



Progress against the Strategic Objectives and 2018 Work Programme – six months to 30 June 2018

This document should be read in conjunction with CICRA’s strategic objectives and 2018 work programmes which have been published for competition law, telecoms, ports and post on CICRA’s website www.cicra.je and www.cicra.gg.

The overarching aim of CICRA is to ensure markets work well for consumers taking account of both short and long term considerations.

1. Competition Law

Competition law came into force in the Channel Islands in 2005 in Jersey and in 2012 in Guernsey. The policy reasons for putting in place a system of competition law were virtually identical across both jurisdictions and are consistent with international best practice.

Competition law enforcement is a role that generally responds to market events such as mergers, acquisitions or concerns about anti-competitive behaviour. It may however also look at whether markets are working as well as they should by carrying out market reviews. The three overarching strategic objectives for Jersey and Guernsey by CICRA in this area of its responsibilities are:

Generate positive, defined benefits for Channel Islands businesses and consumers associated with free markets

Have a beneficial impact on their respective economies as a whole

Deliver outcomes that are trusted and respected, and as far as reasonable, consistent with international norms

Given our experience over the past few years, particularly from investigating matters brought to our attention, it is apparent that the level of competition law awareness among key stakeholder groups in the Channel Islands is significantly underdeveloped. CICRA came to a view that if the above aims are to be achieved a concerted investment is needed to address this.

Low levels of awareness are by no means unique to the Channel Islands or confined to only jurisdictions where competition law is relatively new. However, CICRA recognises that these low awareness levels may prevent the full realisation of the benefits to the Channel Islands’ economies, businesses and consumers that the States of Guernsey and the States of Jersey intended to flow from the introduction of competition law. It may, in fact, contribute to a significantly more expensive competition law oversight regime since addressing behaviour, as a result of not fully understanding what is required under the law, can lead to greater cost in terms of resources needed to address any failings after the fact. CICRA has identified two broad outcomes in this area:

- Raise the awareness and understanding of competition law within public bodies so that measures taken by those public bodies are informed by the need to promote, or take account of the aims, of competition law where possible;
- Increase key stakeholders’ awareness of the benefits of competition and the role that competition law and its aims can play in promoting and protecting welfare enhancing competition as well as the risks from non-compliance. If businesses are more aware of the law and have better compliance processes there is less likelihood of breaking the law.

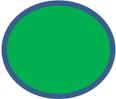
A series of competition law training sessions targeted at public procurement personnel have already taken place and proven successful. CICRA will expand on this and advance its strategic priorities through a number of targeted advocacy projects.

Competition Law – Investigate, and where appropriate remedy, contraventions of the competition law consistent with CICRA’s prioritisation principles.		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> • <i>Ongoing</i> 	 <p>Ongoing</p>	<p>CICRA investigates cases on the basis of its prioritisation principles, and may use less formal methods of engagement, including education to address any potential contraventions. The work is largely reactive.</p> <p>CICRA has considered three complaints during the first half of the year, with one reaching the ‘reasonable cause to suspect’ standard required to take it to a formal investigation. Two cases remain open and may result in further action in due course.</p>

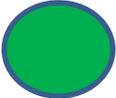
Competition Law – Support the States of Jersey and Guernsey to bring block exemptions into effect		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 	 <p>Ongoing</p>	<p>Following the recommendation made, supported by Oxera in its 2015 report¹, and further discussion during 2016, there has been no discernible progress on the recommendations made by CICRA to bring in block exemptions as part of the competition law frameworks in both Jersey and Guernsey.</p> <p>Officers remain available to progress this work with the States of Jersey and Guernsey on which it must rely to achieve this objective. This matter continues to be raised at SLA meetings.</p>
Competition Law – Support the States of Jersey and Guernsey to bring into effect recommendations for changes in respect of the merger and acquisition framework prescribed by Jersey and Guernsey competition law		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 	 <p>Ongoing</p>	<p>The 2015 Oxera Report recommended that the merger regime should be changed so that only mergers that affect the local economy, and which CICRA can actually do something about, are investigated. This is something CICRA has been recommending for some time, including a consultation process in 2015 and recommendation to the two governments departments in 2016.</p> <p>Officers remain available to progress this work with the States of Jersey and Guernsey on which it must rely to achieve this objective. This matter continues to be raised at SLA meetings.</p> <p>In Jersey, CICRA has recently proposed an amendment to the Jersey Order, which if accepted would mean that transactions approved by the European Commission would not also require clearance by the competition in Jersey. This will partly address some of the issues this work stream has sought to resolve prior to law changes.</p>

