



Jersey Competition Regulatory Authority

Annual Report 2008

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Foreword

This is the eighth Annual Report of the Jersey Competition Regulatory Authority (JCRA).

The JCRA is an independent body, established in May 2001 by the States of Jersey, with the primary mission to promote consumer welfare through competition and measures that encourage lower prices and greater choice and innovation in the goods and services available in Jersey. The work of the JCRA is thus expected to contribute to Jersey's long-term economic growth and competitiveness.

This report is made by the JCRA. It is presented to the Economic Development Minister pursuant to Article 18 of the Competition Regulatory Authority (Jersey) Law 2001. The accounts of the JCRA with respect to the financial year ending 31 December 2008 are included in this report, fulfilling the requirement of Article 17 of the same law. This report also fulfils the requirements of Article 59 of the Telecommunications (Jersey) Law 2002 and Article 13 of the Postal Services (Jersey) Law 2004, each of which require the JCRA to publish an Annual Report in respect of each financial year surveying relevant developments and reviewing competition in, and restrictions on, the supply of telecommunications and postal services in Jersey.

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Chairman's Statement



This has been another busy year for the nine-member executive team at the JCRA.

In the field of telecom regulation, the most satisfying achievement has been the implementation of mobile number portability on December 1st, 2008. This scheme permits users to keep their existing mobile phone number while changing their licensed service provider at no additional charge. The service is available throughout the Channel Islands, enhancing both competition and consumer choice. Earlier, in July, we initiated Jersey's Mobile Mast Locator website, enabling the public to identify each mast on the island, together with any available data on its high frequency emissions. In December, we also introduced a new price control for Jersey Telecom's fixed line retail telecommunications, guaranteeing that any price rises for these services will remain below inflation for the coming three years.

A similar price control regime for core postal services, which include local letters and letters sent abroad, came into effect at the beginning of 2008. During the year, we also issued licences to two companies which provide postal services in competition with Jersey Post, and undertook a review of Jersey Post's service standards.

Meanwhile, under the competition law, we have continued our campaign against the issuing of fixed or recommended prices by professional and trade associations, again, in the interests both of enhancing competition and expanding consumer choice. This year, the Jersey Cab Drivers Association has agreed to desist from such practices. We have also considered the competitive effects, in a variety of markets, of a number of proposed mergers.

When called upon, we have advised the States on a number of issues, most notably on the economic consequences for Jersey's retail sector that would flow from the establishment of another supermarket on the island.

At the end of a hard-working year for the JCRA, I should like to express my warmest thanks to the Executive Director and the other members of staff and to my non-executive colleagues on the Board.

A handwritten signature in black ink that reads "Christopher Kingsland". The signature is written in a cursive, slightly slanted style.

The Rt. Hon. the Lord Kingsland, QC
Chairman

Executive Director's Statement

2008 was a year of results for the JCRA, results that produced real benefits for Jersey and its consumers.

Perhaps our highest profile outcome was the implementation of mobile number portability (MNP) on 1 December 2008. MNP is a service that allows customers to keep their entire mobile phone number when changing their mobile phone service provider. The implementation of MNP in Jersey is a key factor in promoting competition in mobile telecommunications as well as consumer choice, and therefore has been a major long-standing goal of the JCRA. Jersey's incumbent telecommunications provider, Jersey Telecom (JT), initially opposed the introduction of MNP in Jersey and filed an appeal against it in Jersey's Royal Court, which the JCRA vigorously opposed. In February 2008, however, we reached an agreement with JT to end its legal challenge and support the implementation of MNP throughout the Channel Islands in cooperation with the other operators and Guernsey's Office of Utility Regulation (OUR). Thereafter, the JCRA and OUR worked together to oversee an intensive and technically vigorous implementation process, which culminated in the successful launch of MNP in Jersey and Guernsey on 1 December 2008. As a result, now both pre-paid and post-paid mobile customers in Jersey have the ability to change their mobile operator and keep the same phone number, at no additional charge.

While a milestone, the successful implementation of MNP was not the JCRA's only significant achievement in telecommunications regulation in 2008. In July, for example, we launched Jersey's Mobile Mast Locator website. This website provides up-to-date information on the location of mobile phone masts in Jersey through an interactive map that enables users to view the location of each mast and available data on any

high frequency wireless emissions. The website also contains information on how sites are monitored and current international standards on safe levels of mast emissions. During the 4th quarter of 2008, the JCRA carried out the first random independent audit of mast emissions, and recently updated the Mobile Mast Locator website accordingly based on the data collected. Finally, at the end of 2008 the JCRA finalised a new price control for JT covering certain fixed-line telecommunication services. This will ensure that any price increases for the services covered will remain below inflation over the next three years.

The JCRA also achieved significant results in postal regulation in 2008. The start of 2008 saw the coming into effect of a price control covering the core postal services offered by Jersey Post (JP), which include local letters and letters sent from Jersey to addresses in the UK, Guernsey, and abroad. Similar to the JCRA's price control in telecommunications discussed above, this postal price control requires that any price increases for these and other services remain below Jersey's rate of inflation over the next three years. Later in 2008, the JCRA issued the first two postal licences to companies that provide postal services in competition with JP, and we continue to examine the scope for additional entry and competition in the provision of postal services in Jersey. In addition, during 2008 the JCRA commenced a major review of JP's quality of service standards, a major outcome of which likely will be the introduction by JP of a compensation scheme for lost and damaged mail, starting in 2009.



Last year also saw the JCRA take important steps under Jersey's Competition Law. A JCRA investigation of coal distribution resulted in Jersey's two largest coal distributors agreeing to a Code of Practice, which is intended to end practices such as price signalling and recommending resale prices that had the effect of inhibiting competition and consumer choice. Furthermore, also in response to a JCRA investigation, the Jersey Cab Drivers Association agreed to end its long-standing practice of recommending fares to operators of restricted taxi-cabs. This represents the latest in a series of results the JCRA has achieved under the Competition Law to eliminate fixed or recommended prices among trade and professional associations in Jersey, including among dentists, driving instructors, building contractors, plumbers, electricians, lawyers and now restricted taxi-cab drivers.

