingredient in the successful operation of the JCRA has been, and will continue to be, its effective working relationship with the States Economic Development Committee. Although we exercise our regulatory function independently of the EDC, we owe a duty to the States, and through the States to the population of Jersey as a whole, to conduct our operations in a prudent and responsible manner. To that end, we have put in place Corporate Governance Guidelines and a Service Level Agreement, and we report regularly to the EDC.

So far, the JCRA has been functioning as the regulator of the telecommunications industry. We are now making preparations to play a similar role in relation to postal services. Moreover, in May, we will begin to exercise our responsibilities as a competition authority for all remaining sectors of the Jersey economy. The more competitive the economy, the better the quality and value of the goods and services it produces and, consequently, the greater the benefit to the consumer.

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

**The Right Hon Lord Kingsland, QC**  
Chairman

# EXECUTIVE DIRECTOR'S STATEMENT



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Having joined the JCRA in October, this is the first JCRA Annual Report in which I have had an opportunity to comment, and I am pleased to say it has been a year of significant progress.

In our role as economic regulator of the telecommunications industry, we worked with Jersey Telecom to ensure access to its network by other operators such as Cable & Wireless and Newtel. The object of this exercise is to bring competition into fixed line services, thereby giving Jersey consumers and businesses greater choice and potentially lower prices. We also ensured that JT allows its customers access to competing providers of international call services. I am pleased to note that, since such access was introduced in December, there have been further price reductions in international calls.

Similarly, in the mobile sector, we worked with Ofcom, the UK communications regulator, to see whether additional radio spectrum could be made available to bring the benefits of competition to Jersey mobile users. This exercise revealed sufficient spectrum availability for two mobile operators (in addition to JT). One of our priorities in 2005 will be to facilitate new entry and competition in the mobile sector at the earliest opportunity.

In October, the States added postal services to the JCRA's remit as economic regulator, with the adoption of the Postal Services (Jersey) Law. As with Jersey Telecom, the objective is to move Jersey Post into a more commercial environment, and to allow for the possibility of competition for the benefit of postal users, while recognising the specific characteristics of the postal services market.

Finally, a major highlight of the year was the adoption by the States of the Competition (Jersey) Law. The Law will give the JCRA a dual role: in addition to its existing role as economic regulator, it will become a competition authority. Competition law can broadly be described as set of rules on fair competitive behaviour, to encourage competition and ensure that the competitive process works effectively and consumers benefit. This will mean, for example, that price-fixing cartels will be illegal, and that companies with dominant or monopoly positions in the market will be prohibited from abusing their positions to the detriment of competitors and consumers. The Law will apply to all sectors of economic activity in Jersey and it will play a role in ensuring that prices to Jersey consumers and businesses are competitive. The JCRA's role will be to enforce the law, and we will be issuing guidelines and holding briefing sessions to explain the law, so that consumers and businesses are fully prepared when it comes into force.

With our new and existing responsibilities, 2005 will be a challenging year for the JCRA. We are relishing the opportunity this gives us to bring further value to Jersey consumers and businesses.

A handwritten signature in black ink, appearing to read 'William Brown'. The signature is fluid and cursive, written over a white background.

**William Brown**  
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 ('EDC'), 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

### Economic Regulation

In common with many jurisdictions in the European Union and further afield, the States of Jersey has decided, for example, to give its telecommunications and postal organisations, Jersey Telecom and Jersey Post, the freedom to act commercially by incorporating them as companies separate from, but wholly-owned by, the States. The States also decided to withdraw 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 of ensuring that these organisations continue to satisfy all current and prospective demands for services, while promoting competition where possible. The JCRA does this primarily through the conditions of the licences granted to each organisation, which it is the JCRA's responsibility to issue and enforce.

## Competition

As well as its role as regulator of the telecommunications and postal sectors, the JCRA will be responsible for administering and enforcing the new Competition (Jersey) Law, due to come into force in 2005. The aim of the Competition Law is to prevent businesses and consumers being harmed by anti-competitive or exploitative behaviour in the market, such as price-fixing or abuse of market power.

