



Strategic Objectives and 2018 Work Programme

Economic Regulation of Telecommunications

Channel Islands Competition & Regulatory Authorities

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Introduction

The overarching aim of the Channel Islands Competition and Regulatory Authorities (CICRA) is to ensure markets work well for consumers in both short and long term considerations. CICRA's proposed strategic objectives under its responsibilities as the economic regulator of the telecommunications sectors are set out below together with an annual work programme for 2018 to support achieving these strategic objectives.

This final document has also been updated to take into account the telecoms strategy for Jersey that was prepared by Oxera for the Government of Jersey in December 2017 and the Action Plan that followed that.

Economic regulation of telecommunications – Strategic Objectives

Consumer protection supporting attainment of consumer satisfaction levels comparable to the UK

Consumer satisfaction is a vital gauge of the quality of market outcomes and whether markets are working well. It also supports the prioritisation and adjustment to our economic regulatory priorities. There is evidence from the UK that a competitive market environment is, in some respects, able to deliver materially higher levels of customer satisfaction on average than that experienced in the Channel Islands. While the Channel Islands are less likely to achieve as great a degree of competition and choice as such larger economies, local providers should be able to achieve comparable consumer satisfaction levels. Arguably their smaller scale should be an advantage over the providers in larger jurisdictions. Consumer protection standards supporting the outcome of consumer satisfaction levels, comparable to those seen in the UK, are proposed as one of the three key strategic objectives for the Channel Islands telecoms sector. Achieving other strategic objectives in this sector will contribute to improvement in the availability of choice and the lowering of switching costs – both of which will also play a role in improving customer satisfaction levels. **The two main areas of focus in this strategic objective are minimum retail standards and prescribed wholesale standards that support innovation and choice for retailers.**

A retail/downstream market where access to upstream inputs ensures new services and innovations can be made available to consumers in time frames comparable to neighbouring jurisdictions - The way downstream and upstream services are accessed by consumers is changing. Services (described as Over the Top or OTT) are invariably provided by non-jurisdiction specific providers. The increasing range of such services will be further fuelled by the arrival of 5G¹ around

¹ 5G is expected to facilitate multiple new applications, including self-driving vehicles, augmented/virtual reality, smart cities using Internet of Things sensors, and remote health monitoring using wearable devices. Mission critical applications will require high reliability, immersive interaction will require low latency, remote health monitors will require wide geographic coverage. Present expectations are that such diversity would need to be enabled by a single physical network split into multiple virtual networks. Access to it will need to be appropriate to follow a dynamic market.

2021/22. The pace that these new services and innovations can be made available to consumers will rely on a more responsive market place than we have at present. It is conceivable that, in the medium term, this could eclipse the need for consumers to use licensed retail services presently governed under a licensing regime which in some respects dates from 2002. A more fluid retail licensing environment is likely to be part of the adaptation needed to avoid anomalies where services from competing providers are governed by contrasting regulatory rules - especially if they are accessed from the same device. A market that ensures new services and innovations are made available to consumers in a timely fashion is a priority in achieving this key strategic objective; it will need to be supported by licensing that is adapted to technology change as well as more ready access by retailers to wholesale inputs they want rather than what incumbents may consider necessary.

Provision of wholesale network infrastructure services where charges are set at sustainable and equitable levels

There is a possibility that, in the medium term, the provision of network infrastructure (mobile and fixed) in the Channel Islands could result in fewer providers. The key reasons are the commercial imperatives that drive investment choices, policy direction and issues of scale for small island economies – all of which look set to be a growing challenge as technology demands change.

In a context where in telecoms, upstream network infrastructure provision by commercial business is expected to be more concentrated, the risks of excessive profits and/or inefficiencies are greater if a regulatory framework does not provide a corresponding counter balance. The implication is that more prescriptive price control regulation will be an important tool in offsetting the risks posed by a commercial monopoly. Regulatory intervention may also be required to ensure that the provision of wholesale network infrastructure services is achieved in sustainable and equitable conditions.

Our three strategic objectives are:

- **Consumer protection supporting attainment of consumer satisfaction levels comparable to the UK**
- **A retail/downstream market where access to upstream inputs ensures new services and innovations can be made available to consumers in time frames comparable to neighbouring jurisdictions**
- **Provision of wholesale network infrastructure services where charges are set at sustainable and equitable levels**

Economic regulation – 2018 Work Programme

Consumers' views of whether telecommunications markets are working well is informed by several factors including their experience of the technical quality of service they receive, whether they think they are getting value for money and a composite of factors that underpin overall satisfaction (such as efficiency of billing processes, customer service, treatment of complaints, etc.). Consideration of consumer experience of these outcomes has guided our 2018 work programme for the telecommunications markets when considering our strategic objectives.