¹ <https://www.oxera.com/Latest-Thinking/Publications/Reports/2015/A-review-of-the-Jersey-regulatory-and-competition.aspx>

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

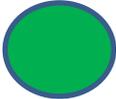
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Ongoing</i> 	 <p>Ongoing</p>	<p>With the appointment of a new Jersey Consumer Council Chair it is anticipated that during the second half of 2018 the work of the Consumer Protection Network will be refocussed to work more proactively rather than as an intelligence-based resource.</p>

Competition Law – Scrutinise proposed mergers and acquisitions where they are subject to notification

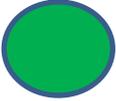
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Q1 – Q3</i> 	 <p>Ongoing</p>	<p>In the six months between 1 January 2018 and 30 June 2018, CICRA reviewed and cleared 7 mergers in the first detailed review period (Phase 1). CICRA has switched the focus to encourage parties to enter into pre-notification discussions as early as possible, which has resulted in a reduction in the average time taken to clear transactions.</p> <p>Clearance took an average of 17 days against an administrative target is 25 days. One further merger was referred for a second detailed review (Phase 2).</p>

Competition Law – Evaluate the merits of exemption applications received

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Q1 – Q3</i> 	 <p>Ongoing</p>	<p>One clearance application has been received in the first 6 months of 2018 and is being progressed by officers.</p>

Competition Law Advocacy – A series of seminars, through the legal community, for businesses on the benefits of competition law and practical strategies for compliance		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q3 	 <p>Ongoing</p>	<p>As at end of June 2018, officers have carried out 8 seminars for the legal community, focussing on core competition law principles and practical strategies for ensuring compliance. Approximately eighty advocates have received this training. Feedback from these sessions has been positive and showed a marked improvement in attendees' understanding of CICRA's role and of competition law, as follows:</p> <ul style="list-style-type: none"> Perceived change in appreciation of benefits of competition policy + 25% Perceived change in understanding of CICRA's role +27% Perceived change in application of competition law to work +18% Perceived change in ability to identify issues +31% <p>Officers continue to operate a competition and procurement law training programme for States of Guernsey employees. Feedback on these sessions has been positive and supports a marked improvement in attendees' understanding of CICRA's role and of competition law. The invitation to provide similar training in Jersey has not been taken up to date.</p>
Competition Law Advocacy – Assessing levels of awareness of competition law amongst Channel Islands businesses to identify whether any specific sectors may be at particular risk of non-compliance with proactive engagement where this is found to be the case.		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 	 <p>Ongoing</p>	<p>Officers have engaged with a number of business organisations, such as Jersey Business, Digital Greenhouse and Chamber of Commerce and will work with them to put together practical support for their members to help them comply with the competition law. Further engagement is scheduled for Q3 and Q4 of 2018.</p>

Competition Law Advocacy – Engaging with competition law specialists from other jurisdictions (EU / UK) to facilitate one or more “round table” forums for law officers and/or judiciary to exchange ideas and best practise on key competition law considerations.

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q4 	 <p>Ongoing</p>	<p>Officers recently sought and received advice from the EU competition law arm on a potentially significant matter. Law officers have indicated support for a wider initiative which will be progressed over the second half of 2018.</p>

Competition Law Advocacy – Putting in place a series of meetings with States members to raise awareness and understanding of competition law, its pace in the wider policy context and how it can support those priorities – both generally and in specific instances

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q1 – Q4 	 <p>Ongoing</p>	<p>A presentation was given to the new States of Jersey members on 11 July 2018. Follow-up discussions have been offered to those who attended and an open invitation issued to those who were not able to attend. CICRA and senior politicians and civil servants have discussed a range of wider strategic States priorities including the role competition role may or may not play in those. Those discussions have informed the recently announced review, ‘Evaluation of the Guernsey Competition and Regulatory Framework’.</p>

2. Telecoms

Three high level objectives have been identified by CICRA. Telecoms law came into force in the Channel Islands in 2002 in Jersey and in 2001 in Guernsey. There are currently three main operators across the Channel Islands with the two full service operators being the incumbent / entrant in each island respectively. The third Channel Islands operator offers mobile services only. A fourth operator offers broadband services in Jersey only.

