



Ports of Jersey Limited (POJL) Quality of Services

Final Notice

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1. Overview

This Final Notice (**FN**) provides formal notice of a Direction to Ports of Jersey Limited (**POJL**) regarding quality of service.

The FN confirms CICRA's proposals set out in its Initial Notice¹ (**IN**) for the performance measures which it requires POJL to monitor and directs POJL to report the relevant quality of service information to CICRA on a regular basis.

Oversight of quality of service is an important aspect of CICRA's light touch approach to regulation of POJL and requires the company to report quarterly on a small range of performance measures which relate to services at Jersey's airport and harbour.

CICRA intends to use the information to monitor and provide oversight of the quality of service provided by POJL, giving transparency in this area to stakeholders through the publication of performance information in conjunction with POJL.

CICRA recognises that not all of the elements that go into these measures are directly within POJL's control and that the company does depend on other stakeholders and service providers to deliver the range of services it offers to port users. CICRA does not intend to set specific targets for performance – although it may do so at a later date. Consistent with CICRA's light touch approach to regulation of this sector, CICRA expects that POJL will, as it has indicated, now take the lead in discussion with stakeholders in the development of performance measures and goals for its own performance.

It is intended that this quality of service information should be published at regular intervals. It may also form the basis for future performance targets, should CICRA consider that these may be needed, or be used to compare POJL's performance against that of other port operators or businesses, as appropriate.

CICRA has welcomed the engagement by POJL through this process and the revisions that it put forward to the original proposals. CICRA adopted POJL's revised proposals in full and published its new IN in April 2018. It is these revised proposals which are confirmed in this FN and which form the basis for future reporting.

¹ CICRA 18/08 - <https://www.cicra.gg/media/597808/poj1224j-ports-of-jersey-quality-of-service-new-initial-notice.pdf>

2. Introduction and Background

The States of Jersey adopted the *Air and Sea Ports (Incorporation) (Jersey) Law 2015* (the **Law**) on 2 June 2015. The Law requires that any person carrying out port operations must have a licence issued by the Jersey Competition Regulatory Authority (**JCRA**), also referred to in this document as **CICRA** (Channel Islands Competition and Regulatory Authorities).

Port operations in Jersey were commercialised from 1 October 2015 and CICRA issued a principal port operator's licence² (the **Licence**) to Ports of Jersey Limited (**POJL**) on 1 November 2015, to carry out port operations in Jersey. POJL is the only port licensee in Jersey and is responsible for the operation of Jersey's airport, Jersey's harbour and various marinas and outlying harbours.

In accordance with condition 15 of its Licence, POJL is required to provide regular reports on its development plans and the performance of services at the airport.

Following earlier consultation, including engagement with POJL, and carrying out market research on quality of service in airports and harbours, the original Initial Notice³ (**IN**), was published on 21 December 2017. Following comments in response to that IN, a Final Notice⁴ (**FN**), together with a new IN⁵ were published on 4 April 2018. A single response to the new IN was received from POJL.

3. Legal Consideration

The ports of Jersey – including Jersey Airport and Harbours – are regulated in accordance with the Law. Under the Law, the primary object of POJL is, “*to provide, or ensure the provision of, safe, secure and efficient port operations for Jersey, whether by itself or by any other person acting as its subsidiary, agent, employee or sub-contractor*”. Both CICRA and the Minister for Economic Development, Tourism, Sport and Culture have a number of duties defined under the Law, in Article 26:

- (1) *In relation to port operations, the Minister and the JCRA shall each have a primary duty to perform their respective functions under this Law –*
 - (a) *so as best to protect and further the interests of users of port operations, in the short and long term, and to do so where appropriate by promoting competition in the provision of port operations; and,*
 - (b) *so as best to ensure –*

² <https://www.cicra.gg/media/2989/ports-of-jersey-limited-licence.pdf>

³ CICRA 17/34 - <https://www.cicra.gg/media/597760/poj1224j-initial-notice-ports-of-jersey-quality-of-service-and-performance-measures.pdf>