Such actions produce direct consumer benefits by facilitating greater choice and competition. These effects were indicated by a JCRA study released in September 2008. Among the cases examined in this study was the elimination in late 2005 of the formerly fixed fee for the provision of conveyancing services in Jersey. This resulted in the development of a much more competitive marketplace for the provision of conveyancing services in Jersey, with overall significantly reduced fees. The study estimates that, as a result, consumers in Jersey have saved an aggregate of approximately £2 million per year, or approximately £5.5 million in total, since the start of 2006. These were part of total consumer savings of approximately £12.5 million the study estimates have arisen from select past JCRA enforcement actions.

Results such as these contribute to Jersey's overall long-term growth and competitiveness.

The JCRA continues to be a centre of excellence in Jersey in economics and regulation, as well as a world leader in the application of competition law in small economies. In 2008 we were called upon to advise the States of Jersey on many important issues, such as the economic impact of new entry into Jersey's retail sector by a large supermarket competitor. We also provided "plain English" information and guidance to businesses and consumers in Jersey on current issues arising under the laws we enforce. Internationally, we continued to work through forums such as the International Competition Network to ensure that our own policies and procedures reflect international best practices, and to advocate that the best practices that are developed take account of the unique circumstances that often exist in small economies.

Our achievements in 2008 arise from the hard work of the JCRA's staff and Board of Directors, to whom I give my sincerest appreciation. This Annual Report provides greater detail on these and other accomplishments, as well as on the JCRA's operations in general. For even more detailed information on the JCRA and its activities, please visit our website, www.jcra.je.

A handwritten signature in black ink that reads "C Webb". The signature is fluid and cursive.

Charles Webb
Executive Director

About the JCRA

What is the JCRA?

The JCRA was set up by the States of Jersey in 2001 as an independent body, accountable to the Economic Development Committee (whose functions have now been transferred to the Economic Development Minister) with expertise in promoting competition and consumer interests through economic regulation and competition law.

Why Competition?

The JCRA aims to facilitate competition to benefit consumers and the Jersey economy. Facilitating competition will help to improve overall economic welfare and growth in Jersey, and contribute to the quality of life of Jersey's citizens.

Our Functions

Competition

The JCRA is responsible for administering and enforcing the Competition (Jersey) Law 2005. The aim of this Law is to prevent consumers being harmed by anti-competitive or exploitative behaviour in the market, such as price-fixing or abuse of market power.

Advisory

We can be called on to advise the Economic Development Minister on matters of economic regulation and competition. For example, in 2008 we advised on the economic impact of new entry into Jersey's retail sector by a large supermarket competitor.

Economic Regulation

In common with many jurisdictions in the European Union and further afield, the States of Jersey has decided to structure certain businesses previously carried on by the States as separate companies, albeit wholly-owned by the States. In Jersey's case this decision was taken in respect of the telecommunications and postal businesses, now run by Jersey Telecom Limited and Jersey Post Limited, respectively. The States also decided to withdraw, upon incorporation, the statutory monopolies which Jersey Telecom and Jersey Post had previously enjoyed, to allow for the possibility of competition in

these sectors. The JCRA was given the task upon incorporation of ensuring that these organisations continue to satisfy all current and prospective demands for services, while promoting competition where appropriate. This is achieved primarily through the conditions of the licences granted to Jersey Telecom and Jersey Post, which the JCRA has a statutory responsibility to enforce.

Who we are

The JCRA is managed by a Board consisting of a Non-Executive Chairman, an Executive Director and three Non-Executive Directors. Its staff complement comprises three case officers, one junior case officer, a legal adviser, an economic adviser, a finance & operations manager and a personal assistant.

Board Members

1 The Rt. Hon. the Lord Kingsland, QC Chairman

The Rt. Hon. the Lord Kingsland, QC, was appointed Chairman of the JCRA in July 2004 and was re-appointed in July 2007. He was Shadow Lord Chancellor from 1997 to 2007. He is a Recorder and a Deputy High Court Judge and is a practising barrister, with an extensive knowledge of competition law. He was appointed Queen's Counsel in 1988, a Knight Bachelor in 1990, and Privy Counsellor in 1994, the same year that he received his peerage.

2 Charles Webb Executive Director

Charles Webb was appointed as the JCRA's Executive Director in October 2007, having previously served as the Authority's in-house Legal Adviser since May 2005. Before joining the JCRA, Charles had spent the previous seven years as an attorney in private practice specialising in competition law and other complex regulatory matters. Charles is an internationally published author and speaker on competition law issues, both in general and specifically concerning the application of competition law and policy in small market economies.

3 Christopher Bright Non-Executive Director

Chris Bright was appointed a Non-Executive Director of the JCRA in August 2004 and was re-appointed in August 2007. He is a solicitor in private practice, specialising in competition and regulation, as well as an accredited mediator. He is a member of the UK Competition Commission, a member of the Disciplinary Tribunal of the Accountancy Investigation and Discipline Board in the UK and a Visiting Fellow at the Institute of European and Comparative Law, University of Oxford.

4 Robert Foster Non-Executive Director

Robert Foster was appointed a Non-Executive Director of the JCRA in August 2004 and was re-appointed in August 2007. He is a Commissioner of the National Lottery Commission, and Chair of the project Board overseeing the introduction of the next operator licence. He is also a Non-Executive Director, and Vice-Chair, of King's College Hospital NHS Trust in London, and a member of the Advisory Council of a venture capital company, Oxford Capital Partners. He was Chief Executive of the UK Competition Commission from 2000 to 2004. He is a Chartered Engineer and was previously an engineering manager in the electronics and telecommunications industries, then a senior civil servant in the Cabinet Office and Department of Trade and Industry responsible for innovation policy.