## Advisory

We advise the EDC and other States Committees on matters of economic regulation and competition. For example, in 2004 we were asked to advise the EDC on the adoption of implementing legislation for the forthcoming Competition (Jersey) Law. This Law will also enable the JCRA to advise States Committees on whether any aspect of Jersey legislation sponsored by the relevant Committee is producing anti-competitive effects which are more harmful to consumers than the benefits the legislation is aimed to achieve.

## WHO WE ARE

The JCRA is managed by a Board consisting of a Non-Executive Chairman, Executive Director, Director and two Non-Executive Directors. Its staff complement comprises two case officers, one junior case officer and an administration assistant. The JCRA is in the process of recruiting three additional specialist staff in preparation for its new responsibilities under the forthcoming Competition (Jersey) Law.

# BOARD MEMBERS

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## 1 THE RT. HON. LORD KINGSLAND, QC, CHAIRMAN

The Rt. Hon. Lord Kingsland, QC, was appointed Chairman of the JCRA in July 2004. He has been Shadow Lord Chancellor since 1997 and is also 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 WILLIAM BROWN, EXECUTIVE DIRECTOR

William Brown was appointed Executive Director of the JCRA in October 2004. He has worked in the field of competition law and economic regulation since qualifying as a solicitor in 1984. After 8 years as a partner in a major commercial law firm, he was a Senior Legal Adviser at the Office of Telecommunications and Office of Fair Trading in the UK, and spent 3 years as a General Manager, Regulatory Affairs in the Hong Kong telecommunications sector.

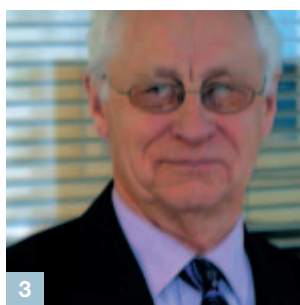
## 3 LESLIE BOWBRICK, DIRECTOR

Leslie Bowbrick was appointed as a part-time Director to the JCRA in May 2002. Leslie is a qualified Certified Accountant. After working at the UK building supplies group, RMC Ltd, he joined the Jersey Electricity Company in 1974 as Financial Controller, and was appointed to the Board as Finance Director in 1996, before retiring from that position in early 2002. In January 2004, Leslie joined the Board of Natwest Leasing (Jersey) Limited as a Non-Executive Director.



## 4 CHRIS BRIGHT, NON EXECUTIVE DIRECTOR

Chris Bright was appointed a Non-Executive Director of the JCRA in August 2004. He is a solicitor in private practice, specialising in competition and regulation, as well as an accredited mediator. He is 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.



## 5 ROBERT FOSTER, NON EXECUTIVE DIRECTOR

Robert Foster was appointed a Non-Executive Director of the JCRA in August 2004. He was Chief Executive of the UK Competition Commission from 2000-2004. Previously he was an engineer in industry, then a senior civil servant in the Department of Trade and Industry responsible for innovation policy. He is also a Non-Executive Director of King's College Hospital NHS Trust in London, and a member of the Advisory Council of a venture capital company, Oxford Capital Partners.





# STAFF MEMBERS



**1 PAUL HAMILTON, BOARD SECRETARY/  
POSTAL CASE OFFICER**

Paul Hamilton has been involved in the establishment and management of the JCRA since its inception in 2001, and has experience of regulatory policy formulation in both telecommunications and postal services. Previously Paul spent 2 years in the States of Jersey Policy & Resources Department and 8 years in the Department of Health. His qualifications include an MBA and BSc, both from the University of Warwick.



**2 GRAEME MARETT, TELECOMMUNICATIONS  
CASE OFFICER**

Graeme Marett has been with the JCRA since 2002 and his main responsibility is telecommunications. He is a professional engineer with over 30 years experience in the telecommunications industry in both the public & private sectors. Previous appointments include GEC Telecommunications, Philips Telecommunicatie BV and AT&T.



**3 HELEN MURPHY, PERSONAL ASSISTANT TO CHAIRMAN  
& EXECUTIVE DIRECTOR**

Helen Murphy has worked in Jersey since 1979 in both the public and private sectors, predominantly in major law firms, financial institutions, education and the Bailiff's Chambers. Her expertise covers secretarial support, administration, personnel and finance. Helen originally undertook a 3-month contract with the JCRA in January 2002 and returned on a permanent basis in January 2003.