⁴ CICRA 18/07 - <https://www.cicra.gg/media/597807/poj1224j-ports-of-jersey-quality-of-service-final-notice.pdf>

⁵ CICRA 18/08 - <https://www.cicra.gg/media/597808/poj1224j-ports-of-jersey-quality-of-service-new-initial-notice.pdf>

- (i) *that provision is made to satisfy all reasonable demands, both current and prospective, for port operations,*
 - (ii) *that port operations are provided efficiently and effectively, and,*
 - (iii) *that a company (in particular including POJL), to the extent that it is or is to be licensed under this Law, has sufficient financial resources to discharge its liabilities under securities issued by the company to the States.*
- (2) *In relation to lifeline services, the Minister and the JCRA shall each have a primary duty to perform their respective functions under this Law so as best to ensure that such services are provided –*
- (a) *efficiently, effectively and without interruption; and,*
 - (b) *so far as consistent with sub-paragraph (a), with due regard to –*
 - (i) *any relevant policies of the States,*
 - (ii) *the interests of persons using or likely to use such services, and,*
 - (iii) *the special needs of persons who are disabled.*
- (3) *So far as consistent with paragraphs (1) and (2), the Minister and the JCRA shall each have duties to perform their respective functions under this Law –*
- (a) *so as best to encourage sustainable growth in the economy of Jersey in the medium to long term;*
 - (b) *so as to impose a minimum of restriction on persons engaging in commercial activities;*
 - (c) *with due regard to any relevant policies of the States;*
 - (d) *with due regard to preserving and maximizing the benefits of Jersey’s resources; and,*
 - (e) *with due regard to the special needs of persons who are disabled.*

POJL is currently the only port operator in Jersey, holds a principal port operator’s licence and has been found to be dominant in the market for the provision of Port Operations in Jersey⁶.

In accordance with condition 15 of its Licence, POJL is required to progressively achieve standards in line with international best practice and other benchmarks as CICRA may from time to time direct.

In order to facilitate this aim, POJL is required to provide CICRA with a target operating plan, setting out the target operating levels it will achieve for port operations and a monitoring plan for providing accurate measurement of target performance levels. To date POJL has not provided either a target operating plan or a port operations monitoring plan to provide accurate measurement of the relevant target levels.

Condition 15 goes on to note (condition 15.8) that the Licensee shall comply with any Directions issued by CICRA from time to time regarding any other quality of service

⁶ <https://www.cicra.gg/cases/2016/poj1204j-significant-market-power-smpdominance-designation/poj1204j-final-notice-ports-of-jersey-assessment-of-market-power/>

indicators and (condition 15.9) that the Licensee shall provide information required by CICRA for the purpose of assessing service levels.

The issue by CICRA of a direction to POJL to comply with a specific licence condition is considered to be the exercise of a regulatory function in accordance with Article 23 of the Law. Interested parties had a specified period in which to respond to the IN of a Direction (a minimum of 7 days and in this case, 28 days). If no responses were received, the IN would have taken effect on the date specified in that IN.

Where representations were made within the period specified in the IN, CICRA must consider the responses and, in accordance with article 23(4) of the Law, issue a FN or a revised IN, as appropriate, setting out whether or not it intends to exercise the regulatory function proposed.

4. Response to the Initial Notice

POJL responded to CICRA's IN⁷, and a copy of its response is available on CICRA's website. No other responses were received.

POJL makes a number of points in its response, primarily focussed on the long term arrangements for quality of service reporting and oversight, and on the detail of the reporting requirements.

Reporting Period

POJL raises a question as to whether the annual reporting period should be a calendar year or follow a July – June reporting year. CICRA considers that it is more sensible for the medium to longer term to focus on the calendar year which matches POJL's financial reporting period and should provide its annual reports on a calendar year basis.

