

STRATEGIC PLAN

2011 – 2013



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1. Overview

During the later part of 2010 the Board and staff of the Jersey Competition Regulatory Authority (the 'JCRA') have reviewed the JCRA's role in Jersey's economy, and the approach we should take to our work. The results of this review are incorporated in this three year plan.

The JCRA's overriding goal remains the same: to promote consumer welfare through efforts that encourage lower prices, greater choice and innovation in the goods and services available in Jersey. The JCRA is focused towards ensuring a significant positive contribution to Jersey's long-term economic growth and competitiveness.

Our Values

The JCRA continues to be guided by the core values of fairness, accountability, proportionality and efficiency.

How we do business

Following the appointment of John Curran to head both the JCRA and the Office of Utility Regulation (the 'OUR') in Guernsey, we have begun a process to share resources and engage in joint working. The key benefits we expect to achieve are synergies from pan-Channel Island working, the delivery of a consistent regulatory framework across the two islands, significant cost savings and, in time, assisting the OUR with the administration and enforcement of Guernsey's competition law. To assist in achieving this goal, the JCRA and the OUR have signed a Memorandum of Understanding to facilitate joint working.

Stakeholder engagement

We maintain continual dialogue with our major stakeholders, and appreciate the need for the JCRA to outline its vision for the future of regulation and competition law enforcement in Jersey. We understand the need to prioritise our work plans to respond to new issues and market development in a timely manner.

We will continue to engage with stakeholders to better understand their views and better explain our own. The consultation on this strategic plan reinforces our commitment to continual stakeholder engagement. We are also intending to review how we consult, to ensure that JCRA work is better informed and more fully understood.

Influencing Role

The JCRA is committed to increasing its influencing role within Jersey by publishing appropriate papers, engaging with stakeholders and advising ministers on policies that have an impact on competition and regulation.

General public

The JCRA is committed to educating businesses and consumers about the benefits of competition and regulation and the work of the JCRA in these areas. We have planned a comprehensive communications programme in this respect.

Council of Ministers and the States

The JCRA will continue to work closely with the States and the Council of Ministers and in particular the Economic Development Minister, to provide timely and high quality advice.

The Cost of Regulation and Proportionality

The JCRA is aware of the cost that regulation can have on businesses, and seeks to act responsibly by ensuring that costs are minimised relative to benefits derived by the economy as a whole. Where the JCRA takes regulatory decisions we carefully consider the proportionality of the decisions as part of the process.

Global Trends

The JCRA will continue to pay close attention to global trends and developments in both regulation and competition law to ensure that Jersey follows international best practice where it is appropriate to do so.

In regulation, the JCRA will maintain existing and seek new relationships with regulators worldwide to facilitate the sharing of knowledge and best practice and ensure consistency in our approach to economic regulation.

In competition law, the JCRA will maintain a leading role in the application of competition law in small economies, particularly through active participation in the International Competition Network. We will continue to cooperate closely with other jurisdictions, particularly the OUR, and the UK's Office of Fair Trading and Competition Commission. We will seek greater consistency in our respective approaches to implementing competition policy.

Performance Improvement

The JCRA recognises the need to focus on achieving maximum impact, increasing productivity and delivering efficiency gains – in essence giving the Jersey economy better value, and we will prioritise work that delivers the most benefit to local consumers.

The demands placed upon the JCRA in the years ahead will be significant and increasing. The Board and staff are dedicated to achieving the best possible outcomes in competitive and regulated markets for the long-term benefits of Jersey.

2. Nature and Scope of Functions

The JCRA is an independent body established in May 2001 by the States of Jersey. We are primarily accountable to the Minister for Economic Development for our performance. Our expertise is used as Jersey's impartial promoter, enforcer and administrator of competition law and to promote consumer interests through economic regulation of the postal and telecommunications markets. We also use our experience to provide input into policy development and legislative reviews.

Funding

The JCRA is funded through a grant from the Economic Development Department for our work in respect of the Competition Law and by licence fees paid by the licensees in the regulated industries of telecommunications and postal services.

Competition

The JCRA is responsible for promoting, administering and enforcing the Competition (Jersey) Law 2005. The aim of this law is to prevent consumers being harmed by anti-competitive or exploitative behaviour in the market, such as price-fixing or abuse of market power.

The JCRA provides information and guidance, and enforces the prohibition of anti-competitive activity.

Economic Regulation

The States of Jersey decided to reform the postal and telecommunications markets by transforming the telecoms and postal businesses previously carried on by the States into separate companies, albeit wholly-owned by the States. These are now run by Jersey Telecom Limited and Jersey Post Limited. The legislation enabling this, namely the Postal Service (Jersey) Law 2004 and the Telecommunications (Jersey) Law 2002, also provided for the withdrawal of the monopoly positions that they had previously enjoyed and for economic regulation by the JCRA.

The JCRA is responsible for establishing competitive markets and for the regulation of businesses providing postal and telecommunications services. The aim is to provide consumers with the benefits of competitive markets.

3. 2011 – 2013 Strategic Aims and Objectives

The JCRA appreciates the need to outline its vision for the future of regulation and competition law enforcement in Jersey.