5 Richard Povey Non-Executive Director

Richard Povey was appointed a Non-Executive Director of the JCRA in May 2005 and was re-appointed in May 2008. He has extensive industrial experience, particularly in the petrochemical, mechanical and electrical engineering, and telecommunications sectors. He held a number of senior management positions in Swire Pacific Ltd in Hong Kong and Taiwan between 1979 and 1996. Since 1996, he has held non-executive positions for various fund management and industrial companies. He is currently a Non-Executive Director of Opsec Security Group plc and Henderson Far East Income Ltd.



Our Values

We believe it is important for any organisation to have a set of values to guide its work. The JCRA is no exception. Such values help enable the businesses, consumers and others we deal with to know what to expect of us, and our Board and staff to act in a consistent and fair manner.

Our values encompass:

Fairness

The JCRA has to be fair and objective. We are committed to ensuring that Jersey consumers and businesses understand our processes and how the JCRA goes about its business. We intend to listen to all relevant views of consumers, businesses, and all parties who wish to be heard.

Proportionality

Our actions will be proportionate to the problems we seek to remedy.

Efficiency

Our resources will be tightly managed and we will aim for maximum efficiency in our operations.

Accountability

We are accountable to Jersey citizens through their political representatives, namely the Economic Development Minister and his colleagues, and through the legal framework. The Minister can issue directions and guidance to the JCRA in telecoms and postal matters. We have a Service Level Agreement with the Minister, regulating the grant funding for the administration of the Competition (Jersey) Law 2005.

Our Performance in 2008

In 2008, we had five main aims. The first three of these concerned the administration and enforcement of, respectively, the Competition (Jersey) Law 2005, the Telecommunications (Jersey) Law 2002 and the Postal Services (Jersey) Law 2004. The last two relate to advising on competition and regulatory matters and implementing our core values.



Aim 1

The Administration and Enforcement of the Competition (Jersey) Law 2005.

In 2008, the JCRA continued in its role as the primary enforcer of Jersey's competition law, the Competition (Jersey) Law 2005 (the Law).

Objective

Pursue suspected or potential infringements of the Law following complaints, or on own initiative.

Performance

We investigated an alleged price fixing among restricted taxi-cabs in Jersey. This investigation led to a voluntary decision by the Jersey Cab Drivers Association to eliminate its practice of recommending fares. This represents the latest outcome in a series of JCRA investigations that have resulted in the elimination of fixed or recommended prices among trade and professional associations in Jersey. These actions facilitate price competition and consumer choice.

In response to a JCRA investigation, Jersey's two largest distributors of coal products agreed to an Industry Code of Practice issued by the JCRA. Under this Code, the distributors committed to cease issuing recommended retail prices and cease disclosing future retail prices. The Code is intended to facilitate increased competition for the sale of coal products in Jersey.



Performance (continued)

We fined TUI AG £10,000 for failing to comply with the Law's requirements concerning mergers and acquisitions relating to its acquisition of First Choice Holidays plc.

In all, three investigations were opened during the year, of which two were completed, and one still active at the year end (it was completed in January 2009). Of the three investigations which were active at the start of the year, two were completed during 2008.

Objective

Deal with applications for exemption of potentially anti-competitive agreements.

Performance

We dealt with one application for exemption in 2008; however, this application was subsequently withdrawn by the parties.

Objective

Deal with requests for guidance on possible anti-competitive arrangements/abuse of dominant position.

Performance

The JCRA responded to several informal requests for guidance from private parties in 2008. The details of these requests are confidential. No formal requests for statutory guidance were received.



Objective

Deal with applications for approval of mergers and acquisitions.

Performance

Thirteen mergers or acquisitions were notified to the JCRA for approval in 2008. Of these, the JCRA approved twelve matters unconditionally and one matter was approved subject to conditions.

The average time it took the JCRA to complete its analysis of non-complex mergers and issue an unconditional approval decision was twenty-four days. The one complex case, requiring a conditional JCRA approval decision, took five months to complete. These time-frames are in accordance with our published target time-frames for merger review (i.e., one month for non-complex cases and up to six months for complex cases), which reflect international best practice.

The conditional merger approval involved the JCRA's review of a proposed acquisition by Jersey's largest potato grower of one of Jersey's largest distributors of tractors and agricultural machinery. The JCRA mandated conditions to its approval to avoid this acquisition resulting in a substantial lessening of competition in Jersey.



Objective

Promote understanding by consumers and businesses of the Law.

Performance

We published a final guideline on the application of the Competition Law to vertical agreements.

We worked in cooperation with other local organisations such as the Jersey Consumer Council and the Jersey Chamber of Commerce to publish practical advice to consumers and businesses on Competition Law enforcement.

We were asked to provide presentations in Jersey on the Competition Law to organisations such as the Institute of Directors.

Objective

Assess whether appropriate reforms can be made to the Law.

Performance

We conducted internal research on merger and application thresholds in preparation for a public consultation on potential changes to the thresholds applicable in Jersey, which we plan to undertake in 2009.

Objective

Facilitate the development of competition law and policy in small jurisdictions.

Performance

Working through the International Competition Network, we ensured that Recommended Practices on the Assessment of Dominance/Substantial Market Power contained specific guidance on the assessment of dominance in small and/or isolated economies.

Our Performance in 2008

In 2008, we continued our role as the regulator of Jersey's telecommunications sector, taking steps to promote the interests of consumers in terms of quality, value for money and choice.

Aim 2

The Administration and Enforcement of the Telecommunications (Jersey) Law 2002.

In 2008, we continued our role as the regulator of Jersey's telecommunications sector, taking steps to promote the interests of consumers in terms of quality, value for money and choice.

Objective

Facilitate new entry into telecommunications markets in Jersey.