# OUR VALUES

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We believe it is important for any organisation to have a set of values to guide its work. 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. The introduction of a new JCRA Board in late 2004 gave us an opportunity to re-assess our core values. 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 members of the Economic Development Committee. The EDC can issue directions and guidance to the JCRA in telecoms and postal matters. We have a Service Level Agreement with the EDC regulating the grant funding for the administration of the forthcoming Competition (Jersey) Law.

## **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.

We have identified certain steps we will be taking to implement these values in 2005. From 2006 onwards we will be publishing an Annual Plan setting out our aims and objectives for the year, and we shall publish a draft of this plan for consultation in October 2005. In this way, consumers, businesses and other stakeholders will have a direct say in what aims and objectives we should seek to achieve. This will serve to ensure that we are accountable to Jersey citizens.

We will be publishing guidance on our investigation procedures, thereby helping to ensure both fairness and transparency. In our enforcement work, we rely greatly on information and complaints from consumers and businesses, and we will be publishing guidance on what information we require to investigate complaints. This not only increases transparency but also makes our processes more efficient and consistent.

# OUR PERFORMANCE IN 2004



In 2004, we had four main aims. The first three relate to our current and future statutory responsibilities: implementing telecommunications policy, implementing postal services policy and preparing for the Competition (Jersey) Law. The fourth relates to our core values, referred to in the previous section.

**AIM 1. To create a competitive environment in the telecommunications sector which enable users to benefit from greater choice and value for money**

Our Objective	Our Performance
Ensure that Jersey Telecom ('JT') allows other operators to interconnect with its network, thereby allowing them to offer local-to-local call services in competition with JT.	We engaged in extensive discussions with JT on its terms and conditions of interconnection, leading to the publication of its Reference Interconnect Offer in early 2005.
Investigate the availability of additional radio spectrum for mobile services, with a view to introducing advanced mobile services and competition for mobile users in Jersey.	We completed a radio spectrum audit with Ofcom (the UK communications regulator) which revealed the availability of spectrum for an additional two mobile operators in Jersey. This will enable us in 2005 to promote the introduction of advanced services and competition in the mobile sector.
Investigate practices by operators which restrict competition and take effective remedial action.	We engaged in discussions with JT which resulted in JT allowing its customers access to competing international call services, thereby giving them greater choice, and potentially lower prices. We are investigating a number of other competition cases, which are expected to be completed in early 2005.
Ensure that JT publishes separated accounts for each of its businesses, to help us monitor JT's profit levels, and ensure that other operators are able to compete on a level playing field.	We made significant progress towards determining the basis on which JT should compile separated accounts, which should enable JT to put the necessary systems in place in 2005.
Impose regulatory restraints on JT's pricing of fixed line services until effective competition takes root, to protect consumers and incentivise JT to maximize its efficiency.	After consultation, we issued a Direction to JT capping its overall fixed line retail prices at Jersey retail (consumer) price index less 2%. (This followed our imposition of a price freeze on JT in 2003).

# OUR PERFORMANCE IN 2004 (CONTINUED)



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## AIM 2. To prepare for the transfer of Jersey Post to a Commercial Environment

As with Jersey Telecom a few years ago, the States decided that it would be more efficient to transfer the business of Jersey Post to a separate company (with the States as ultimate shareholder), rather than being run (as currently) by a States Committee. At the same time (again like Jersey Telecom) its statutory monopoly in the provision of postal services would be removed, thereby creating the possibility of competition. To safeguard the interests of users and competitors, Jersey Post (like Jersey Telecom) would require a licence, granted and enforced by the JCRA.

The Postal Services (Jersey) Law was adopted in October 2004, and a great deal of our work in the latter part of 2004 was devoted to preparing the groundwork for the transfer of Jersey Post to its new regulatory environment in 2005.

### Our Objective

Prepare the necessary regulatory framework for the corporatisation of Jersey Post in 2005.

### Our Performance

We issued consultation papers on the classes of licence and licence fees; the universal service obligations to be imposed on a public postal operator; and the other conditions to be included in a public postal operator's licence.

