

19-21 Broad Street | St Helier
Jersey | JE2 4WE

By email

5th October

Dear Chair,

Recommendation to review the remit of the Jersey Competition Regulatory Authority ("JCRA")

I am writing in relation to your predecessor's recommendation to review the remit of the JCRA as outlined in the report concluding the 'Review of the demerger of CICRA and Future Operation of the JCRA' (S.R. 11/2021).

Review of CICRA demerger

As you will be aware, in early 2020, the previous Minister took the decision to re-establish the JCRA under its own Board and staff, rather than working across the Channel Islands under the joint heading of the Channel Islands Competition Regulatory Authorities ("CICRA"). The separation formally took place on 1st July 2020.

Following my predecessor's announcement, the previous the Economic and International Affairs Scrutiny Panel ("**the Panel**") decided to start a review into the demerger. As you may know, over the course of 2020, the review was paused due to other Panel commitments and a change of Panel membership. In December 2020, the Panel was reconstituted and decided to focus the review on the future operation of the JCRA as an insular body responsible for competition supervision in Jersey.

Recommendation to review the remit of the JCRA

The Panel's report was published on 13th August 2021 and set out a number of key findings and recommendations. The purpose of this letter is to inform you of my decision in relation to the following recommendation made by the Panel:

Recommendation 3: Following concerns expressed by stakeholders, the Minister for Economic Development, Tourism, Sport and Culture should conduct a review of the JCRA's current remit as the singular authority for competition regulation in Jersey. This review should be carried out within 18 months of the date of the demerger of CICRA.

Relevant considerations

In his response, my predecessor rejected this recommendation, in particular the timescales for delivery, but accepted the possibility of conducting a review:

The Minister accepts that a review could be conducted but not in this timescale. The JCRA was re-established as a Jersey-focused body on 1st July 2020. The 18-month timeline would mean a review conducted by the end of 2021. The first year of the JCRA has been very much focused on its transition back to an insular body under its own board and staff and has been affected by the pandemic. A longer period, of perhaps three years, would enable the JCRA to conduct a number of market reviews, which would provide a better basis for assessing competition regulation under the insular model.

The JCRA has now operated as the stand-alone body for competition regulation in Jersey for over two years and, under its annual Business Plan, it has committed to a comprehensive programme of activity that would typically be delivered by a general competition authority. The Authority's 2022 Business Plan includes a programme of market studies to assess whether markets in Jersey are working well for consumers. It should be noted that nearly all competition authorities in the OECD conduct some type of market study and, in line with international best practice, I consider this to be one of the core activities of any competition authority.

Furthermore, as the Panel acknowledged, the JCRA's Business Plan provides transparency in relation to the Authority's planned activities, which should help allay any concerns about its remit. In addition, towards the end of each year, the JCRA publishes a draft of its Business Plan for the following year, providing interested parties an opportunity to express any concerns in relation to the JCRA's intended programme of work. It also follows from the JCRA's updated Prioritisation Principles that the JCRA will make its "strategic choices based upon *its remit* [emphasis added] under the various laws that apply to it [...]". In this regard, it should be noted that the Authority's statutory functions under the Competition (Jersey) Law 2005 have not changed in the period following the CICRA demerger.

In the context of the review by the previous Panel, the JCRA's Chief Executive Officer also indicated that the Authority "had no plans to expand beyond its current remit and work programme [...] and the JCRA had not been requested to extend its current work programme". I can confirm that since the CICRA demerger the JCRA has not been requested to extend its competition work programme, nor has there been any indication that the Authority's current activities in the area of competition supervision go beyond those that would be reasonably expected from it.

Conclusion

It is my view that the current remit of the JCRA is correctly drawn for a general competition authority in a small jurisdiction such as Jersey and I believe there is an important role to play for the JCRA in keeping local markets under review at a time when Islanders are faced with a fast-rising cost of living. In addition, no specific concerns regarding the JCRA's current remit as the singular authority for competition regulation in Jersey have been brought to my attention since the CICRA demerger.

For these reasons, I do not consider it the best use of resources at this time to initiate a review of the JCRA's current remit as the stand-alone body for competition supervision in Jersey.

I also wish to note that I meet with Ms Stephanie Liston, Chair of the JCRA, on a formal basis twice per year to review progress against the objectives and performance measures set out in the JCRA's work programme, which is the appropriate forum to discuss any possible concerns in relation to the JCRA's remit. Department and JCRA officials also meet regularly so that any issues can be discussed at the earliest possible opportunity.

I trust this letter provides you sufficient information in relation to my decision, however, please let me know if the above raises any questions or if you would like any further information.

Additionally, as it seems that there are no further actions left to complete that result from the Panel's review, I would be grateful if you could let me know whether this review is now considered closed.

Yours sincerely,



Deputy Kirsten Morel

Deputy Chief Minister

Minister for Economic Development, Tourism, Sport and Culture

E k.morel2@gov.je