Performance

We issued a telecommunications licence to a new entrant, MRS Communications Limited.

Objective

Ensure fixed and mobile interconnection between operators.

Performance

We considered various questions concerning interconnection raised by licensed operators.

Objective

Facilitate competition and user choice in mobile telephony by introducing Mobile Number Portability (MNP).

Performance

In February we reached an agreement with JT and the other operators on the implementation of MNP in Jersey and Guernsey. We thereafter worked closely with the operators and in cooperation with the Office of Utility Regulation in Guernsey on MNP implementation. As a result of these efforts, MNP was launched in Jersey on 1 December 2008.



Objective

Investigate practices by operators which restrict competition or otherwise breach their licence obligations, and take effective remedial action.

Performance

We investigated several potential licence infringements in 2008. These were either resolved informally or did not otherwise warrant the issuance of Initial or Final Notices under Jersey's Telecommunications Law.

Objective

Ensure JT publishes separated accounts for each of its businesses.

Performance

We reviewed JT's separated accounts submitted in July. Consideration of JT publishing separated accounts was deferred due to other priorities.

Objective

Review wholesale access issues and consider whether regulatory intervention is appropriate.

Performance

In December, we issued an invitation to tender concerning a major review of JT's wholesale access provision and separated accounts methodology we plan to undertake in 2009.

Objective

Review appropriateness of price caps on JT's fixed and mobile services.

Performance

In October, we issued a new price control on certain fixed-line retail services offered by JT.

Objective

Implement direction on mobile mast monitoring.

Performance

In July we implemented the Jersey Mobile Mast Locator interactive website, and at the end of 2008 conducted the first random independent audit of mast emissions.

Our Performance in 2008

In 2008, we continued our role as the regulator of Jersey's postal sector, taking steps to promote the interests of consumers in terms of quality, value for money and choice.

Aim 3

The Administration and Enforcement of the Postal Services (Jersey) Law 2004.

In 2008, we continued our role as the regulator of Jersey's postal sector, taking steps to promote the interests of consumers in terms of quality, value for money and choice.

Objective

Assess the scope for introducing competition in postal services, to the extent consistent with the considerations set out in the Postal Law.

Performance

In June, we issued a licence to provide postal services in Jersey to Regency Holdings Limited. In December, we issued a postal licence to another operator in Jersey, Hi-Speed Freight Services Limited. These are the first two licences the JCRA has issued under the Postal Law to companies that provide postal services in competition with Jersey Post (JP).

Objective

Investigate practices by operators which restrict competition or otherwise breach their licence obligations, and take effective remedial action.

Performance

We investigated several potential licence infringements in 2008. These were either resolved informally or did not otherwise warrant the issuance of Initial or Final Notices under Jersey's Postal Law.

**Objective**

Assess cost of JP's Universal Service Obligation (USO).

Performance

We worked closely with JP and its consultants to assess the cost of the USO in Jersey.

Objective

Review the scope of the USO.

Performance

Assessment of the scope of the USO was deferred due to other priorities.

Objective

Review JP's quality of service.

Performance

In June, the JCRA issued a public consultation on JP's quality of service standards. The main outcome of this likely will be the introduction by JP of a compensation scheme for lost and damaged mail, starting in 2009.

Objective

Monitor JP's price control.

Performance

A price control on JP's core postal services took effect on 1 January 2008 and the JCRA thereafter has worked cooperatively with JP to ensure compliance.

Our Performance in 2008

As in previous years, in 2008, we were often asked to provide advice, either formally or informally, to the States of Jersey on various proposals or potential legislation and regulations.

Aim 4

Advising the States on competition and regulatory matters.

As in previous years, in 2008, we were often asked to provide advice, either formally or informally, to the States of Jersey on various proposals or potential legislation and regulations.

Objective

Monitor proposed States legislation and review existing States legislation for potential effects on competition and advise relevant Minister.

Performance

We advised on numerous potential policies, initiatives, and legislative proposals in 2008.

Objective

Advising the Economic Development Minister on competition/regulatory matters.

Performance

We provided advice to the Economic Development Minister on the economic impact of new entry into Jersey's retail sector by a large supermarket competitor. The advice concluded that new entry would be economically beneficial to Jersey.



Objective

Provide advice and assistance to other States Departments, States Members, and Scrutiny Panels.

Performance

We appeared before the Economic Affairs Scrutiny Panel concerning the proposal to privatise Jersey Telecom. We also appeared before the Corporate Services Scrutiny Panel concerning its review of the proposed importation of bovine semen.

Our Performance in 2008

Our core values include transparency and proportionality. In 2008, we continued our efforts to put these core values into practice.

Aim 5

Implementing our core values.

Our core values include transparency and proportionality. In 2008, we continued our efforts to put these core values into practice.

Objective

Implement transparency in our operations.

Performance

We published a draft of our 2009 Aims and Objectives for consultation.

Where possible, we aim to consult publicly before finalising our positions. For example, our Direction on Jersey Telecom's price control was issued following an extensive consultation process.



Objective

Putting proportionality into practice.

Performance

In our dealings with businesses, we strive to resolve compliance issues where possible through discussions rather than formal enforcement action. An example of this in 2008 was the resolution of potential competition concerns in Jersey's coal distribution industry through the voluntary adoption of a Code of Practice, in lieu of formal enforcement action.

Assessing the Economic Effects of Competition Policy in Jersey

In September 2008 the JCRA published a study that measured some of the economic effects arising from competition policy in Jersey.

The study estimated total consumer savings of approximately £12.5 million arising directly from selected past JCRA enforcement actions. These actions include the elimination of the formerly fixed fee for the provision of legal conveyancing services and the opening up of Jersey's telecommunication services to competition. The study's estimates of consumer savings are conservative and based on the best available data. Many of the estimated savings are structural and the beneficial effects are therefore expected to continue.

