



2017 Work Programme

Information Note

Channel Islands Competition and Regulatory Authorities

Document No: CICRA 16/55

December 2016

Guernsey Competition & Regulatory Authority
Suite 4, 1st Floor Plaiderie Chambers,
La Plaiderie St Peter Port
Guernsey GY1 1WG
Tel: +44 (0)1481 711120
Web: www.cicra.gg

Jersey Competition Regulatory Authority
2nd Floor Salisbury House, 1-9 Union Street,
St Helier, Jersey, JE2 3RF
Tel: +44 (0)1534 514990
Web: www.cicra.je

Channel Islands Competition and Regulatory Authorities 2017 Work Programme

Channel Islands Competition and Regulatory Authorities or 'CICRA' produces an annual work programme setting out those areas it considers will contribute best to its strategic aims¹ over the next year. CICRA has a range of legal duties but its overarching aim is to ensure markets work well for consumers.

Introduction

Governments, regulators, competition authorities and consumers have important roles to play in making sure competition is as effective as possible. They do so in various ways. Sometimes, governments intervene directly in specific markets, for example in the Channel Islands previously States-run businesses have been restructured as separate companies in certain sectors, and regulatory frameworks have been introduced that seek to promote competition. The merger control regime also plays a role in that it limits the ability of firms to avoid competition by gaining control of their competitors. Economic regulation of certain sectors involves measures to assist customers to make informed choices and to encourage new entry and investment, promoting the emergence of competition in markets where it has been historically weak or absent. Regulators can also intervene directly to prevent or mitigate the harmful effects of a lack of competition in the short term.

In this context the work programme is presented below within four distinct but complementary headings²:

- Promoting fair competition in Channel Island markets where this advances consumer interests
- Protection of consumer interests where competition is less effective in meeting that aim
- Ensuring the regulatory and competition framework remains fit for purpose
- Supporting and advising Ministers and the States on policy matters and initiatives

¹ CICRA's strategic aims document 'Channel Islands Competition and Regulatory Authorities – Strategic Aims' is available on its website www.cicra.gg.

² Some of the matters CICRA is engaged in at present will extend into subsequent years, of which several involve confidential investigations; these are therefore only described in broad terms. In other cases, such as market reviews, flexibility to accommodate issues arising is necessary and the work programme sets out this area of priority accordingly.

1. Promoting fair competition in Channel Island markets where this advances consumer interests

Markets are generally better at meeting consumer demands where competition is effective. A key CICRA priority is therefore the protection of the competitive processes in the Channel Islands through effective use of its competition law powers. CICRA also has specific regulatory powers that place a duty on it to promote competition in particular sectors of the economy.

Market investigations are carried out by CICRA and these sit within the broad spectrum of competition law, operating alongside other regulatory mechanisms, by allowing CICRA the opportunity to assess whether competition in markets is working effectively.

Other aspects of CICRA's role under the competition law are set out under headings below.

Customers have an important part to play in stimulating greater competition between suppliers by making informed decisions which reward those firms that best satisfy their needs or preferences. The availability of information to consumers enables them to make more informed choices. CICRA therefore seeks to ensure such information is available.

Market intelligence improves the quality of information to competitors and is particularly important in markets where competition is weak through legacy advantages.

In the telecoms, ports operations and postal sectors, monitoring of markets through timely and relevant information supports CICRA's aims of promoting competition as these markets change and competition develops where this advances consumer interests.

In seeking to achieve its objective of ***promoting fair competition in Channel Island markets where this advances consumer interests***, the following specific areas of work have been identified.

Competition Law

- i. *Conduct a review of the market for freight services³ in the Channel Islands [Q1-Q2]*
- ii. *Investigate, and where appropriate remedy, contraventions of the competition law consistent with CICRA's prioritisation principles set out in its document [Q1-Q4].*
- iii. *Defend against an appeal to the Jersey Royal Court by ATF Fuels, of its finding that ATF Overseas Holdings Limited, trading as ATF Fuels, abused its dominant position by its unfair discriminatory behaviour in the supply of aviation fuel at Jersey airport [Q1]*
- iv. *Raise the level of understanding of competition law and the implications of policy decisions for competition through information campaigns within key States departments [Ongoing]*

³ In 2005 CICRA carried out an assessment of a merger transaction in the freight services markets. A range of risks to competition were set out that merited review at a future time. CICRA proposes to revisit the matters identified and consider market developments in the Channel Islands to assess whether competition in this sector of the economy is working effectively

- v. *Work with consumer bodies to support consumer interests in a manner that is joined-up and focussed on priority areas [Ongoing]*

Telecommunications

- i. *Implement appropriate controls across Jersey and Guernsey on broadband pricing that facilitate effective competition and support investment [Q1-Q3]*
- ii. *Assess appropriateness of fixed interconnection rates for telecoms network providers and where necessary set a new price control [Q1-Q3]*
- iii. *Progress and conclude the review of mobile termination rate charges by mobile network operators [Q1-Q3]*
- iv. *Ensure compliance by licensees with obligations placed on them by CICRA price control decisions for on-island leased lines services and fixed voice price controls over the price control period [ongoing]*
- v. *Implement findings of its 2016 review in providing additional access products to support the progress of competition in the telecoms markets [Q1-Q4]*

2. Protection of consumer interests where competition is less effective in meeting that aim

In the three regulated sectors (telecoms, port operations and postal services) CICRA places obligations on service providers through licences that set in place specific protection for consumers. These include minimum levels of service, obligations to provide consumer codes of practice, dispute resolution procedures as well as providing for measures such as price controls. In looking forward, CICRA will be seeking to rely more on proposals from licensees that are driven by their customers in the area of service quality and related key performance indicators. To the extent that licensees can demonstrate they are taking account of the views of their customers, are transparent in how they are accountable to them and how they perform against those, CICRA will adopt a lighter touch regulatory approach.

