



**2012 – 2014 STRATEGIC PLAN**

**AND**

**2013 WORK PROGRAMME**

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# Part 1 – Strategic Plan

## 1. Overview

CICRA (the Channel Islands Competition and Regulatory Authorities) comprises the **Jersey Competition Regulatory Authority (JCRA)** and the **Guernsey Competition and Regulatory Authority (GCRA)**. A Memorandum of Understanding was signed in December 2010 to facilitate closer working between the JCRA and the GCRA's predecessor, the Office of Utility Regulation (OUR).

On 1 June 2012, Mark Boleat, the Chairman of the JCRA, was appointed as the inaugural Chairman of the GCRA upon it being established by *The Guernsey Competition and Regulatory Authority Ordinance, 2012*. The remaining members of the JCRA Board were appointed as members of the GCRA Board in June 2012 (after acting as a shadow board since January 2012), so that both authorities now share a common board. Andrew Riseley was appointed as the Chief Executive of CICRA in July 2012.

### The 2012-2014 CICRA Strategic Plan

During 2011, we reviewed our work within the Channel Islands' economies, the results of which were instrumental in informing a CICRA Strategic Plan for the period 2012 to 2014.

A draft CICRA Strategic Plan was the subject of a public consultation in October-November 2011. We considered all the responses received and amended the Plan to take account of issues raised where we considered it appropriate to do so.

The 2012-2014 CICRA Strategic Plan was published on 4 January 2012. It has been reproduced here, as it has been used to inform CICRA's 2013 Work Programme. The next Strategic Plan will be published by CICRA in the second half of 2014, for the period 2015-2017.

### Our Mission

Our mission is to promote value, choice and quality in the goods and services available for the sustained benefit of Channel Islands consumers.

### Our Values

Our values drive our behaviour. We will ensure we behave in a professional manner with integrity, fairness and independence. We will follow the principles of good regulation as set down by the UK Department for Business, Innovation and Skills, modified to suit the characteristics of the Channel Islands.

### Principles of Good Regulation

Guernsey's Commerce and Employment Department has previously set out, in its Policy Letter to the States of Guernsey, the way in which it anticipates that the six principles of good regulation should be applied in Guernsey. These principles, which are just as relevant in Jersey, and their influence on our work, are explained below.

## 1) Accountability

Independent regulation needs to take place within a framework of duties and policies set by the democratically accountable States Assemblies of Jersey and Guernsey.

Roles and responsibilities between the States of Jersey, the States of Guernsey and us should be allocated in such a way as to ensure that regulatory decisions are taken by the body that has the legitimacy, expertise and capability to arbitrate between the required trade-offs.

Our decision-making powers should be, within the constraints imposed by the need to preserve commercial confidentiality, exercised transparently and subject to appropriate scrutiny and challenge.

## 2) Focus

Our role should be concentrated on protecting the interests of end users by ensuring the operation of well-functioning and contestable markets where appropriate, or by designing a system of incentives and penalties that replicate as far as possible the outcomes of competitive markets.

We should have clearly defined, articulated and prioritised responsibilities focussed on outcomes rather than specified inputs or tools.

We should have adequate discretion to choose the tools that best achieve these outcomes.

## 3) Predictability

The framework of regulation that we adopt should provide a stable and objective environment enabling all those affected to anticipate the context for future decisions and to make long term investment decisions with confidence.

The framework of regulation that we adopt should not unreasonably unravel past decisions, and should allow efficient and necessary investments to receive a reasonable return, subject to the normal risks inherent in markets.

## 4) Coherence

Regulatory frameworks should form a logical part of the broader policy context of the States of Jersey and States of Guernsey, consistent with established priorities.

Regulatory frameworks should enable cross-sector delivery of policy goals where appropriate.

## 5) Adaptability

The framework of economic regulation needs capability to evolve to respond to changing circumstances and continue to be relevant and effective over time.

## 6) Efficiency

Where we intervene policy interventions must be proportionate and cost-effective and our decision making should be timely, and robust.