### AIM 3. To prepare for the introduction of the Competition (Jersey) Law

The Competition (Jersey) Law, expected to come into force in 2005, will be one of the biggest changes in commercial law Jersey has ever experienced, and our role will be to administer and enforce it. The Law is based on similar laws in the EU and its Member States. Indeed, Jersey will be joining the 80 or so jurisdictions in the world which already have competition laws, including the USA, Canada, UK, Australia, New Zealand, Japan and many other large and small countries such as Malta and Jamaica.

This means that Jersey will not need to 're-invent the wheel' and can rely on international precedents for guidance. A major part of our work in early 2005 will be to issue guidelines and hold briefing sessions explaining the impact of the new law on businesses and consumers. We started preparing for this process in 2004.

Our Objective	Our Performance
Prepare the groundwork for the introduction of the Competition (Jersey) Law in 2005.	We started work on guidelines on various aspects of the Law, to help businesses comply with it, and to enable businesses and consumers to understand the remedies open to them where the Law is infringed. (These guidelines are expected to be published in mid 2005). We held meetings with States Members to discuss the implications of the Law, and the JCRA's role under it.

### AIM 4. Implementing our core values

The formation of a new JCRA Board in late 2004 gave us an opportunity to re-evaluate and confirm our core values, and we have already taken steps to implement them.

Our Objective	Our Performance
Implement transparency in our operations.	<p>We decided to publish a statement in early 2005, outlining our aims and objectives for the remainder of 2005.</p> <p>We decided to publish a draft of our 2006 Annual Plan for consultation in October 2005, and to repeat this process for subsequent years.</p>
Increase the efficiency of our operations.	<p>We agreed with the EDC a Service Level Agreement controlling how our grant funding is set.</p> <p>We implemented the other recommendations of the States Internal Auditor made in June 2004.</p> <p>We started a recruitment exercise for three additional specialist staff to ensure that we are able to administer the new Competition (Jersey) Law effectively and efficiently.</p>
Put proportionality into practice.	In our dealings with businesses, we strive to resolve compliance issues where possible through negotiation rather than formal enforcement action. The publication by Jersey Telecom of its Reference Interconnect Offer, and its decision to allow its customers access to competing international call services, were achieved on this basis.

# JCRA ANNUAL ACCOUNTS 2004

As can be seen from the following financial statements, the Authority was able to match costs with income for the year.

During the course of the year, work continued on telecom projects, in particular the price capping that was imposed in July 2004 on fixed line telephony and continuing analysis of prospective competition aspects of the present mobile telephony market monopoly.

As the year progressed it became apparent that both the Competition Law and Postal Services Law could come into force either during the year or in the early part of 2005. The necessary preliminary work on both commenced during the year and for both, funding was received from the Economic Development Committee (EDC) in order to ensure that costs incurred were covered on a legal basis.

In anticipation of the variety of work in which the Authority would be involved from 2004 onwards, an enhanced time recording system for all staff members had been introduced at the beginning of the year. This identified that there were certain parts of the day-to-day working of the Authority, administration, accounting, management etc. that could not be directly costed to the three main areas of work, telecoms, postal and competition. Proposals were put to EDC for allocating these types of costs over the three main areas,

on a percentage basis, and these were accepted for both 2004 and, with variations to reflect the changing workload, for 2005.

The annual review of costs for the year, carried out in October/November, in conjunction with the preparation of the 2005 budget, identified a variety of cost savings that had occurred during the year and an indication that there would be a surplus of telecoms licence fee income over the total telecom costs for the year. This was immediately brought to the attention of the external auditors, and the EDC, and it was agreed with Ernst & Young that any surplus of this nature could be treated as deferred income and carried forward to be used in the following year.

In December a number of projects, mainly related to the Competition Law which is due to come into effect in 2005, were requested of or requested by the EDC and funds to cover this work were transferred to the Authority in late December. As the work would take place over a period of months, the funds were placed on deposit to be drawn down as required. In relation to this, as the work involved would be carried out in 2004 and 2005, it was agreed with the external auditors that any unexpended funds at the year end would also be treated as deferred income and carried forward to 2005. The agreement with EDC was that any overall surplus that may arise after all the projects had been completed would



be used to fund on-going work relative to the Postal Law or repaid to the EDC. The projected target date for the granting of a licence to Jersey Post had been agreed as 1 May 2005 at which time licence fee income would start to flow to fund further work. During the period 1 January to 30 April the cost of any work done would require specific funding and the possible surplus referred to previously would be used for that.

