




Progress against the Strategic Plan and Business Plan – year ending 31 December 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	
Progress to 31 Dec	Narrative
 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 and the UK. Our review concluded that local businesses are broadly satisfied with the services provided by the current freight logistics operators. Given this we did not consider there was a case to investigate this market further.</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>

³ <https://www.cicra.gg/media/597607/c1255gj-media-release-freight-market-review.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	
Progress to 31 Dec	Narrative
Complete	<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>ATF appealed our decision to the Royal Court, which upheld ATF’s appeal in a judgement handed down in January 2018. During 2018 we will be engaging with policy makers to consider revisions to the competition law to ensure it is better able to protect businesses and business sectors, and ultimately therefore consumers, as it is tasked to do by the States of Jersey.</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)	
Progress to 31 Dec	Narrative
 Ongoing	<p>Over 2017 we held six practical competition law training workshops for States of Guernsey procurement staff which proved popular with positive feedback. Our aim was to increase understanding of what competition law aims to achieve and more practically to assist staff in recognising the significant risks posed by anti-competitive behaviour in the area of government contracts. Improved understanding of the benefit of competition law and its application to their roles were evidence from course surveys conducted.</p> <p>We have been asked to run a further four workshops in Guernsey and intend to extend the programme to Jersey and more widely beyond procurement staff in Guernsey, in 2018.</p>

⁴ <https://www.cicra.gg/media/597606/c1255gj-final-report-freight-market-review.pdf>



Competition Law – Work with consumer bodies to support consumer interests in a manner that is joined-up and focussed on priority areas	
Progress to 31 Dec	Narrative
 Ongoing	<p>We have formed the Consumer Protection Network (CPN) 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> <p>Championed by CICRA, the CPN will be producing a monthly column in the JEP with the aim of raising the profile of the individual organisations but more importantly bringing key issues to the attention of local consumers.</p>
Telecommunications - Implement appropriate controls across Jersey and Guernsey on broadband pricing that facilitate effective competition and support investment.	
Progress to 31 Dec	Narrative
 Ongoing	<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 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 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. Additional information has been obtained from operators through formal information requests and ‘town hall’ style meetings were held in Jersey and Guernsey over 2017 with representatives from government, regulatory, consumer groups and operators stakeholders attending.</p> <p>It was apparent from that consultation process that the strategic importance of broadband to the islands was such that any</p>



	<p>long term regulatory approach would need to be guided by a telecoms policy by the States of Jersey and Guernsey. Following the conclusion of a Jersey telecoms policy (with the Guernsey policy we understand to be published shortly).</p> <p>Progressing this work stream will continue into 2018, with reference to policy in both islands.</p>
Telecommunications – Assess appropriateness of fixed interconnection rates for telecoms network providers and where necessary set a new price control	
Progress to 31 Dec	Narrative
 <p>Complete</p>	<p>Fixed interconnection rates (FIRs) 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 customers ultimately pay for 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 proportionality⁵ 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	
Progress to 31 Dec	Narrative
 <p>Ongoing</p>	<p>Mobile termination rates (MTRs) 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.</p> <p>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. The formal process to consider whether to set MTRs is ongoing. We will continue to fully engage with operators and other key stakeholders as part of this process.</p>



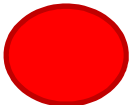
⁵ One of the principles of better regulation, the others being transparency, accountability, consistency and targeted.

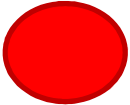

Telecommunications – Ensure compliance by licensees with obligations placed on them by CICRA price control decisions for on-island leased lines services and fixed voice price controls over the price control period	
Progress to 31 Dec	Narrative
 Ongoing	<p>In certain situations, where there is limited 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 they comply with the controls.</p> <p>No issues of material non compliance were identified during 2017.</p>
Telecommunications – Implement findings of its 2016 review in providing additional access products to support the progress of competition in the telecoms market	
Progress to 31 Dec	Narrative
 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. Following our consultation in 2016 three products were identified for implementation across the Channel Islands</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, allowing 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 now obliged, in their licence conditions, to support reasonable requests for this service.</p> <p>Fixed Number Portability allows customers to move their fixed line between operators without changing their telephone number. (Mobile Number Portability has been available since 2008). Following the development of a functional specification a wider impact analysis is being undertaken before operators are approached for further input and next steps are 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 allowing a competing operator to provide services to the end user and introduce features not dictated by the network provider. This would allow customers to have a fixed broadband connection without the need for a landline. Complete – telecoms licences have been modified to allow for the introduction of Bitstream Access.</p>

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	
Progress to 31 Dec	Narrative
 Ongoing	<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>Twelve applications seeking approval for proposed mergers and acquisitions were received during 2017 nine of which were approved in 2017, two applications received in December 2017 were approved in January 2018 and one application was withdrawn. One application in Jersey from Sandpiper seeking to acquire the Costcutter franchise was received in 2016 and also 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 following notification is 17 well within our own administrative target of 25 days.</p>
Competition – Evaluate the merits of exemption applications received	
Progress to 31 Dec	Narrative
 Ongoing	<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	
Progress to 31 Dec	Narrative
 Ongoing	<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 key to guiding what development the islands should steer towards and which should be avoided.</p> <p>We are coordinating development of regulatory strategy in this sector with development of States policy in both islands. We issued a draft telecoms regulatory strategy in November 2016. In January 2018 the States of Jersey issued 'A telecoms strategy for Jersey', the implications of which will feed into the 2018 work programme. We are still waiting for confirmation of Guernsey's policy position.</p>
Telecommunications – Provide telecoms customer with meaningful information on telecom operator performance where the market does not meet this need	
Progress to 31 Dec	Narrative
 Complete	<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 as perceived by consumers.</p> <p>We have continued with customer satisfaction surveys which were first introduced in 2014 revising 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 the survey was extended to cover, separately, residential and business customers and for the first time, allowed direct comparison with UK operators.</p>