In addition to estimating direct consumer savings arising from specific enforcement actions, the study also examines other benefits arising from competition policy in Jersey. One of these is the deterrence of anticompetitive conduct. The study discusses direct evidence of one cartel, and one anticompetitive merger, which did not proceed based on the JCRA's advice. Additional examples of deterrence likely exist, but have never been brought to our attention. The study also examines wider benefits arising from competition policy in the form of increases in efficiency, productivity and innovation, as companies are forced to work harder to retain their customers in competitive markets. These benefits contribute to Jersey's overall long-term growth and competitiveness, although they are generally seen as unquantifiable.



JCRA Financial Statements 2008

Consistent with prior years, the JCRA made an accounting surplus of £1 in 2008 – effectively, break even. Due to the laws upon which the JCRA is based, it may only account for income in order to meet its actual costs during the year. It must also ensure that it receives enough income during the year in each of the three areas it covers – competition, telecoms regulation and postal regulation – to fund them separately given that cross-subsidisation is not permitted. A working balance is maintained at all times, but for the purposes of the financial statements, deferred income adjustments are made to match income with costs.

Overall, the JCRA incurred lower costs in 2008 than the previous two years. This was due to various reasons, not least being the fact that considerable legal fees were incurred in 2007 in defending the decision to implement Mobile Number Portability (MNP). Across the board, most other costs were fairly consistent with the prior year. Consultancy fees increased, however, mainly due to work on the Jersey Post (JP) USO costing project, MNP, Jersey Telecom price control project and the audit of mobile mast emissions. Depreciation increased as a result of the new computer equipment being purchased in the latter half of 2007, and web design costs increased with the introduction of the Mobile Mast Locator site.

It should be noted that the JCRA maintains strict internal guidelines with regard to purchasing and tendering procedures, which combined with corporate governance in line with best practice, ensures that the Authority is run as an effective and efficient organisation. An audit of policies and procedures is undertaken each year by independent internal auditors to ensure high standards are maintained.

The introduction of GST in Jersey in 2008 had a minimal impact on the JCRA. Although the JCRA had to register with the tax authorities, no GST is chargeable on the invoices it submits to the licensed operators and EDD. However, GST paid on supplies and services is able to be reclaimed in full.

In line with the Service Level Agreement between the JCRA and the Economic Development Department (EDD), grant funding for the Competition Law continued to be received quarterly in advance. There was deferred grant income carried forward at the year end in the sum of £274,761 (2007: £192,744). This deferred income will, at EDD's option, either be paid back to EDD or carried forward to offset funding in 2009. Income of £62,956 (2007: £56,058) was received in the form of mergers and acquisitions fees. Two fines of £10,000 each were received during the year in relation to the non-filing of acquisitions, one relating to a decision in 2007. Although these were paid to the JCRA, under the Law these were then paid on to EDD and were therefore not accounted for within the income and expenditure account, as the JCRA merely acted as a collection agent.

Deferred 2008 telecommunications licence fee income carried forward was £132,280 (2007: £85,045). Based on budgeted costs, which include the review of JT's wholesale access provision and separated accounts methodology, the Class III and Class II licence fees for 2009 have once again been set at 0.75% of regulated turnover, subject to subsequent adjustment in the light of actual costs.

Class II postal licence fees from JP continued to be received quarterly in advance and at the year end there was deferred postal licence fee income of £48,106 (2007: £85,268).

Report and Financial Statements

For the year ended 31 December 2008

Jersey Competition Regulatory Authority
(Incorporated in Jersey, Channel Islands)

Members

The Rt. Hon. the Lord Kingsland, QC (Chairman)
Charles Webb (Executive Director)

Christopher Bright (Non-Executive Director)
Robert Foster (Non-Executive Director)
Richard Povey (Non-Executive Director)

Secretary

Paul O'Toole

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Members' Report

The Members of the Authority present their report and financial statements for the year ended 31 December 2008.

Activities

The principal activities of the Authority during the year were the regulation of the telecommunications and postal industries and the administration and enforcement of the Competition (Jersey) Law 2005.

Results

There was a surplus for the year of £1 (2007: surplus £1).

Members

The Members in office when these financial statements were approved are shown on page 25.

Auditors

The auditors, RSM Robson Rhodes (Jersey) Limited resigned on 25 July 2008 and Reads (Audit) Limited were appointed in their place on the same date.

By order of the Members



Paul O'Toole
Secretary

Statement of Members' responsibilities in respect of the financial statements

The Competition Regulatory Authority (Jersey) Law 2001 requires the Members to prepare financial statements which shall be in accordance with generally accepted accounting principles and show a true and fair view of the surplus or deficit of the Authority for the year and of the state of the Authority's affairs at the end of the year.

In preparing financial statements the Members should:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Authority will continue in business;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements.

The Members are responsible for keeping accounting records which are sufficient to show and explain the Authority's transactions and are such as to disclose with reasonable accuracy, at any time, the financial position of the Authority and to enable them to ensure that the financial statements comply with the Law. They are also responsible for safeguarding the assets of the Authority and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Members confirm that these financial statements comply with these requirements.

Independent Auditors' Report

We have audited the Authority's financial statements for the year ended 31 December 2008, on pages 28 to 33. These financial statements have been prepared on the basis of the accounting policies set out therein.

This report is made solely to the Authority's Members, as a body in accordance with Article 17 of the Competition Regulatory Authority (Jersey) Law 2001. Our audit work has been undertaken so that we might state to the Authority's Members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's Members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of Members and auditors

As described in the Statement of Members' Responsibilities, the Authority's Members are responsible for the preparation of the financial statements in accordance with applicable Jersey law.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements, which have been prepared in accordance with United Kingdom accounting standards, give a true and fair view. We also report to you if, in our opinion, the Authority has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

We read other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. The other information comprises the Chairman's Statement, the Executive Director's Statement, the general commentary and the commentary on the annual financial statements. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements. Our responsibilities do not extend to any other information.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Members in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Authority's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion the financial statements give a true and fair view of the state of affairs of the Authority as at 31 December 2008 and of its surplus for the year then ended.

