PO Box 53, No 1 The Forum,
Grenville Street, St Helier,
Jersey JE4 8PB
Company Number 83487

24 High Street,
St Peter Port,
Guernsey GY1 2JU
Company Number 39971

26th May 2021

Deputy David Johnson
Chair
Economic and International Affairs Scrutiny Panel

BY EMAIL ONLY

Dear Deputy Johnson

Economic and International Affairs Scrutiny Panel
Review of the decision to demerge CICRA and formation of the JCRA

Thank you for your letter of 6th May 2021 requesting JT's views on the follow up review of the demerger of CICRA and the future work of the JCRA. We provided our views in August 2020 and said that we would anticipate both advantages and disadvantages in the demerger of CICRA.

It is almost a year since the demerger and too early to come to any definitive conclusions, particularly given the extraordinary challenges everyone has faced during the pandemic. Since the demerger the JCRA has been able to focus its resources on important Jersey issues and has recruited additional, high quality staff and a very experienced new board. We have had good engagement with the JCRA and believe that the JCRA's approach during this period has been pragmatic and effective. We would, however, make two observations:

- In some cases, as in the Business Connectivity Market Review, the JCRA and GCRA have undertaken a similar exercise but are proposing to come to different conclusions. We recognise that the facts on each island may differ and that this could justify different conclusions. Nonetheless, there may be a case for each authority to consult with the other when they are undertaking reviews of this kind to ensure that any discrepancies are addressed.

- Other important telecoms policy areas will require and benefit from close co-ordination between the authorities. For example, the implementation of the new Telecoms Security Framework (TSF) and the removal of High-Risk Vendors (HRVs) from our network by 2027 will require coordination between the two islands to ensure common policy and to allow JT to manage procurement activities for these large scale investments, where we are already sub-scale.

These are all matters which we assume are anticipated and addressed in the memorandum of understanding that exists between the JCRA and GCRA following the demerger, although this document does not appear to have been published by either authority. We think it would assist stakeholders if that document were to be published.

Irrespective of whether JT is regulated by demerged or merged bodies, our concern is that the regulator should have the skills and resources to undertake its duties effectively and fairly, and that it allocates those resources appropriately and to tasks which best serve the interests of the people of Jersey (and

JT

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Guernsey). We are not sure that is the case under the existing funding arrangements in place for the JCRA. I attach a paper that was written by Richard Feasey, an adviser to JT, which may be of interest to the Panel. The paper was written last year and cites data for 2019, but funding arrangements for 2021 remain similar.

The Panel will know that the JCRA currently undertakes a variety of duties and oversees a number of economic sectors. However, the way in which these activities are funded differs. Competition law enforcement is largely funded by a grant from the Jersey Government, the level of which has remained unchanged for 10 years. In contrast, the costs of regulation, including telecoms regulation, are recovered directly from the regulated firms and vary in relation to the costs the JCRA incurs. Mr Feasey suggests that, compared to regulators in other countries that also combine competition and regulatory responsibilities, the JCRA appears to over-allocate resources to sectoral regulation and to telecoms in particular and to under-allocate to competition issues in the unregulated parts of the Jersey economy. He suggests current funding arrangements may provide incentives for the JCRA to act in this way when it is unable to use funds obtained from regulated firms like JT to support competition work and its current funding from Government is insufficient to sustain the organisation without significant additional funds from regulatory activities. He argues that a better balance between central funding from Government and income from sectoral regulation would allow the JCRA to allocate its time and resources to issues which best meet the needs of the people of Jersey.

We would encourage the Panel to give these matters consideration in its review and would be happy to discuss them further with you.

Yours sincerely,

GRAEME MILLAR
CEO

JT