




## Progress against the Strategic Plan and Business Plan – six months to 30 June 2016

This document should be read in conjunction with CICRA’s strategic aims<sup>1</sup> and its 2016 Work Programme<sup>2</sup>.

The 2016 work programme is presented below within four distinct but complementary headings:

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


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

Competition Law - Investigate, and where appropriate remedy, contraventions of the competition law consistent with CICRA’s prioritisation principles set out in its strategic aims document so that consumer interests are protected		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>• Q1 - Q4</li> </ul>		<p>Our work in this area is ongoing.</p> <p>We are regularly consulted by consumers and businesses who believe that they have been the subject of anticompetitive behaviour. In the vast majority of cases where our intervention is necessary we are able to broker a resolution without having to resort to formal process.</p> <p>In March 2016, we issued a formal decision finding that ATF Fuels had contravened Jersey’s competition law by abusing the dominant position it holds in the supply of Jet A1 Aviation Fuel by engaging in unfair discriminatory behaviour in the supply of that fuel. ATF has subsequently appealed our decision which will be heard by Jersey’s Royal Court in September.</p>


<sup>1</sup> <http://www.cicra.gg/files/Strategic%20Aims.pdf>

<sup>2</sup> <http://www.cicra.gg/files/2016%20Work%20Programme.pdf>


**Competition Law - Review the effectiveness of conditions imposed by CICRA for approval of the acquisition of La Collette Terminal Ltd of the share held by Shell UK Ltd as recommended in CICRA's 2015 fuel market study**



Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q2 – Q3</li> </ul>		<p>We have started a review of the conditions we imposed in approving the acquisition of Law Collette Terminal Ltd. The terms of reference for the review are, <i>'to assess whether the condition attached to the approval of the acquisition have been effective in addressing identified risks from a substantial lessening of competition. If the conclusion of the review is that the Conditions have been ineffective in any area, what amendments could be made to address this'</i>.</p> <p>Following a competitive tender process, consultants Frontier have been appointed, to support the review process.</p> <p>The result of the review is anticipated by the end of quarter 4, slightly later than originally anticipated due to other work priorities, hence the amber rating.</p>




**Competition Law - Conduct a review of the market for freight services in the Channel Islands**

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q3 – Q4</li> </ul>		<p>This work stream is scheduled to commence in the second half of 2016.</p>

**Telecommunications - Assess the options and where appropriate directly intervene by requiring additional access products to support the progress of competition in the fixed line call services markets**



Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q1 – Q4</li> </ul>		<p>Wholesale line rental was successfully launched in the Channel Islands in June 2015, giving consumers, for the first time, a choice of landline provider. We are keen for local consumers to benefit from the introduction of competition in the wider telecoms market and so in February this year we began a consultation seeking views on which access products to consider next. The consultation closed on 31 March. Responses to the consultation are being assessed with next steps being considered in July.</p>



Telecommunications - Implement controls on wholesale broadband prices and structures that facilitate effective competition		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q2 – Q3</li> </ul>		<p>Channel Islanders are best served by having access a choice of broadband providers who offer appropriate value for money services. This work stream is designed to contribute to delivery of that outcome.</p> <p>We delayed this work stream in order to conclude, in June, our investigation into an allegation against JT of margin squeeze in the provision of broadband in Jersey. The investigation was sparked by a series of sweeping changes made by JT to its wholesale and retail prices in 2014 when it removed lower speed options for retail customers, raised certain wholesale prices and reduced some of its own retail prices. Our investigation concluded that JT’s pricing risked damaging competition and so we have given JT two months to submit revised prices to us for approval.</p> <p>This work stream will now commence quarter 3</p>
Telecommunications - Ensure compliance by licensees with obligations of price control decisions for on-island leased lines services		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>Leased lines, also known as private circuits, are commonly used by businesses to provide secure, dedicated, high capacity data and voice connections between offices and third parties. We introduced a retail minus 20% price control for on-island leased lines provided by JT in Jersey and Sure in Guernsey in 2015. The control strengthens the competitive environment by encouraging and protecting efficient market entry for competitors and promoting investment to the ultimate benefit of the end user.</p> <p>In reaching our decision we undertook to ensure JT and Sure publish the profits earned by providing these services in the interests of transparency around how the operators are performing in these markets. JT and Sure are obliged to submit compliance statements to demonstrate that they are in compliance with the price control. The first annual compliance report is scheduled for August 2016. In the event of non-compliance that report will be published. If parties are in compliance then we will move to six monthly submissions (currently quarterly).</p>