Reads (Audit) Limited
Jersey, Channel Islands

25 February 2009

Balance Sheet

As at 31 December 2008

	Notes	2008 £	2007 £
Fixed Assets			
Tangible fixed assets	3	73,062	103,389
Current Assets			
Debtors and prepayments	4	56,635	50,154
Cash at bank		549,329	509,900
		<u>605,964</u>	<u>560,054</u>
Current Liabilities			
Creditors: amounts falling due within one year	5	553,579	537,997
Net Current Assets		<u>52,385</u>	<u>22,057</u>
Total Assets Less Current Liabilities		<u>125,447</u>	<u>125,446</u>
Retained Surplus	6	<u>125,447</u>	<u>125,446</u>



For and on behalf of the Members: Charles Webb
23 February 2009

Income and Expenditure Account

For the year ended 31 December 2008

Notes

2008

2007

£

£

Income			
Licence fees		658,135	717,343
Economic Development Department grant		412,983	407,216
Bank interest		19,647	19,078
Mergers and acquisitions fees		62,956	56,058
Application fees		500	500
Sundry income		-	1,003
		<u>1,154,221</u>	<u>1,201,198</u>
Expenditure			
Salaries and staff costs		777,525	781,005
Consultancy fees		114,241	44,175
Operating lease rentals		62,866	63,338
Travel and entertainment		5,439	9,028
Conference and course fees		22,000	23,316
Depreciation		33,169	20,741
Administration expenses		19,785	22,174
Legal and professional fees		17,618	123,344
General expenses		35,886	35,844
Audit and accounting fee		15,396	15,963
Advertising and publicity		5,396	5,305
Repairs and maintenance		16,656	25,360
Heat, light and water		4,906	3,085
Recruitment		18,858	25,953
Loss on disposal of fixed assets		-	591
Internet web page design		4,479	1,975
		<u>1,154,220</u>	<u>1,201,197</u>
Surplus for the year	6	<u>1</u>	<u>1</u>

Recognised gains and losses

There are no recognised gains and losses other than the surpluses of the Authority of £1 in the years ended 31 December 2008 and 31 December 2007.

Cash Flow Statement

For the year ended 31 December 2008

	Notes	2008 £	2007 £
Net cash inflow from operating activities	8	22,624	59,838
Returns on investment and servicing of finance			
Interest received		19,647	19,078
Capital expenditure and financial investment			
Payments to acquire tangible fixed assets		(2,842)	(91,550)
Management of liquid resources		-	(100,000)
Increase/(Decrease) in cash		39,429	(112,634)

Reconciliation of net cash flow to movement in net funds

For the year ended 31 December 2008

	2008 £	2007 £
Increase/(Decrease) in cash in year	39,429	(112,634)
Cash used to increase liquid resources	-	100,000
Change in net funds	39,429	(12,634)
Net funds at 1 January	509,900	522,534
Net funds at 31 December	549,329	509,900

Analysis of net funds

	1 Jan 2008	Cash flows	31 Dec 2008
Cash at bank	59,900	39,429	99,329
Current asset investments	450,000	-	450,000
Total	509,900	39,429	549,329

The notes on pages 31 to 33 form an integral part of these financial statements.

Notes

1. Incorporation

The Authority was incorporated in Jersey on 1 May 2001 as a body corporate under the terms of the Competition Regulatory Authority (Jersey) Law 2001.

2. Accounting policies

Accounting principles

The financial statements are prepared under the historical cost convention and in accordance with accounting principles generally accepted in the Island of Jersey, incorporating United Kingdom accounting standards.

Interest receivable

Interest on bank deposits is accrued on a daily basis.

Fixed assets

All fixed assets are initially recorded at cost.

Depreciation

Depreciation is provided on all tangible fixed assets, at rates calculated to write off the cost over their estimated useful lives in equal instalments. The depreciation rates used are as follows:

Leasehold improvements	– remaining lease term
Computer equipment	– 33% per annum
Fixtures and fittings	– 10% per annum
Other equipment	– 20% per annum

Leasing commitments

Rentals payable under operating leases are charged in the income and expenditure account on a straight line basis over the lease term.

Pensions

The Authority provides a defined contribution pension scheme. Contributions are charged in the income and expenditure account as they become payable in accordance with the rules of the scheme.

Grants

Grants and income received from the Economic Development Minister are recognised on receipt of the funds. Any unused funds at the financial year end are either deferred or repaid to the Minister. Deferred grant income as at 31 December 2008 amounted to £274,761 (2007: £192,744).

Telecoms licence fees to Class II and Class III Operators

Licence fees are set on the basis of cost recovery under Article 17 of the Telecommunications (Jersey) Law 2002. The Authority's costs are determined on an annual basis and these are recovered by applying a percentage to the licensed revenues of the Operators on the basis of relevant pro-rata turnover, or if appropriate an annual fee.

The percentage for 2008 was 0.75% (2007: 0.75%).

The Operators are invoiced quarterly in advance and fee income is recognised when invoiced. Should fee income exceed costs, the balance is treated as deferred revenue. Deferred licence fee income as at 31 December 2008 amounted to £132,280 (2007: £85,045).

Postal licence fees to Class II Operators

Licence fees are set on the basis of cost recovery under Article 18 of the Postal Services (Jersey) Law 2004. The Authority's costs are determined on an annual basis and these are recovered by applying a percentage to the licensed revenues of the Operators on the basis of relevant pro-rata turnover, or if appropriate an annual fee.

The fee for 2008 was set at £225,000 (2007: £300,000).