Telecommunications – Monitor and publish useful information for stakeholders on market developments through the annual telecom statistics report	
Progress to 31 Dec	Narrative
 Complete	<p>Reliable up to date information on the local telecoms markets is important for our stakeholders and helps to inform our work priorities. We refined the reporting based on consultation with operators and other stakeholders and published the 2016 report in July.</p>
Telecommunications – Investigate practices by licensees that may contravene their licences and/or the Telecommunications Law, and take appropriate remedial action	
Progress to 31 Dec	Narrative
 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 consumers that are disadvantaged until we have resolved issues brought to our attention, and it is delivering the best result for consumers that drives our work.</p> <p>During 2017, we did not take formal regulatory action against any licensee for contravening their licence and/or the telecoms law, instead resolving all issues encountered on an informal basis. Given we dealt with three such cases in 2016 this suggests the action we took may have lead to improvements in approach to compliance which is a positive development.</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	
Progress to 31 Dec	Narrative
 Ongoing	<p>It is incumbent on an economic regulator to ensure services provided by telecoms operators are subject to transparent minimum standards where needed and to address circumstances where the existence of a monopoly position means incentives to drive improvements to standards are weaker than in a competitive environment.</p> <p>In September 2017 we sought explanation from telecoms operators in the Channel Islands regarding the basis for their levels of consumer protection and in particular the transparency of their commitments to their customers, the adequacy of their codes of practice, the level of their minimum service standards and the option of mandatory compensation payments. Our</p>

	findings to date are that the approaches to these areas by telecoms licensees vary significantly and a further, more detailed, assessment of retail and wholesale service standards is required. This workstream has been combined below on transparency of commitments and standards.
Telecommunications – Seek to improve transparency of commitments and standards that all telecom licensees hold themselves to	
Progress to 31 Dec	Narrative
 Ongoing	See above
Telecommunications – Continue with programme of testing 4G operator deliver against performance standards, holding operators to account in their deliver of service	
Progress to 31 Dec	Narrative
 Complete (Ongoing - Sark and Herm only)	<p>In 2015, we led a process that awarded spectrum licences to JT, Sure and Airtel to enable them to offer 4G in the Channel Islands. As part of that process we required operators to meet certain minimum standards to be awarded spectrum and operators made further commitments as to the quality of service they would achieve, against bonds deposited against their commitments. The operators have developed their networks and rolled out 4G, meeting the minimum standards set by CICRA and their additional commitments as part of the bidding process.</p> <p>During 2017, we conducted an audit to verify 4G operator performance against the standards set and commitments made during the spectrum allocation process and found, with the exception of Sark and Herm where there remain challenges to achieving high levels of coverage all standards were met. All commitment bonds deposited with us have therefore been returned.</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

Progress to 31 Dec	Narrative
	<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 increase 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. The JCRA recovered 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


Progress to 31 Dec	Narrative
	<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 PoJ at the airport, harbour and marinas, specifically on how PoJ measures the quality of services provided and whether the customer engagement processes are working as well as they should. Alongside the formal consultation we hosted focus groups and an online survey, to encourage wider engagement in this key area.</p> <p>In December, we issued an initial notice of a direction requiring PoJ to report specific performance measures and information on a quarterly basis. The consultation closed in January 2018 and measures are expected to be in place by the end of quarter 1, 2018.</p> <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.</p>

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

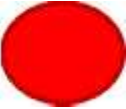
Progress to 31 Dec	Narrative
	<p>Ports of Jersey has been approached by us to propose the development of a longer term economic price setting framework. On the basis of indications from Ports of Jersey this work stream was put on hold for 2017 where it has submitted a short term price control request which is under consideration.</p>

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

Progress to 31 Dec	Narrative
 <p>Ongoing</p>	<p>In October 2016, CICRA wrote to the President of the Committee for Economic Development in Guernsey and the Assistant Chief Minister in Jersey recommending significant changes to the merger frameworks in each island that would make it more efficient and effective for businesses and for us as the competition authority in each island overseeing that regime. 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> <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.</p>


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




Progress to 31 Dec	Narrative
 <p>Ongoing</p>	<p>In October 2016 we wrote to the President of the Committee for Economic Development in Guernsey and the Assistant Chief Minister in Jersey recommending changes to the merger frameworks in each island that would make it more efficient and effective for businesses and for us as the competition authority in each island overseeing that regime. 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</p>

Competition law - Implement the recommendations of the Oxera review carried out in 2015


Progress to 31 Dec	Narrative
 <p>Complete</p>	<p>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.</p>

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

Progress to 31 Dec	Narrative
 <p>Complete</p>	<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>

	To support this desire for communication and how we embrace these burgeoning technologies, we issued a draft telecoms regulatory strategy and have been engaging with key stakeholders to better inform our choice and priorities over the next few years.
Telecommunications – Prepare the regulatory landscape in advance of further spectrum capacity (referred to as 5G)	
Progress to 31 Dec	Narrative
	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. A wider industry engagement process is currently being planned to progress this over 2018.
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	
Progress to 31 Dec	Narrative
 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 2017.
Post – Monitoring of quality of service performance and targets for postal operators, to ensure that customers' needs are effectively met	
Progress to 31 Dec	Narrative
	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. Jersey Post's quality of service figures for 2016 suggested a greater level of oversight was required, with disappointing levels of performance in areas reliant on transportation services provided by Royal Mail between the UK and the Channel Islands. We therefore stepped up our oversight until quality of service showed sustained improvement when we will again scale back our activity in this area.

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	
Progress to 31 Dec	Narrative
	<p>Market studies are an area where we can add considerable value. 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>