



POSTAL SECTOR (JERSEY)

2020 WORK PROGRAMME

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INTRODUCTION

The overarching aim of the Channel Islands Competition and Regulatory Authorities (CICRA)¹ is to ensure markets work.

CICRA's prioritisation principles, values, strategic objectives together with the annual work programme for 2020 are set out below.

Background

CICRA has been the economic regulator of the postal sector in Jersey since 2004.

The JCRA has a primary duty to ensure that postal services are provided, both within Jersey and between Jersey and the rest of the world, so as to satisfy all current and prospective demands for them, wherever arising².

The JCRA also has a duty to ensure that those involved in commercial activities connected with regulated postal services in Jersey have sufficient financial and other resources to conduct those activities.

PRIORITISATION PRINCIPLES

The Authority will weigh up several factors when prioritising how it allocates its resources with the aim of ensuring markets work well in the Channel Islands. This is important because improving how markets work brings many benefits to the economy such as lower prices, increased choice and innovation.

Before taking action, in particular, it will consider whether the matter can be resolved in a manner that is **actionable, realistic and meaningful**.

Actionable

This prioritisation principle looks at whether CICRA has the necessary legal powers to properly assess and address the nature of the concerns that have arisen. The nature of the powers given by legislation as well as the absence of powers are all relevant in considering whether the Authority has the legal means to proceed when considering matters that may arise whether it is acting in its role as an economic regulator or a competition law enforcement body.

In its role as an economic regulator, the Authority has certain legal powers that allow it to intervene in a proactive way in certain specific sectors of the economy to prevent harm to customers caused by a lack of competition where choice then tends to be limited. Telecoms, ports, electricity and post sectors are all

¹ The Jersey Competition Regulatory Authority (JCRA) and Guernsey Competition and Regulatory Authority (GCRA) co-ordinate their activities in the Channel Islands. For the purposes of this document, the JCRA and GCRA are together referred to as CICRA, and all references to CICRA should therefore be read as references to each of the JCRA and GCRA unless the context otherwise requires.

² See Article 8, Postal Services (Jersey) Law 2004. The duties of the JCRA with respect to postal services are attached at Annex A.

subject to economic regulation in one or both Islands. In these situations, the Authority “stands in the gap” as a proxy for the competitive pressures that would otherwise be present. Examples of such forward looking action by the Authority include setting price controls and imposing service standards on companies within those sectors.

Outside of these specific sectors, the Authority does not have the power to impose this type of forward looking measure. Instead it may be able to use its competition law enforcement powers to put a stop to harmful behaviour by businesses, although certain sectors are excluded from competition law (for example the Guernsey airline sector). Competition law can be used to address issues such as anti-competitive agreements between organisations, price fixing, measures designed to exclude competitors from the market, and abuse of a dominant market position.

The Authority will not consider action outside these areas defined by law.

Realistic

Small market economies such as Guernsey and Jersey are often subject to international commercial forces and developments with limited ability to make a meaningful impact on those.

CICRA is a small competition and regulatory authority and as such certain types of investigations are of a scale and complexity that are better undertaken by competition authorities in larger jurisdictions. European Commission investigations into the behaviour of firms like Google or Amazon demand a combination of capacity and capability simply not available to the Channel Islands. In these circumstances, even where it has the legal powers to do so, the Authority is likely to rely on the decisions of larger jurisdictions rather than carry out its own independent investigation.

The Authority will take into consideration the practicalities of carrying out large and complex investigations before deciding whether to take a matter forward.

Meaningful

Ultimately the Authority wants to be confident that the actions it takes have a net positive contribution to the functioning of local markets, mindful of the fact that any intervention will have some cost. When the Authority contemplates whether to proceed with a matter brought to its attention, it considers both tangible and intangible costs and benefits.

Many of the duties placed on the Authority are essentially about protecting principles of fairness to consumers and/or fair play in commercial behaviour between firms. In terms of being meaningful, such benefits do not always lend themselves to measurement in terms of monetary value but require a more subjective assessment of their value.

Clearly, parties affected by an investigation will also experience its cost and benefit effects differently. Businesses under investigation will generally bear a greater burden of the cost of investigation whereas consumers or competitors may be impacted positively as a result of an intervention – for example through greater choice or ability to serve consumers – and therefore they will generally have a greater share of the benefit.

An example of where tangible costs and benefits can be identified was the reduction in conveyance fees after price fixing was abandoned by law firms, where the direct cost to consumers reduced as a result. The monitoring of mast emissions on the other hand involves fairly significant costs and delivers no apparent financial benefit. On the basis of immediate financial costs versus benefits this would not be undertaken. However, the benefits of providing assurances to the public are considerable; objections to planning applications based on lack of information will contribute to delays and a decline in mobile service quality as a result. When mobile mast emission monitoring gives appropriate oversight and assurances to the public the intangible benefit of greater confidence contributes to opportunities and enhancement to our quality of life through access to modern services even if not amenable to financial quantification.

Values

CICRA ensures that its team works with principled pragmatism in the forefront of their minds. We promote 3 key values and encourage our stakeholders to reciprocate:

- **Integrity** - Maintain and expect high standards of integrity and respect
- **Openness** - Maintain appropriate level of confidentiality, encouraging a culture of openness where possible
- **Accountability** - We take responsibility for resolving issues in a constructive manner

ECONOMIC REGULATION OF POSTAL SECTOR (JERSEY) – STRATEGIC OBJECTIVES

The overarching objective for the economic regulation of the postal sector in Jersey is **to ensure the efficient provision of postal services, including the universal service obligation (USO), that deliver value and quality to postal users and the wider economy.**

The JCRA will provide oversight of Jersey Post's behaviour and charges, as well as ensure quality of service provision and that USO obligations are met. Consistent with prior years, the objective will be achieved through reliance on competition law by default and economic regulation by exception.

NEXT STEPS

CICRA will continue to engage with key stakeholders in adapting these work streams where the case is made and progressing our strategic objectives in the Jersey postal sector.

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