The Operators are invoiced quarterly in advance and fee income is recognised when invoiced. Should fee income exceed costs, the balance is treated as deferred revenue. Deferred licence fee income as at 31 December 2008 amounted to £48,106 (2007: £85,268).

Notes

3. Tangible fixed assets

	Leasehold improvements £	Computer equipment £	Fixtures and fittings £	Other equipment £	Total assets £
Cost					
At 1 January 2008	37,826	86,797	19,550	7,822	151,995
Additions	-	2,611	231	-	2,842
Disposals	(3,985)	(152)	-	(3,871)	(8,008)
At 31 December 2008	33,841	89,256	19,781	3,951	146,829
Depreciation					
At 1 January 2008	5,381	26,815	8,820	7,590	48,606
Charge in the year	4,225	26,890	1,966	88	33,169
Disposals	(3,985)	(152)	-	(3,871)	(8,008)
At 31 December 2008	5,621	53,553	10,786	3,807	73,767
Net book value					
At 1 January 2008	32,445	59,982	10,730	232	103,389
At 31 December 2008	28,220	35,703	8,995	144	73,062

4. Debtors and prepayments

	2008 £	2007 £
Prepayments	46,488	25,723
Trade debtors	9,209	18,957
Sundry debtors	938	5,474
	56,635	50,154

5. Creditors: amounts falling due within one year

	2008 £	2007 £
Accruals	66,389	67,003
Deferred grant income	274,761	192,744
Deferred licence fee income	186,803	176,812
Other deferred income	-	1,250
Trade creditors	15,556	90,574
Social security	10,070	9,614
	553,579	537,997

6. Movement on retained surplus

	Income and Expenditure Account £
At 1 January 2008	125,446
Surplus for the year	1
At 31 December 2008	125,447

7. Taxation

Article 16 of the Competition Regulatory Authority (Jersey) Law 2001 provides that the income of the Authority shall not be liable to income tax under the Income Tax (Jersey) Law 1961.

Notes

8. Note to the cash flow statement

Reconciliation of surplus for the year to net cash inflow from operating activities:

	2008	2007
	£	£
Operating surplus	1	1
Depreciation	33,169	20,741
Interest on current asset investments	(19,647)	(19,078)
Loss on disposal of fixed assets	-	591
(Increase)/decrease in debtors	(6,481)	17,528
Increase in creditors	15,582	40,055
Net cash inflow from operating activities	22,624	59,838

9. Related parties

The transacting parties are:

- The Economic Development Minister
- Jersey Competition Regulatory Authority (JCRA)

Transactions

In 2008 the Economic Development Minister provided funds to the JCRA in order that work on the Competition Law could be carried out.

Relationship

The JCRA acts independently of the States, but is accountable to the Economic Development Minister in respect of its funding for the Competition Law which is also covered by a Service Level Agreement. The Minister acts as a conduit for requests from other Ministers who may require the JCRA to carry out projects. The JCRA reports formally to the Minister on an annual basis.

Amounts involved

- £192,744 brought forward as deferred grant income, as agreed from 2007.
- £480,000 received during the year under the Competition (Jersey) Law 2005 grant.
- £15,000 received in respect of advice given to the Minister on competition matters.

Amounts due to the Economic Development Department at the balance sheet date

	2008	2007
	£	£
Deferred grant income (included in creditors)	274,761	192,744

10. Financial commitments

At 31 December 2008 the Authority had annual commitments under non-cancellable operating leases as set out below:

	2008	2007
	£	£
Operating leases which expire:		
Not later than one year	-	6,745
In more than one year but less than five years	-	-
Later than five years	53,886	42,108
	53,886	48,853

The Authority entered into a new nine year lease from 21 June 2007 which included an initial nine month rent free period.

11. Pension commitments

The Authority provides a defined contribution pension scheme for its Executive Director and employees. The assets of the scheme are held separately from those of the Authority in an independently administered fund. Contributions of £102,946 (2007: £104,895) were charged in the year and there were no unpaid contributions at the year end.

Corporate Governance Guidelines

1. The Jersey Competition Regulatory Authority (JCRA) and the Economic Development Minister (the Minister)

1.1 The JCRA (The Authority) is an autonomous body and entirely independent in its decision taking from the States of Jersey. But under powers of the Competition Regulatory Authority (Jersey) Law 2001 (the CRA Law), Article 10(1) the Economic Development Minister, “may give to the Authority written guidance, or general written directions, on matters relating to corporate governance, that is relating to the systems and arrangements by and under which the Authority is directed and controlled”. The following are the Corporate Governance Guidelines as agreed between the Economic Development Minister and the Authority.

2. What is Corporate Governance?

2.1 “Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance.”
- OECD April 1999.

3. Constitution of the Authority

3.1 The Authority is a statutory body corporate established under Article 2 of the CRA Law. The governing body is a Board of Members which directs regulatory, licensing, financial and operational and strategic policies of the Authority.

4. Functions of the Authority

4.1 The functions of the Authority are set out in Article 6 of the CRA Law which states:-

- 1) “The Authority shall have such functions as are conferred on it by or under this or any other Law or any other enactment.
- 2) The Authority may recognise or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods and services to which the Authority’s functions relate.

3) The functions of those bodies shall include one or more of the following –

- (i) the provision to the Authority of advice, information and proposals in relation to any one or more of those matters;
 - (ii) the representation of the views of any one or more of those persons.
- 4) The Authority may, on request by the Minister, provide the Minister with reports, advice, assistance and information in relation to any matter referred to in paragraph (2).
- 5) The Authority shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.”

5. Constitution of the Board

5.1 Article 3 of the CRA Law requires the Board to consist of a Chairman and at least two other members.

5.2 Currently the Members of the Board comprise of a Non-Executive Chairman, an Executive Director, and three Non-Executive Members. Two of the Members live in Jersey and three in the United Kingdom.