For the time being, and until otherwise agreed, POJL will therefore be required to report performance information to CICRA quarterly, no later than 1 month after completion of each relevant quarter with the first quarter covering the period 1 July 2018 to 30 September 2018. At the end of each calendar year, POJL will provide a summary of its performance over the year, including aggregated annual performance figures, to reach CICRA no later than six weeks after the end of the calendar year.

Detailed reporting requirements

POJL raises a question about the detailed definition of reporting requirements and need to avoid changes over the next 3 to 5 years.

⁷ CICRA 18/08

CICRA recognises the benefit of continuity in performance reporting in the short and medium term, and does not intend to change the detailed reporting requirements from those set out in its IN but recognises that, over time, it must however be recognised that circumstances may make it necessary to accommodate changes or make adjustments given the reporting systems and approaches used by POJL. While there is a great deal of benefit in continuity, in balancing the interests of stakeholders there is also a need to continue to review and develop performance measures for the future. CICRA welcomes POJL's readiness to work with customers and the regulator to continue to develop future performance and reporting measures.

Substantive changes to the future reporting requirements would of course require consultation with stakeholders including POJL before being considered for implementation as licence based quality of service measures.

Long term aim of reporting

POJL raised several questions in relation to the long term aims of quality of service and performance reporting.

At this stage, the aim of the direction is to require POJL to measure and report specific information to CICRA on a regular basis, as it is required to do under the conditions of the Licence it signed. A long-standing and orthodox means of achieving transparency and accountability by a monopoly to the widest group of its key stakeholders is by reporting performance standards.

Using the information reported, CICRA would expect to monitor trends in performance and that POJL would provide commentary on those trends. If there were shortfalls or adverse trends in performance, CICRA would expect POJL to provide explanations and to set out its proposed steps to address those shortfalls or adverse trends.

As previously discussed, CICRA does not at this time propose to introduce specific performance targets but the introduction of future targets may be considered in the future. A decision to maintain standards or incentivise improved services through the introduction of targets would require a formal process.

POJL notes a number of statements in CICRA's 2018 and previous strategic objectives and work plans. This is consistent with a light touch approach to regulation, where the incumbent (POJL) would offer transparent and open reporting of its performance and CICRA, as regulator, would seek to intervene by exception, where monitoring and oversight did not prove appropriate.

As with any approach to regulation, CICRA would take into account the ability to influence performance in the short and long term, factors outside the control of POJL (plus any

appropriate mitigation) and the level of resources which POJL allocates to providing services.

5. Quality of Service Measures

As a result of its consultation⁸, engagement with stakeholders and market research, CICRA identified the issues and areas of service of most importance to POJL's customers and port users, giving rise to CICRA's initial proposals⁹ for quality of service measures. POJL, amongst others, responded to the consultation¹⁰ and CICRA's IN^{11,12} setting out reservations about some of the measures proposed, its ability to completely control performance in the relevant areas and the setting of specific performance targets.

CICRA recognises that, in many of these performance measures, parties other than POJL have an important role to play in delivering services, but in each case, POJL itself or the airport infrastructure and its availability, plays a role in the ability of POJL and its business partners to deliver a high quality of service. CICRA indicated that it does not intend to set specific performance targets at the outset of the process. If targets would be beneficial in future they will be set with consideration of what is under POJL's influence and either adapted accordingly or published with appropriate commentary and explanation.

POJL put forward modified proposals which CICRA has adopted and form the basis for the decision in this FN. These measures are set out in Annex 1 below, and are unchanged from the text of the IN CICRA 18/08.

6. Conclusion

CICRA welcomes POJL's response to its proposals.

CICRA considers that, taking into account the response and additional information provided by POJL, the most reasonable approach is to adopt in full the measures set out in its IN, CICRA 18/08, as proposed by POJL, as a common basis for quality of service reporting going forward.

