Gorey Boat Owners Association

Jersey Competition Regulatory Authority

5 August 2024

PORT REGULATORY REVIEW – PRICING FRAMEWORK DRAFT DECISION RESPONSE

Gorey Boat Owners Association (GBOA) submits its response to the draft decision in respect of Ports of Jersey (PoJ) Pricing Framework issued by JCRA, dated 20 June 2024.

As a precursor to our responses to the specific questions to which JCRA seeks responses, we felt it appropriate to relay the considerable ongoing resentment felt by our members in respect of the fee increases imposed by PoJ in 2023 and 2024, which we still believe were in breach of the spirit of the previous pricing framework, exploiting as they did the statistical anomaly of Jersey RPI at the time to peg the fee base artificially high before the next Pricing Framework cycle.

PoJ then breached undertakings that all boat-owners would benefit from a discretionary delay in the implementation of the increases, which was not delivered for those on annual contracts on drying berths. More recently, PoJ have indicated they will introduce parking charges on South Pier, which will have a significant adverse impact on boat-owners using the marine retail outlets on the pier, St Helier YC, and those accessing their boats in the old harbour.

GBOA recognises that that PoJ has an ambitious programme to renew and modernise the airport and harbour, and needs to fund these plans from revenues and borrowings. It is our position that the provision of marina services is profitable in its own right at current levels of fees, and it is an abuse of PoJ monopoly position to generate excess revenues from marina services to contribute to the airport and harbour modernisation, and development of residential, retail and hospitality premises around the harbour. Marina and outlying harbour users will derive no benefit at all from these projects, indeed it is likely that the facilities will decline as the changes during and after the harbour master plan building work will impact adversely on the priorities of PoJ, as well as access, parking and general function.

We also note that the document we are being asked to comment on does not include PoJ annual results for 2023, despite those results being published before the consultation opened. These 2023 results show that volumes, revenues and profits increased significantly over 2022; given the huge fee increases imposed in January 2024, 2024 will be another bumper financial year for POJ and its executive.

Turning to the specific questions:

Question 1. Do you agree with the Authority's structural approach to the pricing framework set out in chapter 3 of this Draft Decision? For example, the basis of the price control (single till), the duration of the price control (five years) etc.? If you do not agree with any aspect of this you should provide all of your analysis and assessment.

1. In our view, PoJ has monopoly control over parking at the airport, and in the immediate environs of the harbour. Whilst it is true that there is paid-for public parking in St Helier, the reality of boat use is that proximity to the harbour is necessary for loading and unloading boats. In our view, airport and harbour parking should be added as a market which is subject to the regulation of JCRA, and subject to the Pricing Framework (Pricing Framework 3.7).

2. We support the concept of a price control, subject to our comments further down this response in respect of the appropriate measure of inflation (Pricing Framework 3.9).

We are very aware of the scale and complexity of the master plans, and the uncertainty of the timing of expenditure. In this regard we would resist the idea of preloading price increases to generate excess profits for PoJ, ahead of confirmation of the detailed costing and implementation. It is our view that the price increases each year should be subject to verification that the plan is proceeding on budget and on time. The increases should only be approved by the JCRA after seeing evidence. Whilst we acknowledge that this will place a burden on PoJ and JCRA, and leave uncertainly on a year to year basis about future price increases, it is in our view essential to maintain the integrity of the price control framework and the justification of increases to fund the future plans (PF 3.12).

3. We agree that 5 years is a reasonable time frame for the reasons set out in the draft (PF 3.17).

4. It is our view that the relative scale of operations, the revenues generated, and the capital expenditure necessary for the master plans of the commercial port and the airport, mean that the marina services are a sideshow in PoJ business. The financial significance of marina and outlying harbours are dwarfed, amounting to approximately only 10% of turnover, and likely to decrease as airport and port volumes grow. Whilst we have previously accepted the premise of single till, on the grounds that separate accounting and central cost allocations for marina services would be onerous, we do not accept that costs associated with master plans for the harbour and airport master plans should be partially funded by increases to fees for marina and outlying harbour users.