## **How we do business**

CICRA operates as a pan-Channel Islands organisation, with offices in St Peter Port, Guernsey and St Helier, Jersey. The Chief Executive, Andrew Riseley, and Deputy Chief Executive, Michael Byrne, operate across both offices and islands, while the Head of Finance and Operations, Louise Read, has responsibility for accounting, communications, human resources and IT for both the JCRA and GCRA. Where appropriate, projects undertaken by CICRA are staffed according to staff expertise and availability, not location.

The key benefit we intend to achieve from pan-Channel Island working is the delivery of a consistent regulatory framework across the Channel Islands. We also continue to achieve significant cost savings through closer working, which has enabled more efficient use of our joint resources.

## **Stakeholder engagement**

We maintain continual dialogue with our major stakeholders, and appreciate the need to outline our vision for the future of regulation and competition law enforcement in the Channel Islands. We understand the need to prioritise our work plans to respond to new issues and market developments in a timely manner.

We will continue to engage with stakeholders to better understand their views and better explain our own. The consultation on this Strategic Plan reinforces our commitment to continual stakeholder engagement.

## **Influencing Role**

We are committed to increasing our influencing role within the Channel Islands by publishing appropriate papers, seeking speaking engagements at local events, engaging with stakeholders and advising Ministers and their Boards on policies that have an impact on regulation and competition issues.

## **General Public**

We are committed to supporting businesses and consumers in understanding the benefits of regulation and competition and our work in these areas. We will engage in a comprehensive communications programme in this respect.

## **Relationship with Government**

We will continue to work closely with the States of Jersey and the States of Guernsey, and in particular with Jersey's Minister for Economic Development and Guernsey's Commerce and Employment Board, to provide timely and high quality advice.

## **The Cost of Regulation and Proportionality**

We are aware of the cost that regulation can have on businesses and therefore ultimately on consumers, and that such costs can be proportionately greater in relatively small economies such as Guernsey and Jersey. We therefore seek to act responsibly by ensuring that costs are minimised relative to benefits derived by the economy as a whole. Where we take regulatory decisions we will carefully consider the proportionality of the decisions as part of the process.

## **Global Trends**

We will continue to pay close attention to global trends and developments in both regulation and competition law to ensure that we follow international best practice where it is appropriate to do so.

In regulation, we will maintain existing relationships, and seek new ones, with other sectoral regulators, to facilitate the sharing of knowledge and best practice and ensure consistency in our approach to economic regulation.

In competition law, we will maintain a leading role in the application of competition law in small economies, particularly through active participation in the International Competition Network. We will continue to cooperate closely with other jurisdictions, particularly the UK's Office of Fair Trading and Competition Commission and its successor body, The Competition and Markets Authority.

## **Performance Improvement**

We recognise the need to focus on achieving maximum impact, increasing productivity and delivering efficiency gains – in essence giving the Channel Islands' economies better value - and we will prioritise work that delivers the most benefit to local consumers.

The demands placed upon us as CICRA in the years ahead will be significant and increasing. The Board and staff are dedicated to achieving the best possible outcomes in competitive and regulated markets for the long-term benefits of the Channel Islands.

## 2. Nature and Scope of Functions

The JCRA was established in 2001 under the Competition Regulatory Authority (Jersey) Law, 2001, while the GCRA was established in 2012 under The Competition (Enabling Provisions) (Guernsey) Law, 2009 and The Guernsey Competition and Regulatory Authority Ordinance, 2012. The GCRA assumed all of the functions and powers of the OUR, which had been created in 2001 under The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

In Jersey, the telecoms and postal sectors are regulated by the JCRA, which is also responsible for administering and enforcing the Competition (Jersey) Law 2005.

In Guernsey the telecoms, postal and electricity sectors are regulated by the GCRA. The GCRA is also the competition authority for Guernsey, and administers and enforces The Competition (Guernsey) Ordinance, 2012.

Since September 2010, the two regulators have worked more closely together, taking a joint approach to projects wherever appropriate. We operate as CICRA with a common website designed to improve access to information on competition and regulatory issues in the Channel Islands.

