



Progress against the Strategic Plan and Business Plan – six months to 30 June 2017

This document should be read in conjunction with CICRA’s strategic aims¹ and its 2017 Work Programme².

The 2017 work programme is presented below within four distinct but complementary headings:

1. Promoting fair competition in Channel Island markets where this advances consumer interests
2. Protection of consumer interests where competition is less effective in meeting that aim
3. Ensuring the regulatory and competition framework remains fit for purpose
4. Supporting and advising ministers and the States on policy matters and initiatives

1. Promoting fair competition in Channel Island markets where this advances consumer interests

Competition Law – Conduct a review of the market for freight services in the Channel Islands		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> • Q1 - Q2 	 Complete	<p>Our role is to inform and protect consumers and other stakeholder groups ensuring they receive value, choice and access to high quality freight services. This also applies to businesses using freight services, which are particularly important for island economies heavily dependent on the transport of goods by sea.</p> <p>As a result of concern raised about the operation of the freight market, we carried out a review of customer choice in the freight logistics sector between the Channel Islands the UK. Our review concluded that local businesses are broadly satisfied with the services provided by the current freight logistics operators.</p> <p>The media release³ and final report⁴ are available on our website www.cicra.je.</p>

¹ <http://www.cicra.gg/media/4187/current-strategic-aims-inc.prioritisation-principles.pdf>

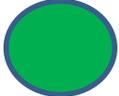
² <http://www.cicra.gg/media/4218/cicra-2017-work-programme.pdf>

Competition Law – Defend against an appeal to the Jersey Royal Court by ATF Fuels, of its finding that ATF Overseas Holdings Ltd, trading as ATF Fuels, abused its dominant position by its unfair discriminatory behaviour in the supply of aviation fuel at Jersey airport		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 	 <p>Ongoing</p>	<p>We are regularly consulted by consumers and businesses who believe that they have been the subject of anticompetitive behaviour. In the vast majority of cases where our intervention is necessary we are able to broker a resolution without having to resort to formal process.</p> <p>We investigated a complaint from a fixed base operator (FBO) of anticompetitive behaviour by ATF Fuels (ATF) and found, in March 2016, ATF to have infringed Jersey’s competition law by abusing a dominant position in the supply of Jet A1 aviation fuel at Jersey airport.</p> <p>The impact on the business and third party customers was reduced competition and choice and increased costs.</p> <p>ATF refused to allow the FBO to purchase fuel from ATF to supply to third party customers as part of a bundle of ground handling services. This harmed both the business of the FBO as a potential competitor of ATF and obliged customers to purchase fuel only from ATF. ATF also unfairly discriminated in its pricing of Jet A1 aviation fuel by charging the FBO higher prices than other comparable customers.</p> <p>ATF appealed our decision. The original Royal Court hearing date was January 2017 but the hearing was delayed as a result of new evidence presented by ATF.</p>
Competition Law – Raise the level of understanding of competition law and the implications of policy decision for competition through information campaigns within key States departments (ongoing)		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 		<p>To date, given other priorities, this work stream has been progressing on a reactive and informal basis.</p>

³ <http://www.cicra.gg/files/Media%20Release%20to%20Industry%20-%20final.pdf>

⁴ <http://www.cicra.gg/files/Freight%20Review%20Final%20Report%20-%20non-confidential%20version.pdf>

Competition Law – Work with consumer bodies to support consumer interests in a manner that is joined-up and focussed on priority areas

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Ongoing</i> 	 <p>Ongoing</p>	<p>We have formed the Consumer Protection Network in conjunction with Jersey Consumer Council, Trading Standards and Citizen’s Advice entering into a memorandum of understanding in Q1, 2017.</p> <p>The CPN will coordinate activity on a small set of strategic priorities, where members working together can have the greatest impact on local consumers. On such issues it will aim to ensure that the best interests of local consumers are represented; local consumer are able to make informed decisions; unfair practices are challenged and meaningful sanctions are applied where appropriate; and best practise is championed.</p> <p>Areas of mutual interest that have been actioned or are in train to date include: telecoms roaming, fibre battery backup, Jersey online directory, ensuring consumers know who to contact, harbour and airports quality of service, and the code of consumer lending.</p>

Telecommunications - Implement appropriate controls across Jersey and Guernsey on broadband pricing that facilitate effective competition and support investment.