We acknowledge the simplicity for PoJ to maintain a single till, but we could only continue to support this if the pricing framework proposed had a lower figure than that for port and airport fees. We do not accept the premise that each regulated charge is subject to the same price control for the reasons set out above (PF 3.23).

5. As noted above, we share the concerns of JCRA in respect of 'baking in' price increases ahead of progression of capital expenditure which may be subject to planning or operational delays. As such we support the idea of 'tramlines' to monitor cumulative revenues and annual monitoring (PF 3.40- 3.47).

Question 2. Do you agree with the Authority's approach to key pricing framework parameters set out in chapter 4 of this Draft Decision? If you do not agree with any aspect of this you should provide all of your analysis and assessment.

1. Our only comment in respect of the capital expenditure is that a significant part of this relates to what is effectively commercial property development on land now owned by PoJ that was gifted to PoJ by the States of Jersey. As such this part of the PoJ estate is more akin to Jersey Development Company. There are plans to develop this land for residential and retail purposes, but we do not believe that this capex should be partially funded by marina user charges, but should look to use similar funding models for such projects as JDC.

2. Whilst we are not corporate finance experts, we do not believe that the WACC quoted in the draft decision is appropriate. We think the spuriously high rates cited by PoJ indicate that PoJ are 'gaming' this aspect with their so-called risk premia. PoJ is wholly owned by States of Jersey, a Crown Dependency, and should carry a lower risk rating than, for example, regulated utilities owned by private equity interests in the UK, as both the risk of default, and the required rate of shareholder return is much lower.

We also note that interest rates are on a firm downward trend, with both BoE base rates and market rates forecast to fall this year and next. We recognise that work started on the master plan while rates were higher. Sometimes you have to work within what you can afford, rather than expect be funded for whatever it costs (as the Hospital project has discovered).

3. We have reviewed carefully the Pricing Framework section 4.18 to 4.26, which sets out the JCRA draft position on the relative merits of RPI vs RPI(X) as the inflation measure on which to hang the pricing framework.

We are very strongly of the view that Jersey RPI is not the correct measure to use. Jersey RPI is unduly skewed by the impact of housing costs in Jersey, due to the methodology of its composition and the unusually high cost of residential property in Jersey (both to buy and to rent). It is our view that RPI(X) is the correct inflation metric to be used (4.19).

We acknowledge that there was a debate in the previous pricing consultation about use of RPI and RPI(X). The premise under which that discussion was resolved was that there was, to all intents and purposes, no substantive difference between them. On that basis RPI was adopted. Subsequent events have shown that this was a bad decision, although it is recognised that the two events that led to this huge variation between them was not anticipated.

It is clear that the double whammy of the impact of money markets to 'Trussonomics', and the BoE response to the sharp increase in inflation caused by the war in Ukraine, led to a spike in inflation and interest rates.

There are a number of different methodologies and nomenclature for inflation.

- RPI - the Jersey Retail Price Index

- RPI(X) – the Jersey RPI excluding mortgage interest

These figures are produced by Statistics Jersey

- CPI - UK Consumer Price Index

- CPIH – UK Consumer Price Index including owner occupier housing costs. These figures produced by UK Office for National Statistics

Whilst they are computed slightly differently, the main UK measure of inflation, CPI is broadly comparable to RPI(X), and the UK measure of inflation including owner occupied housing, CPIH, is broadly comparable with RPI.

The UK moved away from RPI as the main inflation indicator in 2015 as it does not meet the international standard for designation as national statistics. Jersey retains RPI as the core methodology. The main UK inflation index is CPI, which is used for most index linking, which DOES NOT include housing costs. The main Jersey inflation index is RPI, frequently used for index linking in Jersey, which DOES include housing costs. In periods of stability, the difference between the two may be negligible, but as we can see in the table below, that is not the case in times of instability.

Statistics Jersey produce quarterly inflation reports and the figure at September is used as the reference for the price adjustment under the Pricing Framework for the upcoming year.