⁸ CICRA 17/11 - <https://www.cicra.gg/media/597591/poj1224j-consultation-ports-of-jersey-quality-of-service.pdf>

⁹ CICRA 17/34 - <https://www.cicra.gg/media/597760/poj1224j-initial-notice-ports-of-jersey-quality-of-service-and-performance-measures.pdf>

¹⁰ <https://www.cicra.gg/media/597782/poj1224j-ports-quality-of-service-consultation-response-ports-of-jersey-limited.pdf>

¹¹ <https://www.cicra.gg/media/597809/poj1224j-ports-of-jersey-consultation-response-ports-of-jersey-limited.pdf>

¹² <https://www.cicra.gg/cases/2017/poj1224j-ports-of-jersey-quality-of-service/poj1224j-ports-of-jersey-quality-of-service-initial-notice/>

CICRA has therefore decided to issue this FN and Direction to implement the Quality of Service measures as proposed.

7. Direction to POJL

In accordance with Condition 15 of POJL's Licence, CICRA directs that:

1. POJL provides the information set out above in connection with Jersey airport, harbour and marinas commencing 1 July 2018.
2. For the time being, and until otherwise agreed, POJL is required to report performance information to CICRA quarterly, no later than 1 month after completion of each relevant quarter.
3. At the end of each calendar year, POJL will provide a summary of its performance over the year, including aggregated annual performance figures, to reach CICRA no later than six weeks after the end of the calendar year.

The first quarterly reporting period will run from 1 July 2018 to 30 September 2018.

8. Conclusion

The text of this FN is available for inspection at CICRA's Jersey office at:

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

A copy may also be found on CICRA's website, www.cicra.je.

It is CICRA's normal practice to publish consultation responses on its website and a copy of POJL's response to the previous IN may be found at www.cicra.je.

Annex 1

Performance Measures for Ports of Jersey Limited

Airport reporting measures

	Jersey Airport
	Punctuality of flights to and from Jersey Airport
Departures:	Proportion of flights departing within 15 minutes of scheduled time*
Departures:	Proportion of flights cancelled*
Arrivals:	Proportion of flights arriving within 15 minutes of scheduled time*
Arrivals:	Arrivals: Proportion of flights cancelled*
	Availability of Airport Stands
Airport stands	Percentage of time when airport stands are available
	Time for passengers to clear security
Security	Percentage of time for which the queueing time to clear security is ≤15 mins
Security	Percentage of time for which the queueing time to clear security is ≤30 mins
	Baggage Handling
Luggage	Percentage of flights for which final bag is delivered to carousel >20 mins after arrival
Luggage	Percentage of flights for which final bag is delivered to carousel >45 mins after arrival

*excluding due to weather

Harbour reporting measures

Jersey Harbour	
	Punctuality
Sailings	Proportion of sailings subject to moderate delay events*
Sailings	Proportion of sailings subject to material delay events*
Sailings	Proportion of sailings subject to cancellation events*
	Availability of Berths
Berths	Percentage of time when berths are available

Note: Delay events as defined in the agreement with Condor Ferries as set out below

<i>Journey duration (scheduled)</i>	<i>Moderate delay means a delay of:</i>	<i>Material delay means a delay of:</i>
up to 4 hours	30 - 60 minutes	> 60 minutes
4 – 8 hrs	60 - 90 minutes	> 90 minutes
8 – 12 hrs	90 - 120 minutes	> 120 minutes

Marinas reporting measures

Jersey Marinas	
	Infrastructure - Waiting time for new berths
Berths	Number of customers waiting for a new berth (by size and location)

Complaint Handling reporting measures

Response to issues and complaints raised	
	Speed of Response
Airport	No. of airport issues/complaints raised
	No. closed in 10 days or less
	No. closed in 20 days or less
	No. closed in more than 20 days
Harbour	No. of harbour issues/complaints raised
	No. closed in 10 days or less
	No. closed in 20 days or less
	No. closed in more than 20 days
Marinas	No. of marina issues/complaints raised
	No. closed in 10 days or less
	No. closed in 20 days or less
	No. closed in more than 20 days