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Q1 – Q3</i> 	 <p>Ongoing</p>	<p>Our role is, in part, to facilitate a competitive telecoms market in the Channel Islands. This benefits consumers by providing better choice, value for money and greater innovation in the services available. Individual consumers experience those benefits directly, while those benefits to business customers also contribute to improving the overall competitiveness of the economy.</p> <p>We began a process to consider appropriate controls for broadband pricing with a consultation issued in October 2016. The consultation considered the need for, and potential nature of price controls on broadband services provided by Sure and JT as the major provider in Guernsey and Jersey respectively.</p> <p>The responses to that consultation identified a need for additional information and we were keen to widen stakeholder engagement beyond the formal consultation process. Additional information has been obtained from operators through formal information requests. Town Hall style meetings have been</p>

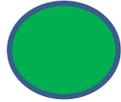
		arranged in Jersey and Guernsey during July with government, regulatory, consumer group and operator stakeholders being represented. We intend to engage with these key stakeholders to explain what we are looking at and why we seek their views prior to considering next steps. Progressing this work stream will be aligned to policy progress which we understand is moving forward in both jurisdictions.
Telecommunications – Assess appropriateness of fixed interconnection rates for telecoms network providers and where necessary set a new price control		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q3 	 Complete	<p>Fixed interconnection rates are the fees charged by Sure in Guernsey and JT in Jersey to originate or terminate calls on its fixed (landline) network. They are a key component of the retail charge that telecoms customers ultimately pay for telecoms calling services. Our role is to ensure that such charges are set at levels that reflect the efficient and cost-effective provision of the service.</p> <p>Consistent with the principle of proportionality (one of the principles of better regulation) a high level review of FIRs was undertaken prior to launching a more detailed piece of work. The high level review concluded that the likely benefit to consumers, of setting a new price control in terms of reduction in pricing, of conducted a detailed review was limited. This does not preclude us stepping in again in the future if circumstances warrant it.</p>
Telecommunications – Progress and conclude the review of mobile termination rate charges by mobile network operators		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q3 	 Ongoing	<p>Mobile Termination Rates are charges mobile operators pay for the provision of voice call termination services on other operator’s networks. These charges form part of the cost of calls made by consumers. The cost of mobile termination is passed on to the consumer and given that the charges imposed by mobile operators across the Channel Islands are broadly similar, there is little incentive for operators to negotiate more favourable rates. In common with regulators in many European countries, we recognise the need to ensure that MTRs are set at a level that reflects the efficient and cost-effective provision of those services. We are working to set MTRs for a 3-5 year period.</p> <p>The formal process to set MTRs is ongoing. We will continue to fully engage with operators and other key stakeholders as part of this process.</p>

Telecommunications – Ensure compliance by licensees with obligations placed on them by CICRA price control decisions for on-island leased lines services and fixed voice price controls over the price control period		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 	 Ongoing	<p>In certain situations, where there is limited competition and telecoms operators have strong positions of market power, we control prices to ensure consumers receive value for money. Where we put a price control in place we have an ongoing role to monitor telecoms operators' performance to ensure comply with the controls.</p> <p>No issues of non compliance were identified during the first half of 2017.</p>
Telecommunications – Implement findings of its 2016 review in providing additional access products to support the progress of competition in the telecoms market		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q4 	 Ongoing	<p>We look to promote fair competition where this advances consumer interests. Our work to facilitate a competitive environment can include introducing access products, wholesale products that enable competitors to provide services that would otherwise only be provided by the telecoms network owner and its retail arm.</p> <p>Following our consultation in 2016 three products were identified for implementation across the Channel Islands; Carrier Pre-select, Fixed Number Portability and Bitstream Access. Taking each in turn</p> <p>Carrier pre-select – is a service provided by the network provider that automatically routes a call received from the end customer to the network selected by the operator. This allows the operator to provide calls at rates different from those charged by the network provider. No further action required. Provision of this service is included in existing telecoms licences. Operators are aware that we will enforce existing licence conditions should reasonable requests for carrier pre-select not be supported.</p> <p>Fixed Number Portability – allows customers to move their fixed line between operators without needing to change their telephone number. (Mobile Number Portability has been available since 2008). Following the development of a functional specification an impact analysis is being undertaken before operators are</p>