### Funding

Regulation is funded through licence fees paid by the licensees in the regulated industries of post, telecommunications and in Guernsey, electricity. Work in respect of competition laws is funded through grants from the Economic Development Department in Jersey and the Commerce and Employment Department in Guernsey.

### Competition

CICRA is responsible for promoting, administering and enforcing the Competition (Jersey) Law 2005 and The Competition (Guernsey) Ordinance, 2012. The aim of these laws is to prevent consumers being harmed by anti-competitive or exploitative behaviour in the market, such as price-fixing or abuse of a dominant position. CICRA provides information and guidance, and enforces the prohibition of anti-competitive activity.

The Guernsey provisions for competition law have been developed in close consultation with CICRA, so as to enable it to promote a pan-Channel Island approach to competition law enforcement.

### Economic Regulation

Through the regulation of the postal, telecommunications and, in Guernsey, the electricity sectors, we aim to ensure that these essential services are provided for the long term future economic benefit of the Channel Islands.

We aim to establish competitive markets where sustainable, and where this is not possible, to ensure consumers' interests in respect of the price, choice and quality of services are protected.

### **3. 2012 – 2014 Strategic Aims and Objectives**

We appreciate the need to outline our vision for the future of regulation and competition law enforcement in Guernsey and Jersey. Set out below are the main areas on which we will focus on over the next three years.

#### **Telecommunications regulation**

- 1 Adoption of a pan-Channel Island approach to regulation.
- 2 Ensuring optimum spectrum efficiency over the two islands.
- 3 Further promotion of competition in the telecoms market through the development of appropriate wholesale and retail markets.
- 4 Facilitation of the continued development of a focused and integrated high class telecoms infrastructure that delivers choice, value and quality of service to consumers for the benefit of the Channel Islands' economies.
- 5 Targeting regulation so that it is aimed at those areas where market forces alone are not sufficient to protect consumers' interests.

#### **Postal regulation**

- 1 Adoption of a pan-Channel Island approach to regulation.
- 2 Ensuring the efficient provision of postal services, including the universal service obligation (USO), that delivers value and quality to postal users and the Channel Islands' economies.
- 3 Targeting regulation so that it is aimed at those areas where market forces alone are not sufficient to protect consumers' interests.

#### **Electricity regulation**

- 1 Targeting regulation so that it is aimed at those areas where market forces alone are not sufficient to protect consumers' interests.
- 2 To support the States of Guernsey in developing an appropriate energy plan for the long term, sustainable development of the energy sector in Guernsey.

#### **Competition Law**

- 1 Develop a consistent pan-Channel Island approach to competition law administration and enforcement.
- 2 Administration and enforcement of competition law to ensure choice, value and quality of service for the benefit of consumers and the Channel Islands' economies.
- 3 The provision of high quality advice in a timely manner to the Minister for Economic Development in Jersey and the Commerce and Employment Board in Guernsey on markets where regulation may be required or competition is limited. Where appropriate to do so, we will undertake this work on a pan-Channel Island basis.
- 4 Raising the profile of the competition laws in the Channel Islands and ensuring that the benefits are understood.



## 4. Telecommunications 2013 Work Programme

We act as the regulator of the telecommunications sector in Jersey under the Telecommunications (Jersey) Law 2002 and in Guernsey under the Telecommunications (Bailiwick of Guernsey) Law, 2001.

Our aim for telecoms markets in the Channel Islands is to ensure that they satisfy all reasonable demands for telecommunication services, where appropriate by promoting competition. Our focus for 2012-2014 is on the following five areas, with the key objectives in 2013 set out under each heading.