Set out below are the main areas on which the JCRA expects to focus over the next three years.

Telecommunications regulation

- 1 Working in partnership with the OUR to develop a pan-Channel Island approach to regulation
- 2 Ensuring optimum spectrum efficiency over the two islands
- 3 Further promoting competition in the telecoms market through the development of appropriate wholesale markets
- 4 Facilitating the continued development of an integrated world class telecoms infrastructure for the benefit of the Jersey economy

Postal regulation

- 1 Further liberalisation of the postal market in Jersey, if appropriate, whilst ensuring a universal postal service
- 2 Reviewing the regulatory regime with a view to rolling back regulation as competition develops
- 3 Targeting regulation so that it is aimed at those parts of the market where market forces alone are not sufficient to protect consumers' interests.

Competition Law

- 1 Reviewing the administration and enforcement of the Competition Law to minimise the burden on businesses particularly in respect of merger approval
- 2 The provision of high quality advice in a timely manner to the Minister for Economic Development and other minister on markets where regulation may be required or competition is limited
- 3 Raising the profile of the Competition Law in the Island and ensuring that the benefits are understood

4. Telecommunications 2011 Work Programme

The JCRA acts as the regulator under the Telecommunications (Jersey) Law 2002 (the 'Telecommunications Law'). The JCRA's remit under this Law is the satisfaction of all reasonable demands for telecommunication services, where appropriate by promoting competition.

Our focus for the next three years is on the following four areas with the key objectives in 2011 set out under each heading

1 Working in partnership with the OUR, to develop a pan-Channel Island approach to regulation

During 2011 the JCRA will work with the OUR to develop a co-ordinated approach to regulation of the telecoms sector. We will endeavour to ensure that key projects that impact on pan-Channel Island operators are aligned so as to reduce the regulatory burden on operators. We will endeavour to co-ordinate information gathering so that information required to enable us to discharge our duties is carried out in a manner that will facilitate easier collection. (Quarters 1 – 4, 2011)

The JCRA and the OUR will, through the provisions set out in the Memorandum of Understanding signed in 2010, share information more formally so that we better understand regulatory projects in both Islands. We will also take steps to align regulatory solutions in both Islands, to the maximum extent that such an approach is consistent with our legal duties. (Quarters 1 – 4, 2011)

2 Ensuring optimum spectrum efficiency over the two islands

During 2011 the JCRA will work with the OUR and the telecoms operators to review spectrum efficiency with the aim to optimising the use of the available spectrum. This will involve working with all operators to review the allocation of all existing and new spectrum to ensure a distribution which offers the Jersey consumer the widest choice of existing and new services. (Quarter 1 - 2, 2011)

The JCRA recognises the advantages of managing the allocation process locally in cooperation with OFCOM in order to minimise delays in the process. As such the JCRA will seek to satisfy as many requests as possible and seek to mediate in situations where demand outstrips supply.

3 Further promoting competition in the telecoms market through the development of appropriate wholesale markets

During 2011 the JCRA will seek to develop further the wholesale telecoms market in Jersey. This will enable the JCRA to start to focus its attention on issues such as access and equivalence to ensure that consumers in Jersey get the best service possible.

Included within this work will be

- The implementation of a revised Reference Interconnection Offer (RIO) rates (Quarter 2, 2011)
- A review of wholesale pricing across a range of services (Quarters 1 - 2, 2011)

- Further work on ensuring that Jersey Telecom's internal process for dealing with wholesale customers is fit for purpose. (Quarters 1 - 2, 2011)
- The continuing review of Jersey Telecom's separated accounts. (Quarters 1 - 3, 2011)

In line with the JCRA's objective to reduce the regulatory burden on business wherever possible, the JCRA will implement price controls on areas of the business only where competition does not exist or where competitive forces are not strong enough to ensure the optimal result for the consumer.

4 Encouraging the continued development of a world class telecoms infrastructure for the benefit of the Jersey economy

During 2011 the JCRA will continue to facilitate the telecoms pan-Channel Island working group, with the aim of delivering greater choice in the telecoms market for all consumers. This will be achieved through facilitating the launch of a range of new wholesale services which will help promote greater competition in the fixed market. These products are being developed in co-operation with the licensed telecoms operators in both Islands. (Quarters 1 – 4, 2011)

The JCRA will seek to establish key performance indicators and put service level agreements in place between Jersey Telecoms and the other telecoms operators. As part of this work retail and wholesale product lead times will be agreed and implemented. (Quarter 4, 2011)

In addition to the four areas outlined above the JCRA has a number of other activities planned for 2011 as well as statutory obligations which include

- To assist the Economic Development Department in implementing amendments to the Telecommunications (Jersey) Law 2002 including updating the definitions contained within the law, limiting the occasions on which Initial Notices are required to significant matters only, removing the need for consultation within the licensing process, and the introduction of fining powers. (Quarter 1, 2011)
- To work with the OUR jointly to publish statistics on the telecommunications market on a pan-Channel Island basis. (Quarter 2, 2011)
- To consider any applications for new telecommunications licences and licence modifications
- To investigate practices by operators that may contravene their licences and / or the Telecommunications Law or Competition Law, and take appropriate remedial action
- To maintain and update the Jersey mast locator website provided as a service to consumers in response to concerns about mobile mast emissions

5. Postal Services 2011 Work Programme

The JCRA acts as the regulator under the Postal Services (Jersey) Law 2004 (the 'Postal Law'). The JCRA's primary goal under this Law is the satisfaction of all reasonable demands for postal services, where appropriate by promoting competition, while also recognising the special circumstances of postal services.