		<p>formally approached to further input into the process and next steps can be established.</p> <p>Bitstream Access – is where a network provider allows access to high-speed (or internet) access service installed between the network provider and the end customer. This allows a competing operator to provide high speed services to the end user as well as introduce features not dictated by the network provider’s own choice of retail product. This would allow customers to have a fixed broadband connection without the need for a landline.</p> <p>Complete – telecoms licences have been modified on 6 July 2017 to allow for the introduction of Bitstream Access.</p>
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2. Protection of consumer interests where competition is less effective in meeting that aim

Competition – Scrutinise proposed mergers and acquisitions where they are subject to notification		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 	 <p>Ongoing</p>	<p>Merger and acquisitions can bring benefits to the economy and help businesses and markets to grow. While most transactions have little effect on competition, some can harm competition and result in, for example, increased prices, decreased quality or choice for consumers or less innovation. Our role is to review certain mergers to protect consumers from undesirable outcomes.</p> <p>Five applications seeking approval for proposed mergers and acquisitions were received during the first half of 2017. Four were approved and one with withdrawn. In addition an application in Jersey from Sandpiper seeking to acquire the Costcutter franchise was received in 2016 and withdrawn in 2017 following concerns we expressed that consumer interest could be harmed because of reduced competition in certain parts of the island. Sandpiper then registered a new application reducing the number of Costcutter stores in the acquisition proposal from 16 to 13 – excluding those stores where we identified concerns. This revised application was approved.</p> <p>The average number of days taken to reach a decision about a transaction is 18.</p>

Competition – Evaluate the merits of exemption applications received		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Ongoing</i> 	 <p>Ongoing</p>	<p>We approved an application for an extension to an exemption previously granted in respect of the Jersey Doctors on Call service.</p>
Telecommunications – Initiate and progress a longer term regulatory telecom strategy underpinned by States policy and engagement with stakeholder		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Ongoing</i> 	 <p>Ongoing</p>	<p>We are charged with creating the environment for achieving a sound and healthy telecoms sector in the Channel Islands. Policy direction set by the States in both Jersey and Guernsey is, of course, key to guiding what development the islands should steer towards and which should be avoided.</p> <p>We issued a draft telecoms regulatory strategy in November 2016. A key basis for progressing this work stream is clarity in policy in each island. We are coordinating development of regulatory strategy in this sector with development of States policy currently in train in both islands.</p>
Telecommunications – Provide telecoms customer with meaningful information on telecom operator performance where the market does not meet this need		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 	 <p>Ongoing</p>	<p>To make informed decisions customers need meaningful information on telecom operator performance. Publishing robust independent performance information also incentivises a race to the top amongst operators and enables us to objectively assess whether progress is being made.</p> <p>We have continued with customer satisfaction surveys which were first introduced in 2014 but have revised the 2017 survey to ensure that it remains relevant to consumers given the fast pace of change within the telecoms sector. For the first time we have extended the survey to cover, separately, residential and business customers and will, for the first time, allow direct comparison with UK operators.</p>

Telecommunications – Monitor and publish useful information for stakeholders on market developments through the annual telecom statistics report		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q2 – Q3 		<p>Reliable up to date information on the local telecoms markets is important for our stakeholders and helps to inform our work priorities. We have refined the reporting based on consultation with operators and other stakeholders. We are finalising the report and expect to publish Q3.</p>
Telecommunications – Investigate practices by licensees that may contravene their licences and/or the Telecommunications Law, and take appropriate remedial action		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 		<p>It is our preference to use informal advocacy routes to resolve issues where ever possible with formal regulatory intervention, which is costly and resource intensive, as a last resort. Ultimately it is consumer that is disadvantaged until we have resolved issues brought to our attention, and it is delivering the best result for consumer that drives our work.</p> <p>During the 6 months to June 2017 we did not take formal regulatory action against any operator for contravening their licence and/or the telecoms law.</p>
Telecommunications – Having identified areas of concern, monitor performance against customer focussed service quality standards by telecom providers with market power, ensure there is a demonstrable alignment of associated service standards with the interests of consumers		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q2 		<p>Ensuring services provided by telecoms operators are of an appropriate quality is particularly important in markets where there is insufficient competition to drive quality. It is therefore incumbent on us to ensure consumers are protected and receive an appropriate quality of service.</p> <p>In March 2017 we sought explanation from telecoms operators in the Channel Islands regarding the basis</p>