In many cases the outcome of work streams will contribute to more than one strategic objective while several work streams together will further a single strategic objective. The specific work programme areas below are therefore not listed under any single strategic objective but grouped into mobile, fixed landline and broadband/leased line services.

Mobile

The evidence suggests that there is a reasonably high level of overall satisfaction by Channel Island consumers with mobile services. However consumers do have concerns with quality of mobile reception and value for money. These issues are examined below; where we consider some concerns may have been addressed by the industry or regulatory interventions made over 2017 we have explained why. Where this is not the case we set out how we propose to focus our work to address areas for improvement over 2018.

Technical quality - Despite perceptions by consumers, based on the most recent evidence from CICRA's own research, the Channel Islands have in fact achieved a high quality of service provision comparable and, in many respects, materially better than in the UK. Investment and competition has therefore delivered high levels of technical performance in the mobile sector and consumers will experience the benefits of that going forward. Our expectation is that consumer perceptions will improve with better information and user experience following the final stages of investment made by 4G mobile operators in Jersey and Guernsey over 2017; we therefore do not propose to prioritise further regulatory intervention in the area of mobile technical standards.

Value for money - Customer perception of value for money for mobile services in the Channel Islands remains relatively low. Concerns about high data roaming charges, relative to those of consumers in neighbouring countries, has almost certainly played a role in this position. Over the summer of 2017 the Channel Island mobile operators made significant reductions to their mobile data roaming tariffs and consumers are likely to have been experienced the benefits since we carried out our customer perceptions surveys. Given these developments we expect to see some improvement in this area over time. Another aspect that contributes to the overall price paid by mobile users is the level of wholesale charges by mobile operators to each other for calls received by their networks (mobile termination rates or MTRs). These are materially higher than elsewhere but consumers are less aware of them as they are not costs they pay for directly or separately. With mobile call volumes increasing, the impact of these charges on customer bills will grow. We will look at the benefit of any intervention and consider direct and indirect consequences when deciding whether the charges for these wholesale services are reasonable and whether we will intervene.

5G - A framework is needed to facilitate efficient provision of the next generation of mobile technology in the Channel Islands. This technology is not only expected to enhance current mobile broadband services by offering a richer experience to consumers, it will support the internet-of-things with gadgets and devices wirelessly connected to the internet and each other, as well as more reliable and highly responsive wireless data access for developments like driverless cars, road infrastructure monitoring and smarter production processes. Investment in infrastructure to deliver this new technology will be required for the Channel Islands to achieve such benefits in a timely way given the increase in data carried over these networks and changing technical requirements to support them. Availability and the pricing of backhaul services (from the end user, through the network to the central) are also key to the success of 5G. We will therefore need to ensure the appropriate regulatory framework supports the implementation of 5G networks and their associated backhaul networks taking these factors into consideration. Consideration will also need to be given to facilitate the sharing and co-operation in the utilisation of the existing 2G, 3G and 4G networks. A review of the licensing framework in telecoms will assist in supporting a future environment to support these developments by ensuring that the licensing framework is appropriate going forward. These work streams will be significantly influenced by government policy and political priorities in this area.

Given the above, the specific work programme items related to mobile services for 2018 are:

- *Following the publication of its decision in 2017 relating to the market definition and dominance on the market for Mobile Termination Rates, CICRA will consider an impact analysis of existing mobile traffic and its associated MTRs before reviewing and assessing whether any further changes to existing or the introduction of new remedies are required on this market (commence Q2)*
- *Develop a regulatory framework for the delivery of 5G that supports the policy objectives of the States of Jersey and Guernsey, including the review of existing spectrum allocations to ensure efficient use of spectrum and the development and management of a forward-looking spectrum strategy to ensure future spectrum needs are met (commence Q1)*
- *Working with Ofcom to ensure that strategic aims are taken into account in spectrum harmonisation and allocation (commence Q1)*
- *CICRA, through its own initiatives as well as in co-ordination with other consumer bodies, will seek to improve the ability of consumers to make informed choices in the mobile markets in Jersey and Guernsey and ensure the benefits are seen across society (Ongoing)*
- *Review the licensing framework in light of developments and if appropriate modify or establish a new licensing framework that best meets the future needs of Jersey and Guernsey (commence Q2)*

Landline

There is less competition in landline services than the Channel Islands mobile markets and choice of provider by consumers is more limited. It is evident that consumer perception of value for money for fixed landline services is also materially lower than in mobile markets.