Our focus for the next three years is on the following three areas with the key objectives in 2011 set out under each heading

1 Further liberalisation of the postal market in Jersey, if appropriate, whilst ensuring a universal postal service

During 2011 the JCRA will move to standardise all postal licences and review the licensing regime, including licence fees. (Quarter 2, 2011)

The JCRA will prepare revised directions, guidance and changes to Jersey Post's licence to reflect any changes to the universal service obligation. (Quarter 2, 2011)

The JCRA will ensure the efficient completion of the licensing process for TNT Post UK Ltd. (Quarter 1, 2011)

2 Reviewing the regulatory regime with a view to rolling back regulation as competition develops

During 2011 the JCRA will continue to work the Jersey Post with a view to lessening the burden of regulation and in particular to reduce the reporting requirements. This will include a review of the JCRA's reporting requirements under the previously issued direction on quality of service. (Quarter 3, 2011)

During 2011 the JCRA will continue to work with Jersey Post with a view to helping them to identify areas where they can reduce their internal costs of regulation. (Quarters 1 – 4, 2011)

3 Targeting regulation so that it is aimed at those parts of the market where market forces alone are not sufficient to protect consumers' interests

During 2011 the JCRA will review the need to implement a price control on Jersey Post, and if appropriate move to implement a new price control, targeting those parts of the market where market forces alone are not sufficient to protect consumer's interest. (Quarter 2 - 3, 2011)

In addition to the three areas outlined above the JCRA has a number of other activities planned for 2011 as well as statutory obligations which include

- To assist the Economic Development Department in implementing the amendments to the Postal (Jersey) Law 2004, including updating the definitions contained within the law, limiting the occasions on which Initial Notices are required to significant matters only, removing the need for consultation within the licensing process, and the introduction of fining powers. (Quarter 4, 2011)
- To consider any applications for new postal licences or licence modifications
- To investigate practices that may infringe the postal law, licences issued under the postal law or the competition law with respect to postal services and take appropriate remedial action
- To ensure that all licensees comply with the terms of their licences
- To support Jersey to host a successful global postal conference in June 2011.

6. Competition Law 2011 Work Programme

The JCRA acts as the administrator and enforcer of the Competition (Jersey) Law 2005 (the 'Competition Law'), which prohibits anticompetitive agreements, abuses of dominance and anticompetitive mergers and acquisitions.

Our focus for the next three years is on the following three areas with the key objectives in 2011 set out under each heading:

1. Reviewing the administration and enforcement of the Competition Law to minimise the burden on local businesses, particularly in respect of merger approval

We will step up our advocacy efforts to ensure that local businesses are fully aware of the implications of the Competition Law and will maintain our open door policy for the provision of advice. (Quarters 1 – 4, 2011)

Our published time-frames for merger and acquisition reviews are one month for non-complex cases and up to six months for complex cases. The JCRA will review again the mergers and acquisitions thresholds and guidelines and implement any appropriate amendments with a view to ensuring that the JCRA's statutory duties are upheld but that the compliance burden on business is minimised. We also want to ensure that we focus our resources on mergers and acquisitions that have the potential to have real adverse effects on competition in Jersey. (Quarter 2, 2011)

2. The provision of high quality advice in a timely manner to the Minister for Economic Development and other Ministers on markets where regulation may be required or competition is limited.

During 2011 the JCRA will look to agree with the Minister for Economic Development a programme of work that will allow the JCRA to review and provide advice on various markets of relevance to Jersey consumers. We intend to focus our activity on markets that are most likely to harbour restrictive trade practices and producing results that will have maximum positive impact on local consumers. (Quarters 1 – 4, 2011)

3. Raising the profile of the Competition Law in the Island and ensuring the benefits are understood

The JCRA has prepared a comprehensive communication plan covering all aspects of its work. The plan, which will be rolled out throughout 2011, includes a timetable designed to reach all major competition law stakeholders and includes articles in appropriate publications, speaking engagements at industry events, and briefings for politicians as well as press releases and publication of decisions taken and guidance issued. (Quarters 1 – 4, 2011)

In addition to the three areas outlined above the JCRA has certain ongoing responsibilities which include

- To provide formal and informal guidance to businesses on their obligations under the Competition Law
- To investigate suspected abuses by undertakings with a dominant position in particular markets
- To investigate suspected anticompetitive arrangements between undertakings
- To administer applications for exemption
- To investigate suspected failures to obtain JCRA approval for mergers and acquisitions when this is required
- To advise on existing or proposed States legislation in respect of the effects on competition