

In compliance with agreement between the
Guernsey Competition & Regulatory Authority
and the Committee for Economic Development

Strategic & Operational Priorities

2022 – 2024



**GUERNSEY
COMPETITION &
REGULATORY
AUTHORITY**

GCRA strategic and operational focus for 2022/24

Launched in 2022, GCRA's three year 'Future Focus' set the direction for the organisation, with each area of focus aligning and contributing to the achievement of the duties and functions placed on it to support the States of Guernsey's ambitions of providing the necessary protections so that Guernsey's markets function well, and consumers are confident market participants.

The GCRA is primarily focussed on supporting and maintaining well-functioning markets in Guernsey through the duties placed on us by law. Well-functioning markets are a key goal of a market economy whose success benefits all aspects of modern life. They:

Generate wealth that supports the things communities care about.

Are a conduit for entrepreneurial spirit, talent, and capabilities, with the rewards that come from that.

Positively influence the attraction of Guernsey as a place to locate business.

Place natural constraints on behaviours that otherwise contribute to inflated cost of living and detract from the benefits of economic growth, by making unfair business practices less likely to succeed.

Support economic diversity since the markets on which potentially new and diverse activities might rely can be important enablers for delivering new business ideas.



THE BEST OUTCOMES ARE SUPPORTED BY:

- ✔ Business understanding and operating according to rules of fairness.
- ✔ Consumers have good quality information to make decisions.
- ✔ Consumers are empowered to exercise the choices available to them.
- ✔ Regulatory infrastructure is dependable and efficient.
- ✔ Markets operating from a level playing field.

What are we here to do?

We are a competition law enforcement body and the economic regulator of specific utility sectors in Guernsey.

Promote value and choice for Guernsey consumers to the benefit of the Guernsey economy.



To protect the interests of consumers who have no direct way of making their voices heard.



To support development and delivery of Government policy, in particular, in the sectors subject to economic regulation to achieve the best outcome for Guernsey consumers.



To keep the operation of markets and regulated companies under review to identify and address new forms of detriment and issues for potential action, and thereby to promote trust in markets.





WE CONSIDER VALUE AND CHOICE IS PROMOTED WHEN:

- ✔ There is effective and fair competition between businesses.
- ✔ Market power is not abused.
- ✔ Mergers do not substantially lessen competition.
- ✔ Regulated businesses are incentivised to perform.

Areas of Strategic Focus

Our prioritisation principles are:



ACTIONABLE

We consider whether we have the necessary legal powers to properly assess and address the nature of the concerns that have arisen. 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 in considering matters that may arise.



REALISTIC

A small jurisdiction competition authority like the GCRA needs to carefully weigh up whether the benefits of prohibiting certain transactions are realistically achievable through enforcement action. Even where it has the legal powers to do so, the practicalities of carrying out an investigation and taking action and whether our actions will have sufficient impact are factors we take into consideration in deciding whether to take a matter forward.



MEANINGFUL

We want to be as sure as we can that any action taken has a net positive benefit to the functioning of local markets, mindful of the fact that any intervention – or indeed not intervening at all – will have some cost.



PROMOTING VALUE AND CHOICE FOR GUERNSEY CONSUMERS TO THE BENEFIT OF THE GUERNSEY ECONOMY

- ✓ The GCRA consider value and choice is promoted when:
- ✓ There is effective and fair competition.
- ✓ Market power is not abused.
- ✓ Mergers do not substantially lessen competition and
- ✓ Regulatory businesses are incentivised to perform.

Areas of Strategic Focus

The GCRA's Future Focus 2022 identified four areas of strategic focus.

1

To promote value and choice for Guernsey consumers, to the benefit of the Guernsey economy.

2

To protect the interests of Guernsey consumers who have no direct way of making their voices heard.

3

To support development and delivery of Government policy, in particular, in the sectors subject to economic regulation, to achieve the best outcome for Guernsey consumers.

4

To keep the operation of markets and regulated businesses under review to address new forms of detriment and issues for potential action, and thereby to promote trust in markets.



