



Regulatory Consultation Process

Consultation Document

Channel Islands Competition and Regulatory Authorities

Document No: CICRA 18/11

April 2018

Guernsey Competition & Regulatory
Authority
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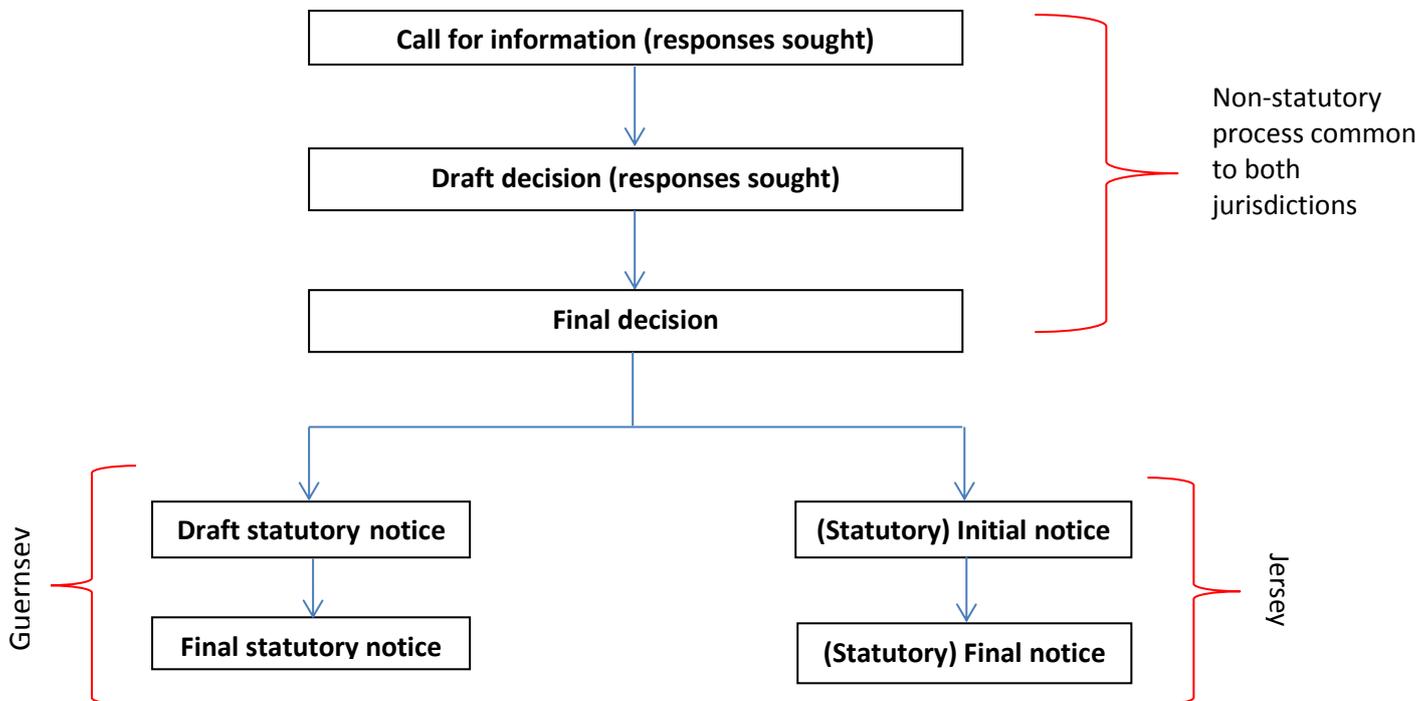
Jersey Competition Regulatory Authority
2nd Floor Salisbury House, 1-9 Union
Street,
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1. Before carrying out certain regulatory functions, both the JCRA and the GCRA carry out a consultation (which is not a legal requirement in either jurisdiction). However, after completing the non-statutory consultation phase, both authorities must follow a formal statutory process, which is materially different in the two jurisdictions.
2. In summary:
 - (a) In Guernsey, before making certain decisions¹, the GCRA must:
 - i. Publish notice of its proposed decision;
 - ii. Allow at least seven days for written representations to be made;
 - iii. Consider the representations;
 - iv. Make its decision; and
 - v. Publish notice of that decision.
 - (b) In Jersey, before exercising a (specified) regulatory function as defined under the applicable law², the JCRA must:
 - i. Give initial notice in the form and with the content prescribed in the relevant law;
 - ii. Allow at least 28 days for representations to be made³;
 - iii. If representations are made which lead the JCRA to alter the content of the initial notice materially, withdraw the initial notice and issue a fresh initial notice;
 - iv. If representations are made which do not lead to the JCRA materially altering the content of the initial notice, issue a final notice in the form and with the content specified by the law.
3. It can be seen that the two jurisdictions adopt markedly different approaches in this area, with the Jersey procedure being significantly more prescriptive and longer than that applied in Guernsey. This leads to duplication of effort for both CICRA and respondents, since it can involve producing and responding to two distinct sets of documents at each stage of the process. In addition, the highly prescriptive statutory process that is in place in Jersey makes it difficult to seek the views of respondents at an early stage in a formal, but flexible, manner.
4. In order to address these issues, CICRA proposes to put in place a new pre-statutory process, which is set out below in diagrammatical form:

¹ Various decisions under the Telecommunications (Bailiwick of Guernsey) Law, 2001; the Post Office (Bailiwick of Guernsey) Law 2001; the Electricity (Guernsey) Law 2001.

² "Specified regulatory function" as defined under the Telecommunications (Jersey) Law 2002; the Postal Services (Jersey) Law 2004; "regulatory functions" as defined under the Air and Sea Ports (Incorporation) (Jersey) Law 2015.

³ If no representations are made, the initial notice will come into effect automatically after the 28 day period for making representations has expired.



5. CICRA considers that the above process would address the problems identified, as it:

- (a) Would enable respondents to make any representations or objections to a CICRA proposal at an early, informal and pre-statutory stage. This would enable CICRA to deal with the responses flexibly and thoroughly before beginning the statutory process;
- (b) Would enable CICRA to run a single consultation process with a single set of documents up to and including the “final decision” stage, which, where issues are common to both jurisdictions in the telecommunications sector, would reduce the administrative burden on respondents and on CICRA. Separate sets of documents (one for each jurisdiction) would be produced at the statutory stage and, assuming that all relevant matters had been considered at the pre-statutory stage, could be relatively short.

6. Interested parties may submit comments on the content of this consultation to CICRA in writing or by email to the following addresses:

<p>CICRA Suite 4, 1st Floor, La Plaiderie Chambers, La Plaiderie, St Peter Port, Guernsey, GY1 1WG</p> <p>info@cirra.gg</p>	<p>CICRA 2nd Floor Salisbury House, 1 - 9 Union Street, St Helier, Jersey, JE2 3RF</p> <p>info@cirra.je</p>
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7. The closing date for submission of responses is 21 May 2018.