A Service Level Agreement (SLA) in respect of the Competition Law was signed between the Authority and the EDC in late December. One aspect of the SLA was that the Authority would receive funding quarterly in advance. The first tranche was made available in January 2005.

As a result of efficiencies and cost reduction measures taken during the year, the total of deferred telecoms licence fees carried forward to 2005 was £287,206. This would make the net rate of telecoms licence fee, based on regulated turnover, 0.85% for the year. Based on budgeted costs, which includes work on mobile telephone competition issues, the percentage for 2005 was forecast to be 1.0%, subject to subsequent adjustment in the light of actual costs.

# REPORT AND FINANCIAL STATEMENTS

## FOR THE YEAR ENDED 31 DECEMBER 2004

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

#### **Members**

Dr Patrick McNutt (Chairman)  
Term of office expired 16 May 2004

Charles Latham (Executive Director)  
Contract expired 2 September 2004

Leslie Bowbrick (Director)

Lord Kingsland (Chairman)  
Appointed 20 July 2004

William Brown (Executive Director)  
Appointed 18 October 2004

Christopher Bright (Non-Executive Director)  
Appointed 2 August 2004

Robert Foster (Non-Executive Director)  
Appointed 2 August 2004

#### **Secretary**

Paul Hamilton (Board Secretary)

#### **Auditors**

Ernst & Young LLP  
Unity Chambers  
28 Halkett Street  
St Helier, Jersey  
JE1 1EY

#### **Bankers**

HSBC  
PO Box 14  
St Helier, Jersey  
JE4 8NJ

#### **Registered Office**

Jersey Competition Regulatory Authority  
6th Floor  
Union House  
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 2004.

## Activities

The principal activity of the Authority during the year was the regulation of competition in the Jersey telecommunications industry.

## Results

The surplus for the year was £1 (2003 : deficit £37,165).

## Members

The Members in office when these accounts were approved are shown on page 1.

By order of the Members



**Paul Hamilton**  
Board 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 profit or loss 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.

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 accounts 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.

# INDEPENDENT AUDITORS' REPORT

We have audited the Authority's financial statements for the year ended 31 December 2004, which comprise the Income and Expenditure, Balance Sheet, Cash Flow Statement, and the related notes 1 to 11. 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 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 United Kingdom Auditing Standards.

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 and are properly prepared in accordance with the Competition Regulation Authority (Jersey) Law 2001. 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 the Members' Report and consider the implications for our report if we become aware of any apparent misstatements within it.

## **Basis of audit opinion**

We conducted our audit in accordance with United Kingdom Auditing Standards 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 2004 and of its surplus for the year then ended.

## **Ernst & Young LLP**

Jersey, Channel Islands,  
29 March 2005

## BALANCE SHEET

As at 31 December 2004

	Notes	2004 £	2003 £
<b>Fixed Assets</b>			
Tangible fixed assets	3	40,827	52,434
<b>Current Assets</b>			
Trade debtors	4	30,721	20,672
Cash at bank		684,581	426,590
		<u>715,302</u>	<u>447,262</u>
<b>Current Liabilities</b>			
Creditors: amounts falling due within one year	5	527,685	271,253
		<u>187,617</u>	<u>176,009</u>
<b>Net Current Assets</b>		<u>187,617</u>	<u>176,009</u>
<b>Total Assets Less Current Liabilities</b>		<u>228,444</u>	<u>228,443</u>
<b>Retained Surplus</b>	6	<u>228,444</u>	<u>228,443</u>



Members: William Brown  
Date: 29 March 2005

## INCOME AND EXPENDITURE ACCOUNT

For the year ended 31 December 2004

### Income

Licence fees

Economic & Development Committee grant

Bank interest

Application fees

### Expenditure

Salaries and staff costs

Repayment of grant to the States General Reserve

Consultancy fees

Operating lease rentals

Travel and entertainment

Conference and course fees

Depreciation

Administration expenses

Legal and professional fees

General expenses

Audit and accounting fee

Advertising and publicity

Repairs and maintenance

IT software

Heat, light and water

Recruitment

Loss on disposal

Internet web page design

**Surplus/(deficit) for the year**

### Recognised gains and losses

There are no recognised gains and losses other than the surplus of the Authority of £1 in the year ended 31 December 2004 and of the deficit of £37,165 in the year ended 31 December 2003.