<b>Telecommunications - Provide telecom customers with meaningful information on telecoms operator performance where the market does not meet this need</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li><i>Ongoing</i></li> </ul>		<p>Customer perceptions of the quality of telecoms services they receive are key to understanding the expectation gaps between what customers expect and what operators provide. Objective evidence in this area continues to inform our regulatory priorities, sets incentives for operators to improve and enables us to objectively assess whether progress is being made. We have therefore continued with customer satisfaction surveys, revising the May 2016 to ensure that it remained relevant to consumers given the face pace of change within telecoms.</p> <p>The results of the May 2016 survey will be released in July.</p>
<b>Telecommunications - Monitor and publish useful information for stakeholders on market developments through the annual telecom statistics report</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li><i>Q2 and Q4</i></li> </ul>		<p>Reliable up to date information on the local telecoms markets is important for our stakeholders and helps to inform our work priorities.</p> <p>We have refined the reporting based on consultation with operators and other stakeholders. Operators are in the process of collating the necessary information prior to publication in quarter 3.</p>
<b>Telecommunications - Investigate practices by licensees that may contravene their licences and / or the Telecommunications Law and take appropriate remedial action</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li><i>Ongoing</i></li> </ul>		<p>Recognising that accountability and transparency are key principles of good practise in regulation our website lists the current status of most recent cases. (Cases may not be published where publication could compromise the investigation).</p> <p>Of particular significant during the period were two decisions finding that JT had breached its licence. In</p>


		<p>the first instance we upheld a complaint, finding that JT had engaged in anticompetitive pricing of its broadband services in Jersey, engaging in margin squeeze (as explained in more detail above) and have required JT to remedy the situation. In the second instance we upheld a complaint finding that JT had failed to comply with licence notification obligations in the launch of its JT One offers. We have fined JT £3K and directed JT to take steps to ensure compliance.</p> <p>We also receive a number of complaints and matters of concern raised by licensees that are dealt with informally, and without the need for investigation.</p>
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## 2. Protection of consumer interests where competition is less effective in meeting that aim


Telecommunications – Review current service standards received by telecoms consumers to ensure they are fit for purpose, informed by a process led by telecoms licensees that is driven by their customer engagement process		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q3– Q4</li> </ul>		<p>A review of current service standards is one of a number of regulatory initiatives designed to encourage licensees to be more customer focussed. We are seeking to rely more on customer driven proposals from licensees. To the extent that licensees are able to demonstrate that they have taken into account the view of their customers, we will adopt a lighter touch approach to regulation.</p> <p>This project was scheduled to commence during quarter 3, however we are already in the process of engaging with operators following the completion of an internal scoping exercise.</p>
Telecommunications – Complete the review of retail fixed line calls and implement effective controls on the level of charges for these services to ensure customer received value for money		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q2</li> </ul>		<p>The aim of this project is to ensure that customers' fixed line calls are value for money.</p> <p>The process to implement a price control for Jersey was extended to allow for further analysis as a result of additional evidence received. A provision decision (Initial Notice CICRA 16/20) proposing that JT's</p>




		<p>charges for fixed line service should be reduced by 13% over three years was issued in April. A decision (Final Notice) is anticipated to be published in July.</p> <p>The Guernsey price control has been finalised with the basket of charged levied by Sure capped at RPI – 0% for a three year period. This will be introduced at the same time as the price control in Jersey.</p>
<b>Telecommunications – Review and if appropriate reset the current level of mobile termination rate charges by licensees</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Q2 – Q4</li> </ul>		<p>Mobile termination rates are the fees charged to other telecoms companies by mobile operators to terminate calls of their mobile networks. They are a key component of the charge customers calling Channel Island mobiles pay for their calls. In the Channel Islands the current MTR is 4.11 pence per minute, significantly above the UK rate of 0.507 pence per minute.</p> <p>During 2015 we began the process to consider whether it would be appropriate to reduce MTRs. As a result of that process we identified new information that has required significant additional analysis and consideration. That process is now largely complete and we intend to proceed with the resetting of MTRs during quarter 3.</p>
<b>Telecommunications – Carry out testing of 4G operator deliver against performance standards, holding operators to account in their delivery of service through independent testing and evaluation of whether they have met their commitments</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Q1 – Q4</li> </ul>		<p>Our work in this area has not identified any concerns.</p> <p>4G operator roll out is ongoing and currently licensees are ahead of the commitments made as part of the 4G spectrum award process. As operators meet their commitments we are working to confirm compliance and are releasing performance bonds accordingly.</p> <p>To provide additional comfort, the board of licensee parent companies are required to sign off to confirm that they will continue to be able to honour their commitments.</p>