### 1 Adoption of a pan-Channel Island approach to regulation

- Align the telecoms licensing regime across Guernsey and Jersey
- Align the separated accounts regime as it is applied to JT Jersey and Cable and Wireless Guernsey
- Undertake review of on-island leased lines/private circuits in Guernsey and Jersey

### 2 Ensuring optimum spectrum efficiency over the two islands

- Working with Ofcom to allocate new spectrum ranges in Guernsey and Jersey, following policy guidance from the Commerce and Employment Department in Guernsey and Economic Development Department in Jersey

### 3 Further promotion of competition in the telecoms market through the development of appropriate wholesale and retail markets

- Continued development of wholesale access products – Wholesale Line Rental, Fixed Number Portability and Naked Bitstream - to promote greater choice for consumers and increased competition
- Implement the findings of the review by Frontier Economics of JT's wholesale division, with a view, in particular, to developing appropriate service level agreements for wholesale customers and appropriate levels of compensation for service failings
- Standardise the approach to wholesale pricing across the Channel Islands, and decisions on how rates for wholesale products and interconnection should be set in the Channel Islands context

### 4 Facilitation of the continued development of a focused and integrated high class telecoms infrastructure that delivers choice, value and quality of service to consumers for the benefit of Channel Islands' economies

- Complete review of the off-island connectivity market
- Consult on regulatory action to impose obligations on telecoms operators in relation to quality of service
- Ensure that consumers are protected from 'bill shock' arising from mobile data roaming

- Ensure that the interests of consumers are protected during the continued roll-out by JT of the fibre-to-the-home network in Jersey, including by ensuring that there is fair and reasonable access for competitors to the network
- Consult business users of telecoms services, e.g. ICT sector, to identify priorities for future regulatory action

**5 Targeting regulation so that it is aimed at those areas where market forces alone are not sufficient to protect consumers' interests**

- Conduct review of the fixed and mobile licence conditions to ensure reporting and notification requirements are appropriate and proportionate
- Conduct review of the telecoms licensing regimes in Guernsey and Jersey with the aim of aligning licensing regimes and removing activities from the scope of licensing if appropriate
- Conduct review of the retail price control regimes for Cable & Wireless Guernsey and JT Jersey to assess whether they are still appropriate, given the potential for future competition
- Undertake review of effect on consumers of variations to fixed-term telecoms contracts
- Procure and publish audit of mobile mast emissions across the bailiwicks

**In addition to the five areas outlined above, we have a number of other activities planned for 2013, as well as statutory obligations, which include:**

- Publish statistics on telecommunications markets on a pan-Channel Island basis
- Consider any applications for new telecommunications licences and licence modifications
- Investigate practices by operators that may contravene their licences and/or the Telecommunications Laws or competition laws, and take appropriate remedial action

## 5. Postal Services 2013 Work Programme

We act as the regulator of the postal market in Jersey under the Postal Services (Jersey) Law 2004 and in Guernsey under The Post Office (Bailiwick of Guernsey) Law, 2001.

Our primary goal is the satisfaction of all reasonable demands for postal services, where appropriate by promoting competition, while also recognising the special circumstances of postal services. Our focus for the next three years is on the following three areas, with the key objectives in 2013 set out under each heading.

### 1 Adoption of a pan-Channel Island approach to regulation

- Adopt a common quality of service measurement and publication programme for Jersey Post and Guernsey Post
- Monitor the impact of the removal of Low Value Consignment Relief (LVCR) on the provision of postal services in the Channel Islands

### 2 Ensuring the efficient provision of postal services, including the USO, that delivers value and quality to postal users and the Channel Islands' economies

- Implement and operate new monitoring of quality of service performance and targets for Guernsey Post and Jersey Post.

### 3 Targeting regulation so that it is aimed at those areas where market forces alone are not sufficient to protect consumers' interests

- Consult on the most appropriate means of conducting postal regulation in Guernsey and Jersey, taking account the costs of regulation and the market context in which Jersey Post and Guernsey Post operate
- Review the licence conditions of Jersey Post and Guernsey Post to ensure they are appropriate for the postal services market
- Work with customs and postal authorities in other jurisdictions (including HMRC in the UK) to ensure that licensed postal operators in the Channel Islands are able to compete effectively

In addition to the three areas outlined above, we have a number of other activities planned for 2013, as well as statutory obligations, which include:

- Consider any applications for new postal licences or licence modifications
- Investigate practices that may infringe the postal law, licences issued under the postal law and/or the competition laws with respect to postal services and take appropriate remedial action

## 6. Electricity 2013 Work Programme

We are the regulator of the electricity sector in Guernsey under The Electricity (Guernsey) Law, 2001. Our principal aim is to protect the interests of consumers and other users of electricity in Guernsey, and to ensure that electricity supply meets all reasonable demands for such services.