	2004 £	2003 £
	498,610	805,774
	249,147	212,376
	10,010	19,295
	2,500	6,000
	<u>760,267</u>	<u>1,043,445</u>
	464,081	545,460
	—	200,000
	83,897	150,206
	41,453	41,245
	23,001	34,707
	11,749	24,908
	24,774	15,707
	12,361	14,498
	16,247	14,204
	12,338	12,196
	7,095	7,125
	6,446	5,879
	9,125	5,255
	—	5,220
	1,795	1,563
	45,049	1,400
	129	1,037
	726	—
	<u>760,266</u>	<u>1,080,610</u>
	<u>1</u>	<u>(37,165)</u>

## CASH FLOW STATEMENT

For the year ended 31 December 2004

	Notes	2004 £	2003 £
<b>Net cash inflow/(outflow) from operating activities</b>	8	<u>271,286</u>	<u>416,246</u>
<b>Capital expenditure and financial investment</b>			
Payments to acquire tangible fixed assets		(13,446)	(26,916)
Proceeds from sale of fixed assets		151	—
<b>Increase in cash</b>		<u>257,991</u>	<u>389,330</u>

## 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 accounts 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, other than freehold land, at rates calculated to write off the cost, over the estimated useful lives in equal instalments. The depreciation rates used are as follows:

Computer equipment	– 33% per annum
Furniture and fittings	– 10% per annum
Other equipment	– 20% per annum

### 3. TANGIBLE FIXED ASSETS

#### Cost

At 1 January 2004	
Additions	
Disposals	
<b>At 31 December 2004</b>	

#### Depreciation

At 1 January 2004	
Charge in the year	
Disposals	
<b>At 31 December 2004</b>	

#### Net book value

At 31 December 2004	
At 1 January 2004	

#### Leasing commitments

Rentals payable under operating leases are charged in the profit and loss 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 Committee ('EDC') are recognised on receipt of the funds. Any unused funds at the financial year end are either deferred or repaid to the EDC. Deferred grant income as at 31 December 2004 amounted to £188,978 (2003: £87,624).

#### 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.

The percentage for 2004 was 1.3%.

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 2004 amounted to £290,288 (2003: £15,789).

Equipment	Fixtures and fittings	Computer equipment	Total assets
£	£	£	£
18,235	12,278	51,740	82,253
—	2,575	10,871	13,446
—	—	(6,281)	(6,281)
<b>18,235</b>	<b>14,853</b>	<b>56,330</b>	<b>89,418</b>
7,162	2,656	20,001	29,819
3,647	1,279	19,847	24,773
—	—	(6,001)	(6,001)
<b>10,809</b>	<b>3,935</b>	<b>33,847</b>	<b>48,591</b>
7,426	10,918	22,483	40,827
<b>11,073</b>	<b>9,622</b>	<b>31,739</b>	<b>52,434</b>

## NOTES (CONTINUED)

### 4. DEBTORS

Prepayments  
Trade debtors  
Sundry debtors

	2004 £	2003 £
	19,584	14,574
	8,584	5,281
	2,553	817
	<u>30,721</u>	<u>20,672</u>

### 5. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

Accruals  
Deferred grant income  
Deferred licence fee income  
Trade creditors  
Social security

	2004 £	2003 £
	40,419	129,521
	188,978	87,624
	290,288	15,789
	3,320	31,223
	4,680	7,096
	<u>527,685</u>	<u>271,253</u>

### 6. MOVEMENT ON RESERVES

At 1 January 2004  
Surplus for the year  
At 31 December 2004

	Income and Expenditure Account £
	228,443
	1
	<u>228,444</u>

### 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.

### 8. NOTE TO THE STATEMENT OF CASH FLOWS

Reconciliation of surplus/(deficit) for the year to net cash inflow from operating activity

Operating surplus/(deficit)  
Depreciation  
Loss on disposal of fixed asset  
(Increase)/decrease in debtors  
Increase in creditors  
**Net cash inflow from operating activities**