**Ports of Jersey – Review current service standards in port operations to ensure they are fit for purpose informed by a process led by Ports of Jersey that is driven by their customer engagement process**

Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q2 – Q3</li> </ul>		<p>A review of current service standards is an initiative designed to ensure Ports of Jersey’s current service standards are fit for purpose and appropriate consumer focussed.</p> <p>During discussion with Ports of Jersey we have developed an understanding of what it considers to be its customer segments, its current engagement processes for its different customer groups and the scope of the existing performance measures.</p> <p>Engagement with customers to identify their concerns / issues are scheduled for early quarter 3 after which time we will be setting out for Ports of Jersey a scope of proposals for future development of performance measures that are relevant to customers.</p> <p>It is likely, given other priorities, that this project will proceed more slowly than had originally been anticipated and that it will conclude during quarter 4, 2016 hence the amber rating.</p>



**Ports of Jersey – 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**




Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q2 – Q4</li> </ul>		<p>Ensuring that the charges made by Ports of Jersey for port operations are consistent with principles of economic efficiency and cost causality are key to ensuring the end users receive value for money.</p> <p>We have opened dialogue with Ports of Jersey and are in the process of reviewing Ports of Jersey’s existing accounts, cost statements and pricing methodologies to determine the potential for cross subsidy or non-cost related pricing. Any issues will be raised with Ports of Jersey for comment during quarter 3. Depending on the nature of the issues identified and the extent of any resolution proposed by Ports of Jersey we will consider whether formal regulatory action is required.</p>




Competition Law – Raise the level of understanding of competition law and the implications of policy decisions for competition through information campaigns within key States departments		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li><i>Ongoing</i></li> </ul>		<p>Informal advice and guidance on matters related to competition law is a key part of our advocacy work. A significant amount of resource continues to be spent on advocacy and information initiatives to pre-empt contraventions that might otherwise involve more costly and formal legal intervention.</p> <p>Specific during the first half of 2016 include engagement on M&amp;A thresholds and the M&amp;A regime more broadly with Channel Islands law firms.</p> <p>During quarter 3 we have a programme of engagement which gives all States members, across the Channel Islands, the opportunity to meet with us informally to build understanding of our role and to hear first hand areas of concern.</p>
Competition Law – Scrutinise proposed mergers and acquisitions where they are subject to notification		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li><i>Ongoing</i></li> </ul>		<p>We have a statutory obligation to scrutinise certain proposed transactions.</p> <p>During the first half of 2016 we received and approved seven applications for proposed mergers / acquisitions. In addition, of the three applications ongoing at the start of the year, one was approved in January, one was subsequently withdrawn and in the third case the transaction is ongoing but on hold pending further information from the parties.</p>
Competition Law – Evaluate the merits of exemption applications received		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li><i>Ongoing</i></li> </ul>		<p>In April we approved the extension of the Jersey Doctors on Call exemption to 17 June 2017.</p> <p>We continued to provide advice to a number of businesses and their legal counsel around the area of exemptions.</p>






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

Telecommunications – Initiate a strategic assessment of the telecoms sector to inform long term regulatory goals and priorities in co-operations with policy makers in both islands		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q3 – Q4</li> </ul>		<p>In order to contribute to the achievement of our objective of ensuring the regulatory and competition framework remains fit for purpose, during 2016 we are undertaking a strategic assessment of the telecoms sector. The assessment will help inform our long term regulatory goals and priorities.</p> <p>Stakeholder engagement is scheduled for quarter 3 with the final assessment and recommendations by the end of the year. This is later than originally planned as other projects were considered to be of a higher priority during the first half of the year.</p>
Telecommunications – Undertake a review of the ongoing regulatory information provided by telecom licensees, eliminating duplication and ensuring ongoing regulatory obligation in this area reflect future needs		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>We require certain information in order to support our role as regulator of the Channel Islands telecoms sector. The sector is continually evolving and therefore it is important to consider whether the information we have previously required remains appropriate.</p> <p>In February we issued a consultation designed to review whether the provision of separated accounts by specific licensees remains appropriate.</p> <p>The responses to that consultation have been collated and proposed next steps will be agreed in July.</p>