CICRA has powers under the competition law to assess proposed mergers or acquisitions that meet notification criteria and scrutinises these proposed transactions to ensure consumer interests are protected. Having completed its review and made proposals to amend the merger framework in Jersey and Guernsey, it will support the implementation of those changes led by the relevant departments.

In seeking to achieve its objective of **protection of consumer interests where competition is less effective in meeting that aim**, the following specific areas of work have been identified :

Competition Law

- i. *Scrutinise proposed mergers and acquisitions where they are subject to notification [Ongoing]*
- ii. *Evaluate the merits of exemption applications received [Ongoing]*

Telecommunications

- i. *Initiate and progress a longer term regulatory telecom strategy underpinned by States policy and engagement with stakeholders.*
- ii. *Provide telecom customers with meaningful information on telecom operator performance where the market does not meet this need [Ongoing]*
- iii. *Monitor and publish useful information for stakeholders on market developments through the annual telecom statistics report [Q2-Q3]*
- iv. *Investigate practices by licensees that may contravene their licences and/or the Telecommunications Laws, and take appropriate remedial action [Ongoing].*
- v. *Having identified areas of concern, monitor performance against consumer focussed service quality standards by telecom providers with market power, ensure there is demonstrable alignment of associated service standards with the interests of consumers [Q1-Q2].*
- vi. *Seek to improve transparency of commitments and standards that all telecom licensees hold themselves to [Q1-Q2]*
- vii. *Continue with programme of testing 4G operator delivery against performance standards, holding operators to account in their delivery of service [Q1-Q2]*
- viii. *Defend against an appeal to the Jersey Royal Court, made by JT, of its decision to implement a price control for fixed voice call services [Q2]*

Ports of Jersey

- i. Having identified areas of concern in terms of transparency of key performance indicators and delivery of service quality standards by Ports of Jersey, where it has market power, ensure there is demonstrable alignment of associated service standards with user priorities, improved transparency of performance indicators and standards that Ports of Jersey hold itself to [Q1-Q2].*
- ii. Continue to ensure the charges made by Ports of Jersey for port operations are consistent with principles of economic efficiency and cost causality, taking account of policy direction and public service obligations [Q2-Q4]*

3. Ensuring the regulatory and competition framework remains fit for purpose

CICRA's experience of applying the existing competition and regulatory law in the Channel Islands has identified areas where improvement can be made. These will enable CICRA to operate more efficiently and reduce the regulatory burden where appropriate.

In seeking to achieve its objective of ***ensuring the regulatory and competition framework remains fit for purpose***, the following specific areas of work have been identified

Competition law

- i. Having made recommendations to the relevant departments of changes in respect of block exemptions under the Jersey and Guernsey competition law, support the States to bring block exemptions into effect [Ongoing]*
- ii. Having made recommendations to the relevant departments for changes in respect of the merger and acquisition framework prescribed by Jersey and Guernsey competition law, support the States to bring those into effect [Q2-Q4]*
- iii. Implement the recommendations of the Oxera review carried out in 2015 [Q1-Q4]*

Telecommunications

- i. Initiate a strategic assessment of the telecoms sector to inform long term regulatory goals and priorities in co-operation with policy makers in both islands [Q1-Q4]*
- ii. Prepare the regulatory landscape in advance of further release of spectrum capacity (referred to as 5G) [Ongoing]*
- iii. Continue to process applications for new telecommunications licences and licence modifications [Ongoing]*

Postal Services in Jersey

- i. Ensure the efficient provision of postal services, including the universal service obligation (USO), that delivers value and quality to postal users and the economy [Ongoing]*
- ii. Monitoring of quality of service performance and targets for postal operators, to ensure that customers' needs are effectively met [Ongoing]*

4. Supporting and advising ministers and the States on policy matters and initiatives

A review of the wider competition and regulatory framework was carried out during 2015. Many of the recommendations of that work might also be relevant to Guernsey and we are continuing to explore these with the Committee for Economic Development also. In co-operation with the relevant departments CICRA will therefore look to implement these recommendations that relate to it and/or where it has a role to play.

CICRA has a role in advising on issues relating to competition and economic regulation. It will seek to carry out that role in accordance with the relevant service level agreements between CICRA and the Jersey Assistant Chief Minister and the Guernsey Committee for Economic Development.

In seeking to achieve its objective of ***supporting and advising ministers and the States on policy matters and initiatives*** the following specific areas of work have been identified

- i. CICRA will consider candidates for market reviews requested by the relevant governments
[Ongoing]*