		<p>for their levels of consumer protection and in particular their consumer code and minimum service standards.</p> <p>As a result of responses to our letter, during July 2017 we will be issuing a consultation during July seeking views on whether further regulatory action should be taken with respect to consumer protection and quality issues for provider of licensed telecoms services.</p>
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Telecommunications – Seek to improve transparency of commitments and standards that all telecom licensees hold themselves to

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q2 		<p>All operators are required to publish an appropriate code of practice for the resolution of disputes, including, but not limited to, non-payment of bills and disconnection of service. We identified inconsistency between existing operators on the content and availability of their Codes of Practice which are an important aspect of consumer protection which should be transparent, accessible and effective for all users.</p> <p>In the UK, Ofcom has published guidance for operators handling of complaints. We are considering whether Channel Island's operators should be required to ensure that their Codes of Practice meet the same standard.</p> <p>This area will be addressed as part of the consultation on service quality standards issued in Q3.</p>

Telecommunications – Continue with programme of testing 4G operator deliver against performance standards, holding operators to account in their deliver of service

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q2 		<p>In 2015 we led the process which awarded spectrum licences to JT, Sure and Airtel to enable them to offer 4G in the Channel Islands. To ensure that the 4G service was of an appropriate quality we required operators to meet certain minimum standards to be awarded spectrum. In addition operators made further commitments as to the quality of service they would achieve and deposited money with us to evidence their commitment to achieving their commitments. The money to be returned when the commitments were met.</p>

		<p>Since the award operators have been developing their networks and rolling out 4G and an audit is underway to verify 4G operator performance against the standards set and commitments made during the spectrum allocation process.</p> <p>The audit is expected to be complete end quarter 3 and unless there are specific issues that require further work, the completion of this audit will mark the end of this work stream.</p>
Telecommunications – Defend against an appeal to the Jersey Royal Court, made by JT, of its decision to implement a price control for fixed voice call services		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q2 		<p>We required JT to reduce prices for calls using fixed lines phones, exchange lines and a range of services related to having a fixed line phone service by 13% over two years with no increases in year three. JT initially appealed our decision but decided to withdraw its appeal in February 2017. The court subsequently determined that the control should commence on 24 February and not 1 January 2017.</p> <p>The JCRA is taking steps to recover the legal cost of preparing its defence of JT’s appeal.</p>
Ports of Jersey – Having identified areas of concern in terms of transparency of key performance indicators and delivery of service quality standards by Ports of Jersey, where it has market power, ensure there is demonstrable alignment of associated service standards with user priorities, improved transparency of performance indicators and standards that Ports of Jersey hold itself to		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q2 		<p>In a monopoly environment such as that in which Ports of Jersey provides its services there is less constraint on prices and greater risk that the levels of aspects quality of service are less responsive to customer needs, since customers and users have no other option but to use their services.</p> <p>In June 2017 we issued a consultation seeking views on the quality of service provided by POJL at the airport, harbour and marinas, specifically on how POJL measures the quality of services provided and whether the customer engagement processes are working as well as they should. Alongside the formal consultation we are planning to host focus groups and an online survey to encourage widen engagement in this key area.</p>

		Longer term the aim is for Ports of Jersey to largely self administer quality of service with us just taking an oversight role. We are engaging Ports of Jersey throughout the process with that aim in mind.
Ports of Jersey – Continue to ensure the charges made by Ports of Jersey for port operations are consistent with principles of economic efficiency and cost causality, taking account of policy direction and public service obligations		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q2 – Q4 		Ports of Jersey has approached us to propose the development of a longer term economic price setting framework. On the basis of indications from Ports of Jersey that this will be received during the second half of 2017, this work stream has been put on hold.

