



2016 Work Programme

Information Note

Channel Islands Competition and Regulatory Authorities

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Channel Islands Competition and Regulatory Authorities 2016 Work Programme

The Channel Islands Competition and Regulatory Authorities or 'CICRA' has a range of legal duties. Its overarching aim is to ensure markets work well for consumers. Its strategic aims in the areas where it has legal duties are set out in its document - '*Channel Islands Competition and Regulatory Authorities – Strategic Aims*'.

CICRA produces an annual work programme setting out those areas it considers will contribute best to its strategic aims over the next year. This work programme takes into account stakeholders' views from stakeholders which were sought during the consultation process

Introduction

Governments, regulators, competition authorities and consumers have important roles to play in making sure competition is as effective as possible. They do so in various ways. Sometimes, governments intervene directly in specific markets, for example in the Channel Islands previously States-run businesses have been restructured as separate companies in certain sectors, and regulatory framework have been introduced that seek to promote competition. The merger control regime plays a role in that it limits the ability of firms to avoid competition by gaining control of their competitors. Economic regulation of certain sectors involves measures to assist customers to make informed choices and to encourage new entry and investment, promoting the emergence of competition in markets where it has been historically weak or absent. Regulators can also intervene directly to prevent or mitigate the harmful effects of a lack of competition in the short term.

In this context the work programme is presented below within four distinct but complementary headings¹:

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

¹ Some of the matters CICRA is engaged in at present will extend into 2017, of which several involve confidential investigations; these are therefore only described in broad terms. In other cases, such as market reviews, flexibility to accommodate issues arising is necessary and the work programme sets out this area of priority accordingly.

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

Markets are generally better at meeting consumer demands where competition is effective, and therefore one of CICRA's key priorities is the protection of the competitive processes in the Channel Islands through effective use of its competition law powers.

CICRA also has specific regulatory powers that place a duty on it to promote competition in particular sectors.

Market investigations are also carried out by CICRA and these sit within the broad spectrum of competition law, operating alongside other regulatory mechanisms, by allowing CICRA the opportunity to assess whether competition in markets is working effectively.

Other aspects of CICRA's role under the competition law are set out under headings below.

Customers also have an important part to play in stimulating greater competition between suppliers by making informed decisions which reward those firms that best satisfy their needs or preferences. The availability of information to consumers enables them to make more informed choices, while market intelligence improves the quality of information to competitors. In the telecoms, ports operations and postal sectors, where CICRA has regulatory duties, asymmetry of information between businesses, consumers and the regulator can be substantial. Monitoring of markets through timely and relevant information therefore supports CICRA in prioritising its own resources in promoting competition as these markets change and competition develops.

In seeking to achieve its objective of ***promoting fair competition in Channel Island markets where this advances consumer interests***, the following specific areas of work have been identified.

Competition Law

- a. *Investigate, and where appropriate remedy, contraventions of the competition law consistent with CICRA's prioritisation principles set out in its [[strategic aims document-hyperlink](#)] so that consumer interests are protected [Q1-Q4].*
- b. *Review the effectiveness of conditions imposed by CICRA for approval of the acquisition by La Collette Terminal Ltd of the share held by Shell UK Ltd as recommended in CICRA's 2015 fuel market study [Q2-Q3]*
- c. *Conduct a review of the market for freight services² in the Channel Islands [Q3-Q4]*

² In 2005 CICRA carried out an assessment of a merger transaction in the freight services markets. A range of risks to competition were set out that merited review at a future time. CICRA proposes to revisit the matters identified and consider market developments in the Channel Islands to assess whether competition in this sector of the economy is working effectively

Telecommunications

- d. *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 [Q1-Q4]*
- e. *Implement controls on wholesale broadband prices and structures that facilitate effective competition [Q2-Q3]*
- f. *Ensure compliance by licensees with obligations of price control decisions for on-island leased lines services [ongoing]*
- g. *Provide telecom customers with meaningful information on telecom operator performance where the market does not meet this need [Ongoing]*
- h. *Monitor and publish useful information for stakeholders on market developments through the annual telecom statistics report [Q2 and Q4]*
- i. *Investigate practices by licensees that may contravene their licences and/or the Telecommunications Laws, and take appropriate remedial action [Ongoing].*

2. Protection of consumer interests where competition is less effective in meeting that aim

In the three regulated sectors (telecoms, port services and postal services) CICRA places obligations on service providers through licences that set in place specific protections for consumers. These include minimum levels of service, consumer codes and dispute resolution procedures. In looking forward, CICRA will be seeking to rely more on proposals from licensees that are driven by their customers. To the extent that licensees can demonstrate they have taken into account the views of their customers, CICRA will adopt a lighter touch approach to intervention and rely less on regulatory prescription.