<b>Telecommunications – Continue to process application for new telecommunications licences and licence modifications</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>We have dealt with all requests for advice, renewal and revocation of licences as received.</p>
<b>Ports of Jersey – Carry out an assessment of the extent of significant market power in the provision of port operations, prior to commencing the introduction of a price control</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Q2 – Q3</li> </ul>		<p>A finding of dominance (or significant market power) is the first step that will lead to the introduction of a price control for the provision of ports operations. In March we issued a consultation (16/15) setting out the approach we intended to adopt to determine the market(s) in which Ports of Jersey holds a dominant position.</p> <p>Following that consultation, in June we issued an initial notice of our intention to determine that Ports of Jersey is dominant in a number of relevant markets.</p> <p>We will consider the introduction of a price control once a formal price control submission is received from Ports of Jersey.</p>
<b>Postal Services in Jersey – Ensure the efficient provision of postal services, including the universal service obligation (USO) that delivers value and quality to postal users and the economy</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>We continue to engage with Jersey Post on various initiatives it is taking to streamline and adapt its services.</p>

<b>Monitoring of quality of service performance and targets for postal operators, to ensure that customers' needs are effectively met</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>We continue to monitor quality of service performance and targets for postal operators at a high level in line with the light touch regulatory approach we have adopted.</p>
<b>Competition law – Support the introduction of block exemptions by the relevant departments that will have the effect of removing the need for exemption application in specific circumstances</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>We are keen to ensure our resources are targeted to those areas which will have the biggest impact on Channel Islanders. During 2015 we undertook a consultation which identified three sectors which could usefully be the subject of a block exemption from the need to comply with the competition law. We made a formal recommendation to the Assistant Chief Minister on 30 July 2015. We are waiting for the Assistant Chief Minister's office to confirm its Agreement in Principle to the implementation of block exemption in those three sectors prior to commencing drafting guidance to the law officers and undertaking the formal process required under law for the introduction of block exemptions.</p>
<b>Competition law – Ensure the merger and acquisition framework is appropriate and where necessary seek changes to the framework in cooperation with relevant policy and legislative bodies</b>		
<b>Timescales</b>	<b>Progress to 30 June</b>	<b>Narrative</b>
<ul style="list-style-type: none"> <li>Q2 – Q4</li> </ul>		<p>In November 2015 we began a consultation seeking view on whether the improvements to the merger and acquisition framework that we had identified would make a real difference to the efficiency of the regime and make the process more straightforward for those involved.</p> <p>Initial discussions were very helpful but we identified that wider consultation including direct engagement with Channel Island law firms and financial institutions would be particularly beneficial given the nature of the changes contemplated.</p> <p>Recommendations will be considered in September. It is likely that legislative changes will be required which will be submitted to the relevant States departments shortly thereafter.</p>

#### 4. Supporting and advising ministers and the States of policy matters and initiatives

Implement the recommendations of the Oxera review carried out in 2015		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Q1 – Q4</li> </ul>		<p>This matter is the subject of a separate more detailed update. We are content that, in relation to matters over which we have control, all recommendations have either been implemented or are on track for implementation.</p>
Work with the relevant government departments to complement existing government initiatives in area of broadband and connectivity		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>We have initiated separate meetings with the States department officials responsible for these areas. Future strategic aims and policy priorities in the telecoms sector will be the focus of those workshops.</p>
CICRA will consider candidates for market reviews requested by the relevant governments		
Timescales	Progress to 30 June	Narrative
<ul style="list-style-type: none"> <li>Ongoing</li> </ul>		<p>Discussions are ongoing with States members in both islands to identify and prioritise potential candidates for market reviews.</p> <p>In relation to the previously agreed study of the gas market in Jersey, this study is now complete and the results have been shared with key stakeholders and published more widely.</p>