The regulatory requirement, that incumbent landline networks in Jersey and Guernsey make wholesale line rental available to their retail competitors, has improved the ability of alternative providers to compete with the incumbent in each island and therefore offer greater choice to the landline consumer. However the ongoing high degree of market concentration in network provision means the incumbent in each island continues to control a range of key inputs of those alternative providers including vital technical inputs and the level of a number of telecom service standards. The extent to which consumers exercise the choice available to them in this area is expected to lead to some improvement in perception of value for money. However the Channel Islands does not have the benefit of a number of services that are available elsewhere which can lower switching costs for consumers and further enable competition. We will continue to ascertain whether regulatory intervention is necessary to address this.

Our price control review of fixed line calls concluded in 2017. It is anticipated those price control decisions will deliver benefits for consumers over 2018 that will improve perceptions around value for money. We propose to confine pricing intervention in this area only if policy issues or specific issues for subsets of consumer groups arise given these aggregate controls are now in place.

In 2017 we published our findings in the area of customer service standards. That document expressed concerns about aspects of telecom customer service standards. One circumstance where this appears to be an issue was where consumers have difficulty achieving improvements given the imbalance in negotiating position between them and a provider. The other was where competitors to the vertically-integrated incumbent with market power were in a substantially weaker negotiating position when seeking a different level of wholesale support than that provided to the incumbent's own retail arm.

The work programme items related to fixed landline markets for 2018 are:

- *Ensure service quality standards by telecom providers with market power are demonstrably aligned with the interests of consumers (commence Q2)*
- *Seek to improve transparency of commitments and standards of all telecom licensees (commence Q2)*
- *Identify access products that lower switching costs and improve the prospects for retail competition (commence Q3)*
- *Work with consumer bodies to support consumer interests in a manner that is joined-up and focussed on priority areas (Ongoing)*
- *Provide telecom customers with meaningful information on telecom operator performance where the market does not meet this need (Ongoing)*

Broadband/Leased lines

Our research shows that a gap in positive customer perception of broadband services between the Channel Islands and the UK is wider than for mobile and fixed line services. Since more customers are expected to rely on such services and OTT services, and data demands are expected to grow even further, we consider it critical that this situation improves.

An area of priority is therefore to ensure an appropriate set of regulatory obligations are in place for wholesale broadband (and leased line) network provision that comprehensively supports retail service providers' ability to innovate and bring new products and services to Channel Islands markets. To this end we intend to focus our resources over 2018 on ensuring that access to "capacity", whether broadband or leased lines, is available on a basis that is not unduly influenced by the incumbent's commercial priorities at the expense of healthy competition.

It will also be important that there is a focus on ensuring that wholesale network providers have the incentive to invest to safeguard sustainable businesses that are guardians of national assets. Vital to small economies, such as Jersey and Guernsey, is that the investment is efficiently and effectively invested. Alongside this is the need for an efficient charging structure so that downstream service providers are able to innovate and drive consumer demand/usage independent from the restrictions that may arise from the incumbent's own commercial priorities.

The work programme items related to broadband/leased line services for 2018 are therefore:

- *Review the minimum quality of service (QoS) standards for wholesale broadband services to ensure they are aligned with the priorities of downstream service providers and consumers (commence Q2)*
- *Address any structural or behavioural constraints in wholesale service provision that inhibits innovation by downstream service providers (commence Q3)*
- *Ensure that wholesale services support the promotion of effective retail competition (commence Q3)*
- *Ensuring fair, reasonable and non-discriminatory access to backhaul for mobile sites for all mobile operators (commence Q2)*
- *Review of wholesale charging for broadband services by network operators to ensure that charges are set at sustainable and equitable levels including the consideration of reporting requirements and other regulatory tools to enforce this requirement (commence Q3)*

Next Steps

CICRA will commence these work streams in the timescales indicated and looks forward to engaging with key stakeholders in developing these and progress its strategic aims in the telecoms sector.

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