Considerable importance is given by the States of Guernsey and Jersey to the quality and capability of broadband technology services to households and small businesses. In 2015, following an initial trial supported by the Guernsey Commerce and Employment Board, CICRA commenced a fuller pan Channel Island study of broadband quality designed to ensure that regulatory choices and policy advice is informed by the best objective evidence. This study will conclude in the first half of 2016 and will inform CICRA's decisions in terms of regulatory direction and priorities in this key area. This work will also inform its advice to policy makers in both islands.

Another area where CICRA applies measures to protect consumers is in setting limits on prices, such as retail fixed call services. This work stream is also expected to conclude into 2016.

CICRA has powers under the competition law to assess proposed mergers or acquisitions that meet notification criteria and scrutinises these proposed transactions to ensure consumer interests are protected. A review of this area is now underway with the aim of ensuring the framework is consistent with best practice and informed by experience in applying these frameworks.

In seeking to achieve its objective of **protection of consumer interests where competition is less effective in meeting that aim**, the following specific areas of work have been identified

Telecommunications

- a. *Review current service standards received by telecoms consumers to ensure they are fit for purpose, informed by a process led by telecom licensees that is driven by their customer engagement process [Q3-Q4]*
- b. *Complete the review of retail fixed line calls and implement effective controls on the level of charges for these services to ensure customers receive value for money [Q2]*
- c. *Review and if appropriate reset the current level of mobile termination rate charges by licensees [Q2-Q4]*
- d. *Carry out testing of 4G operator delivery against performance standards, holding operators to account in their delivery of service through independent testing and evaluation of whether they have met their commitments Q1-Q4]*

Ports of Jersey

- e. *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 [Q2-Q3]*
- f. *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 [Q2-Q4]*

Competition Law

- g. *Raise the level of understanding of competition law and the implications of policy decisions for competition through information campaigns within key States departments [Ongoing]*
- h. *Scrutinise proposed mergers and acquisitions where they are subject to notification [Ongoing]*
- i. *Evaluate the merits of exemption applications received [Ongoing]*

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

CICRA's experience of applying the existing competition and regulatory law in the Channel Islands has identified areas where improvement can be made. These will enable CICRA to operate more efficiently and may lead to a reduction in some regulatory costs.

In seeking to achieve its objective of **ensuring the regulatory and competition framework remains fit for purpose**, the following specific areas of work have been identified

Telecommunications

- a. *Initiate a strategic assessment of the telecoms sector to inform long term regulatory goals and priorities in co-operation with policy makers in both islands [Q3-Q4]*
- b. *Undertake a review of the regulatory information provided by telecom licensees, eliminating duplication and ensuring ongoing regulatory obligations in this area reflect future needs [Ongoing]*
- c. *Continue to process applications for new telecommunications licences and licence modifications [Ongoing]*

Ports of Jersey

- d. *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 [Q2-Q3]*

Postal Services in Jersey

- e. *Ensure the efficient provision of postal services, including the universal service obligation (USO), that delivers value and quality to postal users and the economy [Ongoing]*
- f. *Monitoring of quality of service performance and targets for postal operators, to ensure that customers' needs are effectively met [Ongoing]*

Competition law

- g. *Support the introduction of block exemptions by the relevant departments that will have the effect of removing the need for exemption applications in specific circumstances [Ongoing]*
- h. *Ensure the merger and acquisition framework is appropriate and where necessary seek changes to the framework in cooperation with relevant policy and legislative bodies. [Q2-Q4]*

4. Supporting and advising ministers and the States on policy matters and initiatives

A review of the wider competition and regulatory framework was also carried out by Oxera in Jersey during 2015. Many of the recommendations of that work might also be relevant to Guernsey and we would wish to explore these with the Commerce and Employment Board also. In co-operation with the relevant departments CICRA will therefore look to implement these recommendations that relate to it and/or where it has a role to play.

CICRA has a particular role in advising on issues relating to competition and economic regulation. It will seek to carry out that role in accordance with the relevant service level agreements between CICRA and the Jersey Assistant Chief Minister and the Guernsey Commerce and Employment/Board.

In seeking to achieve its objective of **supporting and advising ministers and the States on policy matters and initiatives** the following specific areas of work have been identified

- a. *Implement the recommendations of the Oxera review carried out in 2015 [Q1-Q4]*
- b. *Work with the relevant government departments to complement existing government initiatives in areas of broadband and connectivity [Ongoing]*

- c. *CICRA will consider candidates for market reviews requested by the relevant governments*
[Ongoing]