5.3 The appointment of Board Members is undertaken by the Minister. Vacancies which arise on the Board are filled through the use of an open and transparent process. The Minister follows the procedures recommended by the Jersey Appointments Commission – a body set up by the States of Jersey to overview all public sector appointments. A vacancy is usually advertised and once a suitable candidate is identified, a recommendation is made to the Minister. Under the provisions of the CRA Law, the appointment of the Chairman is a matter reserved for decision by the States of Jersey on the recommendation of the Minister. The other Board Members are appointed by the Minister after it has consulted with the Chairman. The Minister shall notify the States of the appointments.

5.4 Under the provisions of the CRA Law, Members are appointed for terms not exceeding five years and upon expiry of such period are eligible for reappointment.

6. Operations of the Board

- 6.1 The Board sets strategic policy and the implementation of these policies is undertaken by the Executive.
- 6.2 The Board usually meets at least monthly or bi-monthly and will hold additional meetings when circumstances require it. In advance of each meeting, Members are provided with comprehensive briefing papers on the items under consideration. The Board is supported by the Board Secretary who attends and minutes all meetings of the Board.
- 6.3 The quorate number of Members to hold a Board meeting is three, two of which must be Non-Executives with one acting as Chairman.
- 6.4 Article 9 of the CRA Law empowers the Board to delegate any of its powers to the Chairman, one or more of its Members, an officer or employee of the Authority or a committee whose member or members are drawn only from the Members, officers and employees of the Authority. However, the Board is not authorised to delegate this power of delegation or the function of reviewing any of its decisions.
- 6.5 The Board holds an annual away day. This event, which may also be attended by senior staff, is an opportunity for the Board to conduct an evaluation of its performance during the year and discuss strategic issues for the year ahead and possible changes to the *modus operandi*.
- 6.6 The Board maintains an annual budget and publishes its aims and objectives for the following year. In the last quarter of each year, the Executive Director prepares a draft aims and objectives document and budget incorporating amongst other things any strategic issues raised by the Board at its annual away day. The budget is considered by the Board by December of each year.
- 6.7 The Board monitors the performance of the Authority against the aims and objectives document through reports at its regular Board meetings. Performance against budget is monitored by the presentation of quarterly management accounts to the Board and ad-hoc financial presentations as and when appropriate.

6.8 The Authority has agreed with the Economic Development Department a policy on travel.

6.9 The Executive Director makes recommendations to the Minister in respect of fees paid to the Non-Executive Board members.

7. Committees of the Board

- 7.1 Article 7(1) of the CRA Law enables the Authority to establish committees.
- 7.2 The Board established two committees; an Audit Committee and a Remuneration Committee. The members of these committees are appointed from within.
- 7.3 The key duties of the Audit Committee are –
- To review annually the Authority's application of corporate governance best practice, including the appointment of internal auditors, and setting the scope and reviewing the output of their work;
 - To review the mechanisms for ensuring the effectiveness of the Authority's internal controls;
 - To consider certain matters relating to the external audit of the Authority's annual financial statements (including reviewing those financial statements prior to their consideration by the Board).
- 7.4 Whilst the Audit Committee's terms of reference include the consideration of the annual appointment of the external auditor, the actual appointment of the auditor is a matter reserved to the Finance and Economics Minister under Article 17 of the CRA Law.
- 7.5 The members of the Audit Committee are Robert Foster (Chairman), Richard Povey and Christopher Bright. The Executive Director is expected to attend the meetings of the Audit Committee in an advisory capacity.
- 7.6 The key duties of the Remuneration Committee are –
- To consider the remuneration of the Executive Board Member and advise the Minister;
 - To agree the budgetary level of the annual pay review for staff based upon market remuneration analysis;
 - To consider and agree any variations to the structure of the remuneration package that may be proposed from time to time.

Corporate Governance Guidelines

7.7 The members of the Remuneration Committee are Christopher Bright (Chairman), Richard Povey and Robert Foster.

8. Openness, Integrity and Accountability

8.1 The Authority abides by the principles of openness, integrity and accountability – and those standards which are widely recognised as being applicable to public service, and to the conduct of all involved in public life.

8.2 In the discharge of its duties, the Authority will ensure:

- That subject to the appropriate level of confidentiality, it maintains an openness in its public affairs, in order that the public can have confidence in the decision-making processes and actions of public service bodies, in the management of the Authority's activities, and in the Board Members and staff of the Authority itself;
- That it maintains at all times an appropriate degree of integrity in the conduct of its affairs. Integrity comprises both straightforward dealing and completeness. The Authority bases its integrity upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of its funds and management of its affairs;
- That it is fully accountable in the application of the public funds and that these are properly safeguarded, and are used economically, efficiently and effectively.

8.3 The three fundamental principles, defined above in terms of public sector bodies, have been refined to include the findings and recommendations of the Nolan Committee on Standards in Public Life. The Authority will make its best efforts to abide by Nolan's seven general principles that underpin public life as follows:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

9. Audit & Accounts

9.1 While the Authority is an independent body, it is accountable for its overall performance to the States of Jersey through the Minister.

9.2 Article 17 of the CRA Law requires that the Authority shall keep proper accounts and proper records in the accounts and prepare a report and accounts in respect of each financial year and provide these to the Minister no later than four months after the year end. The Minister shall lay a copy of the accounts provided before the States as soon as practicable after he receives the report.

9.3 It is also a requirement of the CRA Law that the accounts are audited by auditors appointed by the Treasury and Resources Minister and be prepared in accordance with generally accepted accounting principles.

10. Other Matters

10.1 Under powers granted by Article 10 of the CRA Law, the Minister may, after first consulting with the Authority and where it considers that it is necessary in the public interest to do so, give to the Authority written guidance, or general written directions, on matters relating to corporate governance which may include matters relating to accountability, efficiency and economy of operation of the Authority.

10.2 The Board has a Service Level Agreement with the Minister in respect of the Competition Law grant made from the States of Jersey.