Areas of Operational Focus

- I.** Review broadband provision, including regulatory oversight of the rollout of fibre to the premises in Guernsey.
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- II.** Complete the review of the telecoms business connectivity market and implement potential remedies.
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- III.** Support States policy regarding future spectrum awards and a States telecoms security framework in support of next generation mobile and establish the appropriate regulatory framework to deliver that.
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- IV.** Support ongoing delivery of States policy in the energy sector.
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- V.** Carry out a series of competition law workshops explaining how the investigations now being completed were conducted and identifying lessons.
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Areas of Operational Focus

Review broadband provision, including regulatory oversight of the rollout of fibre to the premises in Guernsey.

Broadband is a key technology that underpins a modern sustainable economy. The importance of broadband connectivity has grown to the point where households increasingly rely on this service as an intrinsic part of their daily lives. This demand is expected to continue, and it is fair to say that the events of the past two years have accelerated the quality standard and speed of broadband sought by consumers, particularly in their homes.

The quality of broadband, in particular home broadband, to meet the needs of Islanders has therefore become an even greater focus for States policy. The States policy letter, 'Delivering Next Generation Digital Infrastructure' sets out several priorities which the GCRA has a role in delivering, including the provision of broadband.

- Ensuring that competition is maintained at the retail level (the point at which customers buy network services), ensuring that consumer choice is maintained with healthy competition encouraged amongst telcos.
- Wholesale products and prices should be similar to those available in similar sized jurisdictions in which Sure operates, to ensure Guernsey remains competitive.

- Ensuring consumers' expectations of the cost and quality of services are met. This will include ensuring that telcos are able to compete fairly and procure fibre broadband services at a wholesale level based on a level playing field.
- All licensed operators to have non-discriminatory access to the wholesale network at regulated rates approved, ensuring competition at the retail level.
- Encouraging best practice in the telecoms sector, while giving new operators access to the existing network within realistic timescales and at realistic costs.
- Over the course of the rollout, regular sessions overseen by the Broadband Working Group assisted, and advised by the GCRA as appropriate to its role, will take place.

The GCRA will therefore prioritise these areas and the actions in its work programme to deliver the objectives in the States policy.



The importance of broadband connectivity has grown to the point where households increasingly rely on this service as an intrinsic part of their daily lives.

Areas of Operational Focus

Complete the review of the telecoms business connectivity market and implement potential remedies.

Many businesses and public sector organisations in Guernsey rely on high quality and secure communication links between business locations and with other stakeholders.

For many applications, the ‘best efforts’ nature of the public internet does not offer the level of security and reliability required and so businesses rely on a combination of dedicated connectivity links often in addition to broadband. Dedicated connectivity links are also used by mobile network operators for backhaul.

The States telecoms policy requires the GCRA to ensure regulation of the cost of fibre backhaul to 5G transmitter sites guards against existing fibre operators gaining an unfair commercial advantage when it comes to rolling out 5G to areas where fibre is scarce.

To examine the competitive state of this market and in particular how well it is serving its purpose according to those who use the services, we commenced a review to consider these areas. Over 2021 we have developed this work to a stage where we are concluding the first phase of this market review.

If issues are found the GCRA will over 2022 look to ensure any detriment is eliminated or mitigated. This might entail reductions to prices if present levels are found not to be justified, renewed, or modified obligations that give other providers fairer access to critical inputs.

We may also seek additional powers from the Government where we identify significant issues that are not within the scope of our legal powers under the law as currently drafted.



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Areas of Operational Focus

Support States policy regarding future spectrum awards and a States telecoms security framework in support of next generation mobile and establish the appropriate regulatory framework to deliver that.

The deployment of a high speed ‘next generation’ mobile infrastructure for Guernsey remains a key States policy objective. Further policy in this area will be developed by the States over 2022, with a licensing framework debated by the States Assembly in 2022 prior to any licensing of 5G (or its successor technology). Deployment of next generation mobile networks is expected from 2023, to complement the Island’s fibre network.