Our focus for the next three years is on the following two areas, with the key objectives in 2013 set out under each heading:

### 1 Targeting regulation so that it is aimed at those areas where market forces alone are not sufficient to protect consumers' interests

- Decide on the appropriate prices surveillance regime for Guernsey Electricity, which balances the needs of the company and the desire to minimise the cost of regulation with the impact of tariff changes on consumers
- Review the quality of service targets for Guernsey Electricity to ensure they are appropriate and sufficiently challenging to ensure improved performance
- Conduct a review of electricity tariffs to ensure they are appropriately balanced

### 2 To support the States of Guernsey in developing an appropriate energy plan for the long term, sustainable development of the energy sector in Guernsey

- Provide expert assistance to the States of Guernsey to enable it draft and implement a long-term, fit for purpose Energy Plan for Guernsey
- Monitor regulatory developments in other jurisdictions on energy matters to ensure the regulatory regime supports a sustainable energy market

In addition to the two areas outlined above, we have a number of other activities planned for 2013, as well as statutory obligations, which include:

- Review the licence conditions applicable to Guernsey Electricity to reflect any amendments to The Electricity (Guernsey) Law, 2001

## 7. Competition Law 2013 Work Programme

CICRA is responsible for implementing, administering and enforcing The Competition (Guernsey) Ordinance, 2012, which came into effect on 1 August 2012, as well as the Competition (Jersey) Law 2005. This legislation prohibits anticompetitive agreements, abuses of dominance and anticompetitive mergers and acquisitions.

Our focus for the next three years is on the following four areas, with the key objectives in 2013 set out under each heading:

### 1. Develop a consistent pan-Channel Island approach to competition law administration and enforcement

- In Jersey, implement revised Merger & Acquisition notification thresholds in collaboration with the Economic Development Department, so as to align notification thresholds in Jersey and Guernsey

### 2. Administration and enforcement of competition law to ensure choice, value and quality of service for the benefit of consumers and the Channel Islands' economies

- Publish new guidelines on financial penalties, the leniency process and handling of complaints/disputes

### 3. Provision of high quality advice in a timely manner to the Minister for Economic Development in Jersey and the Commerce and Employment Board in Guernsey on markets where regulation may be required or competition is limited. Where appropriate to do so, we will undertake this work on a pan-Channel Island basis

- Conduct tailored workshops for States Departments and officials, to increase knowledge and awareness of competition law and policy within government
- Provide advice to States of Guernsey and States of Jersey with respect to long-term policy for provision of ferry transport and seaborne freight services
- Continue monitoring of heating oil markets in Jersey, pursuant to request made by the Minister for Economic Development under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001
- Continue programme of market studies, where possible on a pan-Channel Island basis. Provisional markets for review in 2013 include, but are not limited to, grocery retailing, tobacco in Jersey, domestic supply of gas, and road fuel/heating oil in Guernsey

### 4. Raising the profile of the competition laws in the Channel Islands and ensuring that the benefits are understood

- Adopt a pro-active approach to advocacy of the competition law with industry to assist with compliance
- Continue raising awareness of competition laws among the business community and professional advisors, as well as individual consumers

In addition to the four areas outlined above, we have certain on-going responsibilities, which include:

- The provision of formal and informal guidance to businesses and States Departments on their obligations under the competition laws
- The investigation of suspected abuses by undertakings with a dominant position in particular markets
- The investigation of suspected anticompetitive arrangements between undertakings
- The administration of applications for exemptions, guidance and opinions
- The review of notifiable mergers and acquisitions, and the investigation of suspected failures to obtain approval for mergers and acquisitions when this is required