3. Ensuring the regulatory and competition framework remains fit for purpose

Competition law – Having made recommendations to the relevant departments of changes in respect of block exemptions under the Jersey and Guernsey competition law, support the States to bring block exemptions into effect		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 		<p>We are keen to ensure our resources are targeted to those areas which will have the biggest impact on Channel Islanders. During 2015 we undertook a consultation which identified three sectors which could usefully be the subject of a block exemption from the need to comply with the competition law.</p> <p>In July 2015, CICRA wrote formally to the Assistant Chief Minister (in Jersey) and to the Committee for Economic Development (in Guernsey), setting out our advice that, on the basis of our consultation and engagement with stakeholders, there was a case for introducing block exemptions in four specific areas: • Fuel forecourt distribution agreements; • Motor vehicle trade agreements; • Insurance agreements (sharing of risk related information and co-insurance of specific risks); • Franchise arrangements, subject to turnover thresholds and limits on network effects. Following further informal contact in September 2016 we put forward initial draft wording that could form the basis of block exemptions in these areas in both Guernsey and Jersey.</p>

		We understand that this matter is being progressed by the relevant Minister/Committee in each island and remain available to provide any further support that might be required.
Competition law – Having made recommendations to the relevant departments for changes in respect of the merger and acquisition framework prescribed by Jersey and Guernsey competition law, support the States to bring those into effect		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q2 – Q4 		We understand that this matter is being progressed by the relevant Minister/Committee in each island and remain available to provide any further support that might be required
Competition law - Implement the recommendations of the Oxera review carried out in 2015		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 		We have implemented the recommendations of the Oxera report where these are within our control. Where matters are properly the responsibility of others, for example government departments or requiring law change, we are supporting progress as requested.
Telecommunications – Initiate a strategic assessment of the telecoms sector to inform long term regulatory goals and priorities in co-operation with policy makers in both islands		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q4 		<p>We are charged with setting the context for achieving a sound and healthy telecoms sector in the future. The policy direction set by the States in both Jersey and Guernsey is, of course, key to guiding what developments the islands should steer towards and which should be avoided. The islands must be reasonably prepared, versatile and adaptable enough to take advantage of the developments if we are to avoid a defensive and reactive response to each change in isolation.</p> <p>Many of the considerations go beyond the next few years. What is crucial is that all stakeholders communicate positively and regularly with each other in weighing up the various alternative paths and the appropriate regulatory strategy over the next few years as well as into the longer term time horizon.</p> <p>To support this desire for communication and how we embrace these burgeoning technologies, we issued</p>

		a draft telecoms regulatory strategy and have been engaging with key stakeholders to better inform the choice we make over the next few years.
Telecommunications – Prepare the regulatory landscape in advance of further spectrum capacity (referred to as 5G)		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 		We are engaged with States departments in both Guernsey and Jersey in developing and planning the regulatory framework for facilitating the provision of 5G. We have also held a number of planning meetings with Ofcom, the UK telecoms regulator, as input to that.
Post – Ensure the efficient provision of postal services, including the universal service obligation (USO) that delivers value and quality to postal users and the economy		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 		Our role is to inform and protect Jersey Post users ensuring they receive value, choice and access to high quality services. Over recent years we have sought to reduce the cost and impact of regulation on Jersey Post and we are therefore taking a less interventionist approach, only stepping up oversight when matters of note are identified. With the exception of concerns over quality of service which are addressed below there were no other matters requiring regulatory oversight or intervention during the first half of 2017.
Post – Monitoring of quality of service performance and targets for postal operators, to ensure that customers' needs are effectively met		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 		<p>As explained above over recent years we have sought to reduce the cost an impact of regulation on Jersey Post where it is appropriate to do so. But the latest quality of service figures suggested a greater level of oversight is required. Jersey Post's quality of service performance for 2016 showed disappointing levels of performance in areas reliant on transportation services provided by Royal Mail between the UK and the Channel Islands.</p> <p>We have therefore stepped up our oversight until quality of service shows sustained improvements when we will again scale back our activity in this area.</p>

4. Supporting and advising ministers and the States of policy matters and initiatives

Competition – CICRA will consider candidates for market reviews requested by the relevant governments		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none">Ongoing		<p>Market studies are an area where we can add considerable value.</p> <p>Our work on the freight market during the first half of 2017 is set out above.</p> <p>Discussions are ongoing with States members in both islands to identify and prioritise potential candidates for market reviews.</p>