These dates drive a timeline for deployment of next generation mobile networks in the 2023-2025 period, which will be dependent on completing 5G licensing in this timescale. The latter will form a key element of the GCRA’s priorities in this area.

A tender process for the award of spectrum will be developed by the GCRA for the issuing of a 5G licence(s) in 2023, consistent with States policy objectives. This preparatory work was to be undertaken by the GCRA during 2022.

Government has indicated that it would like to work with the GCRA on establishing the appropriate regulatory framework, including licensing framework to meet the objectives of the States and to ensure safety, security and minimisation of environmental damage.

We will also review current spectrum allocation for 2G and 3G as operators sunset this technology.



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Areas of Operational Focus

Support ongoing delivery of States policy in the energy sector.

The States of Guernsey agreed a policy letter ‘Guernsey Electricity-Regulation’ dated 18th May 2021, which was approved by the States on 10th September 2021 on the regulation of electricity prices by the States through the States Trading and Supervisory Board.

An ordinance and States Directions to give effect to the policy decision are currently being drafted. The GCRA agreed to support the further development and delivery of States policy ambitions in this sector and related workstreams will be developed accordingly.





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Areas of Operational Focus

Carry out a series of competition law workshops explaining how the investigations now being completed were conducted and identifying lessons.

Two significant competition investigation decisions were made in 2021/22. These were the first investigations of their type in Guernsey since the enactment of the competition law in 2012. In the process, the GCRA identified several procedural aspects that arose when carrying out these investigations under Guernsey law.





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Areas of Operational Focus

Conduct merger workshops for key stakeholders on the implications for merger review procedures of the revised merger regime.

The proposed revisions to the merger control rules will implement two main changes.

First, new dual mandatory / voluntary notification thresholds will allow the GCRA to review more mergers likely to have a significant impact on local consumers.

Second, the provisions relating to unnotified transactions will be amended, so that such transactions will no longer be ineffective to pass title in Guernsey shares and property.

In addition, several more minor amendments will be made, which will together improve functioning of the merger control system.

Given the significant nature of these changes, the GCRA intends to hold a series of workshops for key stakeholders. These workshops will explain the practical impact of the changes and offer guidance on making an application for merger clearance to the GCRA.



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Areas of Operational Focus

Consider merger applications and exemption applications and investigate complaints and market failures as required by legislation.

We have legal powers to consider whether potential mergers or acquisitions present material risks to competition.

Where we are satisfied that a proposed merger will substantially lessen competition, we will invite commitments from the merging parties to address these or, in exceptional cases, we may prohibit the transaction. Historically the GCRA has considered an average of 4-5 merger or acquisition transactions a year and is also asked to give guidance on a number of other transactions many of which do not progress for various reasons. It is not possible to predict the nature and number of notifiable transactions that will be registered with the GCRA in future, but its Guidelines set out the administrative timescales that we work to.

If the anti-competitive effects of an agreement are outweighed by pro-competitive benefits of which consumers get a fair share, the parties to the agreement can apply to the GCRA for an exemption. Under the law, we are required to assess any applications that are made but it is not possible to predict in advance how many exemption applications we will receive, or the scale of the assessment required.

The GCRA regularly makes decisions under its regulatory or competition law powers following an investigation process.

We propose to continue to conduct our annual collection of telecoms statistics and other market reporting which is a key foundation for understanding developments in the sectors it regulates in Guernsey. This gives us an overview of revenue, profits, contribution to Guernsey through taxes, employment, and investment. It is also an important source of information used to identify markets where competition is successful and where it is less successful, which guides our own prioritisation.

We propose to develop better reporting to evaluate and track the financial and operational status of specific licensees and their compliance with required regulatory provisions. The nature of the controls that we will oversee are likely to require a greater level of market intelligence as these markets develop since the nature of the regulatory role must adapt appropriately to inform its decisions as issues arise.

The annual mast emission testing programme will also be carried out regularly.



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