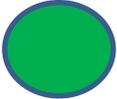
Consumer protection supporting attainment of customer satisfaction levels comparable to the UK

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.

Telecoms – 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.

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Start Q2 	 Ongoing	<p>Officers met with Ofcom in May, are progressing discussions with operators and are considering potential regulatory interventions, including the option to bring MTRs in line with the UK over the next 2-3 years.</p> <p>Ofcom has stated that the difference in the level of MTRs between the UK and the Channel Islands is causing it concern. Ofcom’s concerns include the perceived mis-use of UK mobile phone numbers which could lead to possible fraud and arbitrage issues as well as the impact on its consumers of being subject to higher call charges to the CI as a result of high MTRs. Ofcom has suggested it is reluctant to progress CI matters, such as issuing new spectrum, until there is an agreement in the Channel Islands to reduce MTRs.</p>

		Officers have briefed government officials and a meeting with operators and took place on 16 July in which Ofcom set out its issues to the CI mobile operators.
Telecoms – 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		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Start Q1 	 <p>Ongoing</p>	<p>Meetings have taken place with Ofcom regarding innovation and test licenses and an announcement regarding the process was provided at the 5G pre summit meeting 5 July.</p> <p>The pre summit meeting is taking place between all key stakeholders and McKinsey provided a key note speech. Officers are intending that the output from this meeting will provide a clear framework to progress this project alongside policy aspirations.</p> <p>An ‘open’ 5G Summit is planned for October 2018, to provide the general public and all key stakeholders with an overview of challenges and opportunities with this technology and a time line for implementation.</p> <p>Review of existing spectrum allocation:</p> <ul style="list-style-type: none"> 2.1GHz – work to implement the 2014 Statement of Intent for this band is currently on hold due to issues contacting Marathon Telecom. These should be resolved by the end of July, with a target to reorganise this band and award any additional spectrum to existing operators over Q3/2018 2.6GHz – recommendation have been made to Ofcom for additional spectrum for existing operators. Target to complete Q3/2018

Telecoms – Working with Ofcom to ensure that strategic aims are taken into account in spectrum harmonisation and allocation		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Start Q1 	 <p>Ongoing</p>	<p>The MoU agreed with the Board at its October 2017 meeting was passed to Ofcom for comment. Ofcom has confirmed that it cannot sign an MoU but will review the document and agree a new process and procedures document which will deliver a similar result.</p> <p>Officers contact Ofcom each week requesting this be given a higher priority.</p>
Telecoms – 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		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Ongoing 	 <p>Ongoing</p>	<p>The customer satisfaction survey has been sent out with the results available in July. To provide an opportunity for both CICRA and operators to develop a more detailed understanding of the results officers have arranged for focus groups for each operator in both Islands to be undertaken in August.</p>
Telecoms – 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		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Start Q2 		<p>Work has commenced on the new 5G licensing framework, which is aligning with the UK (i.e. general conditions) once this new framework has been agreed officers will look to adjust the current licenses to align with this new approach.</p>

Telecoms – Ensure service quality standards by telecom providers with market power are demonstrably aligned with the interests of consumers

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Start Q2 		<p>Following the consultation carried out during Q4/2017, CICRA has succeeded in getting retail operators to agree to a voluntary approach rather than taking formal regulatory action in this area at this time. The actions requested are:</p> <ul style="list-style-type: none"> Publication of retail service standards & compensation on a voluntary basis (under the heading Code of Practice). Encourage operators to meet UK standard for dispute handling, again on a voluntary basis. <p>CICRA will continue to monitor service standards. Wholesale service standards are being considered as part of the broadband consultation process.</p>

Telecoms – Seek to improve transparency of commitments and standards of all telecom licensees

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Start Q2 		<p>As above</p>

Telecoms – Identify access products that lower switching costs and improve the prospects for retail competition

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Start Q3 		<p>The broadband consultation process will address this issue. Officers are actively looking at naked bit stream for OLO's to enable them to differentiate not just on price but products, speed and quality.</p> <p>Officers are also looking into mobile backhaul solutions in addition to what is currently available in the market for OLO's.</p>

Telecoms – 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>CICRA has worked through the Consumer Protection Network with the Jersey Consumer Council to raise awareness of two telecoms issues year to date: the new ASA advertising standards for broadband services and the need to review mobile phone package prior to travelling abroad to avoid potential bill shock.</p>

