



Future Regulation of Postal Sector in the Channel Islands

Information Note

Channel Islands Competition and Regulatory Authorities

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1. Introduction

The Guernsey Competition and Regulatory Authority (**GCRA**) and the Jersey Competition Regulatory Authority (**JCRA**), which together constitute the Channel Islands Competition and Regulatory Authorities (**CICRA**), have statutory responsibility for regulation of the postal sector in the Channel Islands.

In light of the significant changes to postal markets in recent times, in 2013, CICRA consulted on whether it was an appropriate time to consider the purpose and scope of postal regulation (CICRA 13/04); in particular, whether it should permanently remove price controls on Guernsey Post Limited (**GPL**) and Jersey Post Limited (**JP**), and focus on quality of service, provision of the USO and compliance with licence conditions.

This Information Note is published as a result of the consultation, and is intended to provide an indication of CICRA's approach to future postal regulation in the Channel Islands. CICRA acknowledges that the ongoing review of utility regulation by the Treasury & Resources and Commerce & Employment Departments in Guernsey will also influence the manner in which GPL is regulated in the future; indeed, CICRA's intention had been to wait until the completion of that review before publishing this Note. In the event, it has been determined that publication should proceed in advance of completion of that review – in part, to provide the postal operators with some certainty regarding their obligations. In the event that the Guernsey review concludes that changes should be made to the structure of postal regulation in Guernsey, then further announcements regarding CICRA's approach are likely to be necessary.

After consideration of the evidence on market developments and responses received, CICRA will not renew price controls for either GPL or JP. CICRA will, however, keep under review the options to reduce further the regulatory burden on postal operators, although the extent to which CICRA continues to reduce this burden is constrained by the progress of competition in these markets. Until competition is more widespread, the intention is to maintain regulatory constraints via licence conditions that mimic the incentive effects of competition. Among other controls, CICRA will continue to monitor quality of service and the provision of the existing Universal Service Obligation (**USO**) for post in Jersey and Guernsey.

2. Legislative and Licensing Background

The legislative basis for this consultation is provided in Jersey by the *Competition Regulatory Authority (Jersey) Law 2001* and the *Postal Services (Jersey) Law 2004*. In Guernsey, applicable legislation is *The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001*, *The Guernsey Competition and Regulatory Authority Ordinance, 2012*¹, and *The Post Office (Bailiwick of Guernsey) Law, 2001*. In addition, there is scope for the States of Guernsey and the Minister for Economic Development to give directions to the GCRA and the JCRA respectively.

Any decision resulting from this consultation will be based on the relevant laws and duties of both the GCRA and the JCRA respectively. The relevant obligations of the dominant operators in Jersey and Guernsey – JP and GPL respectively – are contained in their licence conditions as well as in primary legislation. On 1 July 2006, the JCRA issued a Class II Licence to JP under Article 15 of the *Postal Services (Jersey) Law 2004*. In Guernsey, GPL was issued a licence on 1 October 2001.

¹ This Ordinance provided for the GCRA to be established as a successor to the Office of Utility Regulation (**OUR**), which had been set up in 2001. The GCRA has taken over the OUR's duties and has added responsibilities in the administration of *The Competition (Guernsey) Ordinance, 2012*.

3. Responses to consultation

There were three responses to the consultation.

One respondent supported the proposals in CICRA's consultation - in particular, the principle of "light touch" regulation - and considered that there was a case for giving even more control to GPL and JP, to reduce the cost of regulation further, and to letting GPL and JP determine whether the USO should be changed. However, it believed that CICRA should retain a right to step in and to engage in more extensive regulation if it considered this proved necessary at some point in the future.

The remaining two respondents argued that price controls should be removed and "light touch" regulation introduced only if competition is increased. One of these respondents expressed the view that competition should be introduced gradually, while the other believed the protection from any postal competition given to GPL in the provision of letters and postal items valued below £1.30 in Guernsey should be removed completely if price controls were lifted. If the Reserved Area is still in place, this respondent argued that CICRA could not rely on the use of competition legislation.

Two of the respondents believed that postal competition is not on a level-playing field. It was argued that GPL retains market power, while in Jersey, JP was seen to have significant advantages, such as easier custom clearance, free use of assets 'gifted' by taxpayers, etc.

One of the respondents argued that since price is the ultimate factor, it doubted the merits of CICRA focussing on USO and quality of service only. It argued it is essential that the incumbent acts competitively; in particular, there was a need to review operators' pension costs, to reduce dependence on Royal Mail and to ensure bulk mailers did not cross-subsidise the USO.

4. CICRA's final view

CICRA agrees that if all barriers to market entry of alternative postal operators were removed, this would provide greater confidence that price controls could be withdrawn for the provision of letters and other USO services without the risk that GPL and JP would seek to raise stamp prices. However, as discussed in the consultation, it would appear that the threat of substitution by services other than postal services impose adequate constraint on the incumbent postal operators to justify removing price controls. It may be that if JP or GPL were to engage in conduct in coming years that could be construed as exploitation of latent market power in certain postal markets (e.g. by imposing large increases in stamp prices for letters), CICRA would be forced to consider whether to re-impose price controls or to seek the increased competition advocated by some of the respondents. However, CICRA does not propose to undertake such courses of action as suggested by two of the respondents at this stage.

The price control applying to JP expired on 31 December 2012, so no action is required on the part of CICRA to remove postal price controls in Jersey. GPL's price control expires on 31 March 2014. It is CICRA's intention not to renew these price controls. CICRA has already issued directions to both JP (CICRA 13/24) and GPL (CICRA 13/12) to ensure that they monitor and report the quality of service they provide to their customers and will continue to monitor quality of services and the provision of the USO in both jurisdictions.

CICRA will, however, keep under review the options to reduce further the regulatory burden on postal operators, although the extent to which it can continue reducing this burden is constrained by the progress of competition. Until competition is more widespread, CICRA is of the view it will need to maintain regulatory constraints via licence conditions that mimic the incentive effects of competition. It is also CICRA's intention that the licences of JP and GPL will be reviewed over time, to see whether there are any extraneous conditions or obligations, inconsistent with the new approach to regulation, which could be modified or removed.