

STATES OF JERSEY



JERSEY COMPETITION REGULATORY AUTHORITY: APPOINTMENT OF CHAIRMAN

Lodged au Greffe on 8th July 2016
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

in accordance with Article 3(1)(a) of the Competition Regulatory Authority (Jersey) Law 2001, to appoint Mr. Michael O'Higgins as a member and non-executive Chairman of the Jersey Competition Regulatory Authority for a period of 3 years, with immediate effect.

CHIEF MINISTER

REPORT

Background

The States are asked to agree to debate this proposition at short notice given the importance of the work of the Jersey Competition Regulatory Authority (JCRA), particularly its regulatory functions and role in making markets work in the interest of Islanders.

This would prevent the position of JCRA Chairman from being vacant for the summer period and would allow Mr. O'Higgins to begin familiarising himself with his responsibilities as soon as possible. The nomination comes following 2 extensive recruitment processes. The Recruitment Panel comprised the then Chief Officer of Guernsey's Commerce and Employment Department (now the Committee for Economic Development), a Non-Executive Board Member of the Channel Islands Competition Regulatory Authorities (CICRA), the Commissioner of the Jersey Appointments Commission and the Chief Economic Adviser, States of Jersey.

A first search was undertaken in March, in partnership with representatives from Guernsey, and resulted in the identification of an appointable candidate. However, due to unforeseen personal circumstances the candidate withdrew.

A second search was then undertaken, again in partnership with representatives from Guernsey, which has culminated with the nomination of Mr. O'Higgins.

The Recruitment Panel made its recommendations to the States of Jersey and the States of Guernsey on 5th July 2016. Because of this, it has not been possible to bring the proposition to the Assembly any earlier.

Guernsey

The JCRA shares a Chairman, Board, and staff with the Guernsey Competition and Regulatory Authority, under the joint heading of the Channel Islands Competition and Regulatory Authorities. The JCRA and the GCRA administer different Laws in each Island respectively, but share resources and co-operate on pan-Channel Island issues.

The Guernsey Committee for Economic Development indicated, on 7th July 2016, that it is proposing Mr. O'Higgins for the Chairman of GCRA and that Guernsey's States Assembly will consider the appointment as soon as possible after its summer recess.

Jersey

The States adopted the Competition Regulatory Authority (Jersey) Law in November 2000. It received Royal Assent on 14th March and came into force on 1st May 2001.

Appointment process

Under Article 3(1)(a), it is for the States to appoint one member of the Authority as its Chairman upon the recommendation of the Chief Minister. Under Article 4(2), a member shall be appointed for a period not exceeding 5 years, and upon expiry of such period shall be eligible for re-appointment.

Members may be aware that the States approved revised procedures for certain appointments in [P.205/2009](#): ‘[Appointments made by the States: revised procedures](#)’. The States agreed that the appointment of the JCRA Chairman should be one of those that is subject to the revised procedure, and has asked that amendments to legislation are made to allow this. The new procedure would require a Report to be presented to the States in relation to the proposed nomination, and the appointment could not then be confirmed until at least 2 weeks after the date of presentation of the Report to the Assembly.

Implementation of the new procedure has not yet taken place, but is something that will be addressed when amendments to the Jersey Competition and Regulatory framework are brought to the States in due course. The appointment of a Chairman, for the time being, is something that still requires the States to approve a Proposition.

Recognition of former Chairman

I should, first of all, like to put on record my appreciation of the chairmanship of Mr. Mark Boléat. He became Chairman of the JCRA in 2010, and over his 2 terms his efforts and good work in leading the Authority have been very much appreciated by myself and Ministers. This chairmanship has not been an easy one, and overseeing the successful merger of the GCRA and JCRA has been just one of the notable achievements where the benefits can be seen by all. Mark has also seen through ‘[A review of the Jersey regulatory and competition framework](#)’ ([R.123/2015](#)) during his second term. He has been very supportive of this work and has ensured that the Authority is already working on the recommendations with officials working on competition matters in the Chief Minister’s Department. His support in this part of his second term has been important in ensuring that the Authority is in the best possible position to meet the future challenges of making markets work in the interests of the economy, businesses and consumers, and in ensuring a smooth transition to a new chairmanship.

Recommendation of Mr. O’Higgins

The search for a successor to the post of Chairman has been a demanding one:

- Adverts were placed in the Economist, Jersey Evening Post and Guernsey Evening Post and their associated websites.
- Odgers and Berndtson, the recruitment consultants, were also engaged to supplement this search.
- A total of over 40 applications were received.
- Following an extensive shortlisting exercise with all Panel members, a number of candidates were shortlisted for interview.
- The Panel comprised of the Chief Officer of the then Commerce and Employment Department of Guernsey, a Non-Executive Board Member of CICRA, the Commissioner of the Jersey Appointments Commission, and the Chief Economic Adviser, States of Jersey.
- The Panel made a unanimous recommendation to the politicians in both Guernsey and Jersey.

The States is very fortunate to have an exceptional candidate from this process, with extensive experience as an organisational chairman and regulator, but also a wide range of other experience, including as a business leader and a consulting partner.

I therefore recommend Mr. Michael O'Higgins to the Assembly. If the States approves the appointment, contracts will be finalised, and the 3-year appointment period will start with immediate effect.

A Curriculum Vitae for Mr. Michael O'Higgins is attached at the **Appendix** to this Proposition and Report.

Financial and manpower implications

The Chief Minister's Department provides the Authority with a grant to administer the Competition Law (£300,000 in 2016). There are no other financial or manpower implications for the States arising from this proposition.

CURRICULUM VITAE

Mr. Michael O’Higgins

Mr. Michael O’Higgins graduated from Trinity College Dublin in 1975 (B.A. Economics), and London School of Economics in 1976 (MSc Social Policy). He has retained close ties to academia throughout his career, undertaking visiting professorships at the London School of Economics (1992–1998) and the University of Bath (2009–2012), as well as a visiting fellowship at Harvard (1984–1985).

Mr. O’Higgins has a rich and varied professional history, with significant Board-level experience. He spent the rump of his career as a Partner at Price Waterhouse Coopers (1989–1996) and as a Managing Partner at PA Consulting Group (1997–2006), where he became a member of their International Board (from 2004). Following this, Mr. O’Higgins has held posts as the Chairman of the Audit Commission (2006–2012), the Pensions Regulator (2011–2014) and the NHS Confederation (2012–2015).

Mr. O’Higgins has shown great adeptness as an organisational chairman and a leader. For instance, of his performance at the Pensions Regulator, the then Pensions Minister stated that Mr. O’Higgins had “played a crucial role leading the regulator through a period of economic uncertainty and significant change for the pensions system”. Major initiatives which Mr. O’Higgins oversaw included the launch of automatic enrolment and a crack-down on pensions liberation fraud.

Mr. O’Higgins has held leadership positions in the private, public and voluntary sectors, and has discharged his duties with distinction across his 37-year career.