	2004 £	2003 £
	1	(37,165)
	24,773	15,707
	129	1,037
	(10,049)	272,052
	256,432	164,615
	<u>271,286</u>	<u>416,246</u>

## NOTES (CONTINUED)

### 9. RELATED PARTIES

#### The transacting parties are:

Economic Development Committee (EDC)  
Jersey Competition Regulatory Authority (JCRA)

#### Relationship

The Authority acts independently of the States, but is accountable to the EDC in respect of its funding for the competition law, which is also covered by a Service Level Agreement between the EDC and the Authority. The EDC acts as the conduit for requests from other States Committees who may require the Authority to carry out projects. It is the Committee to which the Authority reports formally on an annual basis.

#### Cash Flow Statement

For the year ended 31 December 2004  
Amounts due to/from at balance sheet date

Due to EDC  
Due from EDC  
**Net amount (included in creditors)**

#### Transactions

In 2004 the EDC provided funds to the Authority in order that preliminary work on the proposed Postal Services Law and Competition Law could be carried out. In 2005 it will provide the funding for the Competition Law.

#### Amounts involved

- £87,624 brought forward as deferred grant income, as agreed from 2003.
- £130,000 received during the year as grants.
- £215,000 received in December 2004 in respect of various projects associated with the Competition Law.
- £5,500 invoiced to EDC in December 2004 in respect of a project involving a 'Ferries' study.

	£
	197,809
	8,831
	<u>188,978</u>

### 10. FINANCIAL COMMITMENTS

At 31 December 2004 the Authority had annual commitments under non-cancellable operating leases as set out below:

Operating leases which expire:  
In more than two years but less than five years

Land and buildings	
2004	2003
£	£
<u>34,545</u>	<u>34,545</u>

### 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. There are no unpaid contributions at the year end.

# CORPORATE GOVERNANCE GUIDELINES

## 1 The Jersey Competition Regulatory Authority and the Economic Development Committee.

1.1 The Jersey Competition Regulatory Authority ("The Authority") is an autonomous body and entirely independent in its decision taking from the Economic Development Committee ("EDC"). But under powers of the Competition Regulatory Authority (Jersey) Law 2001 (the "CRA Law"), Article 10(1) the EDC "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 EDC 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 Directors 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 recognize 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 Committee, provide the Committee 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 a Non-Executive Chairman, an Executive Director, a Director and two Non-Executive Directors. Two of the Members live in Jersey and three in the United Kingdom.
- 5.3 The appointment of Board Members is undertaken by the EDC. Vacancies which arise on the Board are filled through the use of an open and transparent process. The EDC 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 EDC. 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 EDC. The other Board Members are appointed by the EDC after it has consulted the Chairman. The EDC is required to 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 and other policies 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 authorized to delegate this power of delegation or the function of reviewing any of its decisions.
- 6.5 The Board plans to hold 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 intends to introduce annual business plans. It is envisaged that in the last quarter of each year, the Executive will prepare a draft business plan 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.

# CORPORATE GOVERNANCE GUIDELINES (CONTINUED)

6.7 The Board monitors the performance of the Authority against the business plan 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.

## 7 Committees of the Board

7.1 Article 7(i) 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 those committees are appointed by the Board.

7.3 The key duties of the Audit Committee are -

- To review annually the Authority's application of corporate governance best practice;
- 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 audi-

tor, the actual appointment of the auditor is a matter reserved to the Finance & Economics Committee under Article 17 of the CRA Law.

7.5 The Members of the Audit Committee are Robert Foster (Chairman), Lord Kingsland 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 Members and advise the EDC;
- 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.

7.8 The members of the Remuneration Committee are Christopher Bright (Chairman), Lord Kingsland 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 EDC.
- 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 EDC no later than four months after the year end. The EDC shall lay a copy of the accounts provided before the States as soon as practicable after the Committee 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 & Economics Committee and be prepared in accordance with generally accepted accounting principles.
- 9.4 Under powers granted by Article 10 of the CRA Law, the EDC 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.
- 9.5 The Authority has a Service Level Agreement with EDC in respect of any grant made from the States of Jersey.