Telecoms – Provide telecom customers 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"> <i>Ongoing</i> 		<p>The customer satisfaction survey is ongoing with results due in July. For the first time the survey will be supplemented by focus groups for all operators in both islands to provide greater insight into the results. Operators are being encouraged to attend the focus groups which are scheduled for August.</p> <p>The voluntary Code of Practice information that will be published by all operators will provide customers with transparency between the operators.</p>

Telecoms – 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

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <i>Start Q2</i> 		<p>This is being looked into as part of the broadband consultation process and officers are aiming to complete this by the end of the year.</p>

Telecoms – Address any structural or behavioural constraints in wholesale service provision that inhibits innovation by downstream service providers

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> • <i>Start Q3</i> 		<p>There have been complaints from Sure regarding JT not being willing to retain or develop wholesale products for its requirements. JT has been challenged, but CICRA legal powers through licence conditions means officers presently do not have the powers to force JT to retain services such as 100Mbps options.</p> <p>As a result of the feedback from the broadband consultation process officers are looking into naked bit stream as a way of allowing Sure or other OLO's to offer competitive retail options. Given the timescales to implement such a solution, in the short term officers are recommending the introduction of a new licence condition that would provide the necessary powers to deal with the specific issues arising.</p>

Telecoms – Ensure that wholesale services support the promotion of effective retail competition

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> • <i>Start Q3</i> 		<p>As above</p>

Telecoms – Ensuring fair, reasonable and non-discriminatory access to backhaul for mobile sites for all mobile operators

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> • <i>Start Q2</i> 		<p>As a result of a complaint in Jersey and looking at future challenges for supporting 5G, officers are actively looking at backhaul solutions that are cost effective and meet the needs of OLO's. This may result in CICRA requiring dominant providers / incumbents to develop a new mobile backhaul only product that provides the technical quality required along with a cost effective price.</p>

Telecoms – 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

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"><li data-bbox="190 411 331 435">• <i>Start Q3</i>		This is being addressed as part of the broadband consultation process

3. Ports

Regulation of Jersey’s airport and sea ports commenced in 2015. Two high level objectives have been identified by CICRA. All port facilities in Jersey are owned and operated by Ports of Jersey Limited which, in turn, is 100% owned by the States of Jersey

Protection of consumers of port operation services and facilities through a transparent and relevant range of quality of service standards

A principles-based level of oversight that ensure charges are reasonable

Ports – Development of a transparent set of measures that ports users value which will be monitored over time and, where feasible, compared to other port operators		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Complete 		<p>Quality of service measures for Ports of Jersey were confirmed in May. The first reporting period is 1 July 2018 to 30 September 2018 with first publication of those results due in November.</p>
Ports – Recognising that a longer term price control will not be in place for 2018, consider submissions from POJL for interim pricing adjustments		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> Q2 – Q4 		<p>On 15 March 2018 CICRA issued a Final Notice withdrawing its proposal to allow Ports of Jersey to increase its prices effective from 2018 following new information and detail provided by Ports of Jersey.</p> <p>No further submission has been received from Ports of Jersey and therefore CICRA is prioritising progressing work on the longer term price control.</p>

Ports – Development of a longer term price control framework that ensure a fair sharing of risk and incentives between Ports of Jersey and ports users

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none">Ongoing		Work is ongoing with stakeholder engagement planned over quarter 3 and a consultation anticipated for early quarter 4.

4. Post

Regulation of Jersey's postal sector commenced in 2004. The main postal operator is Jersey Post Limited which is 100% owned by the States of Jersey

Activities in this area are based on ongoing monitoring and surveillance, in line with our strategic objectives which are to provide oversight of Jersey Post's behaviour and charges based on reliance on competition law by default and economic regulation by exception, as well as ensure quality of service provision and USO obligations are met.

Post - Ensure the efficiency 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 		No issues arising.
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>Following a request from Jersey Post, CICRA issued, in February 2018 an initial notice proposing changes to Jersey Post's quality of service targets as a result of changes to Royal Mail's processes in the UK. CICRA subsequently received confirmation from Royal Mail that it is not longer intending to change its processes.</p> <p>CICRA will continue to monitor compliance with quality of service performance and targets during the second half of 2018.</p>