June 2024	Inflation measure	Sept 2023	Sept 2022	Sept 2021	Sept 2020	Sept 2019	Sept 2018	Sept 2017	Sept 2016
5.0	Jersey RPI	10.1	10.4	2.9	0.9	2.7	4.3	3.1	2.0
4.1	Jersey RPI(X)	5.4	8.0	2.7	2.6	2.6	3.8	3.4	2.0
2.0	UK CPI	6.7	10.1	3.1	0.5	1.7	2.4	3.0	1.0
2.8	UK CPIH	6.3	8.8	2.9	0.7	1.7	2.2	2.8	1.2

Sources : Jersey RPI – Statistics Jersey, UK CPI – Office for National Statistics

There are some significant conclusions from these comparative numbers:

(i) Inflation measures, both including and excluding housing, pretty much tracked each other for a number of years, up until 2022, in each of Jersey and the UK.

(ii) 2022 and 2023 are clearly outside the normal range, and by June 2024 inflation in both Jersey and the UK is sharply down and trending towards longer term historical rates. (iii) Jersey RPI in late 2022 and into 2023 is a statistical anomaly

(iv) The mortgage element of inflation (i.e. the difference between the inflation rate including housing and the inflation rate excluding housing, calculated from the table above) shows reasonably close correlation between the Jersey rates and the UK rates until 2022 when the difference becomes very marked indeed.

It is relevant to explore further the impact of the housing cost element on inflation indices:

Housing cost differential	June 2024	Sept 2023	Sept 2022	Sept 2021	Sept 2020	Sept 2019	Sept 2018	Sept 2017	Sept 2016
Jersey RPI- RPI(X)	0.9	4.7	2.4	0.2	(1.7)	0.1	0.5	(0.3)	0.0
UK CPIH-CPI	(0.8)	(0.4)	(1.3)	(0.2)	0.2	0.0	(0.2)	(0.2)	0.2
Jersey-UK diff	1.7	5.1	3.7	0.4	1.9	0.1	0.7	0.1	0.2

This highlights that Jersey inflation was much more dramatically impacted by the hike in interest rates, despite on the face of it being subject to the same interest rate environment. It is clear that the sharp increase in interest rates caused the spike in Jersey RPI and UK CPIH but the variance between the Jersey impact and the UK impact is stark, given the same market forces. We assume that this is attributable to higher average property and borrowing levels in Jersey compared with the UK average, and possibly less mortgage competition on the island.

What is the relevance of the comparison with the UK rates of inflation to the PoJ Pricing Review?

(i) Jersey is out of line with international practice in still using RPI (which includes housing costs) as its main inflation measure, and as a reference for index linking. The UK, and other major economies use an inflation measure CPI which excludes the cost of housing

(ii) The inflationary pressures of the spike in interest rates on housing costs embedded in the Jersey inflation index had a disproportionate impact on the index used to index link compared with the impact of the same rises in interest on UK inflation

PoJ cost base is not exposed to changes in housing costs, and it is inappropriate to use an inflation measure so heavily weighted to housing costs to set its pricing. Clearly there are other inflationary pressures on costs in PoJ, but this is true of all businesses.

PoJ has benefitted from a cumulative 7.1% uplift in its pricing over and above actual true Jersey inflation over 2023 and 2024. It is quite likely that the use by PoJ of an inappropriately high rate of increase in these years, which is then passed through increased freight costs to shop prices, is why Jersey core underlying inflation remains higher than the UK.

It is acknowledged that, as interest rates fall, the differential between RPI and RPI(X) will decrease, and indeed may become negative over a short time frame until the rate cuts reverse out. The table in 4.25 of the Draft Decision cites Jersey Fiscal Policy Panel (FPP) projecting (RPI – RPI(X)) as + 1.5% in 2024, -1.1% in each of 2025 and 2026, and thereafter tracking each other. Whilst we are not economists, we are somewhat sceptical of the FPP projection of RPI of 0.8% for 2025.

Even if these projections turn out to be correct, it is our view that RPI(X) is the correct measure to be used, for a number of reasons:-

- As we have explained, we believe underlying inflation excluding housing costs is the most conceptually appropriate measure for indexing

- There are risks to the global scenarios that could cause another sharp increase in interest rates, which are not currently factored in to the assumptions (as occurred under the last Pricing Framework). The risk to customers of PoJ is asymmetric, i.e. there are few if any scenarios that could lead to a steep and continuing decrease in interest rates that would leave RPI(X) higher than RPI by any material amount for any significant time, whereas as the last two years has shown, there are scenarios that could lead to a repeat of the mismatch between RPI and RPI(X), which could then be sustained for considerable time.

- Our members would strongly resent another increase above underlying inflation in January 2025 on top of the swingeing increases passed in 2023 and 2024

- We believe our members would prefer the certainty of a smaller increase in 2025 and accept the risks of a short term, and small, adverse variance in 2026

- It would be a significant step forward for the island as a whole if Government and its agencies moved away from RPI as its main indexing metric to a measure that is

more consistent with global standards. Whilst we recognise that is slightly outside the specific scope of this draft decision, we think that JCRA has a role to play in influencing broader government policy. The adoption of RPI(X) as the relevant index in such a pivotal business as PoJ can pave the way for a broader reset of index linking in Jersey, with wider economic benefits for the island.

Question 3. What are your views on the scenarios used to generate the value of 'X' set out in chapter 5 of this Draft Decision?

1. If we understand this Section correctly, we note that the draft decision is proposing a price control in the range RPI + 0% to RPI + 3%, with the variation determined by the outcomes on a number of scenarios:

- If PoJ fully implements the capital investment plan as scheduled, and the WACC is at the high rate projected by PoJ, then X = 3

- If WACC is low, then X = 0

- If the extensive capital expenditure programme is not undertaken, then X < 0, i.e. prices would rise by less than inflation

2. Again, if we understand the draft decision correctly, any final decision on X would be subject to regular (annual?) review on the time line of the actual capital expenditure, and the cumulative revenue, and would be adjusted downwards if in the opinion of JCRA the underlying assumptions used in the financial modelling are no longer appropriate.

3. In our view, marina services should have a different value of X to the rest of PoJ, because the various capital expenditure programmes will not benefit marina and outlying harbour users. In fact we anticipate that the impact of the programme will be detrimental to boat-owners while the programme is underway, as we anticipate the loss of certain facilities and amenities to accommodate the works.

We recognise that some ongoing maintenance will be necessary over the 5 years of the framework, but this can and should be funded through the existing revenues of marina services, which have increased very significantly in the period 2023-2025.

The marina and outlying harbours have extended expected lives and are being depreciated over at least 30 years. We do not accept the premise that the cost of replacement of capital assets should be funded from one year cash flow.

4. We note that the draft decision includes the observation that X would be a negative number, (i.e. prices would decrease in real terms) if there was no major capital expenditure plan.

In our view an appropriate measure for X for marina services would be -1, because :

- There will be no significant capital expenditure

- Marina services fees have been hiked massively in the last two years (well above underlying inflation) without any significant investment or improvement over and

above core maintenance other than like for like pontoon replacement in the town marina as the old pontoons had reached the end of their life

- RPI(X) is forecast by FPP as 1.9% (2025) rising to 2.3% (2026) and 2.4% thereafter, so marina services price increases would continue to go up, but at a much reduced and stable rate.

5. We note that the previous JCRA decision on the pricing framework from January 2020 included projections of inflation of 3% annually. As we noted earlier, the risks of material changes to interest rates are unforecastable, but the impact is asymmetric. In our view, there should be a cap on the maximum increase that can be passed through the pricing framework, should there be future spikes in inflation. We would propose a cap of 5% to increases in prices.

We are proposing this in the specific context of marina services, although there would be significant benefits to the island economy if a cap was applied across the whole range of PoJ increases to charges.

6. To summarise, we propose that marine services have a dedicated pricing framework of

RPI(X) -1 %, subject to a ceiling of 5%

Question 4. Do you have any other comments on any other matter relating to the Draft Decision? If yes, please provide all of your analysis and assessment.

No

Representatives of GBOA would be pleased to attend a face to face meeting with JCRA if that would help clarify and explain our submission.

Yours Sincerely

Paul Achler

Chairman

Gorey Boat Owners Association