



11th August 2020

Deputy Kirsten Morel
Chair
Economic and International Affairs Scrutiny Panel

BY EMAIL ONLY

Dear Mr Morel

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

Thank you for your letter of 7th July 2020 requesting JT's views on the decision to demerge CICRA. I have answered your questions in the order in which they were posed in your letter.

1. What are your views on the effects of the separation of the regulatory authorities?

Moving away from a model where there is a joint approach between Jersey and Guernsey on regulatory and competition activities to a separate approach will have some challenges and opportunities both for the authorities themselves and for the Telecom operators. We believe there will be some benefits from the change allowing the authorities to focus efforts on bailiwick specific issues.

Both the regulatory authorities and the operators have small teams with limited resources and it has been beneficial over the last number of years to have a Channel Island focus when CICRA has been consulting instead of an island specific focus. The joint consultation process adopted by CICRA meant that only one response was required for both jurisdiction which worked well. For example, the issuing and coordinating of spectrum across the Channel Islands has worked well under CICRA as all three mobile operators provide services in both jurisdictions and there is benefit in there being one spectrum consultation/bid process. There have been several regulatory decisions that have benefited from a single approach, for example, the introduction of a wholesale line rental product in Jersey and Guernsey on the same date.

The differences in legislation in each Bailiwick has meant that there were differences in the final decision process. Even under CICRA's joint consultation process, the implementation of Channel Island mobile termination rates has not aligned due to the differences in legislation. Moving forward the two authorities will have different priorities and the demerger will be allow them to focus on issues specific to each bailiwick which will bring benefit to each jurisdiction.

We hope that where there are matters where alignment across the Channel Islands is important, both authorities will be able to work under a memorandum of understanding with the key stakeholders in both bailiwicks.

2. In what ways do you think competition regulation will be affected, positively or negatively, by the decision?

We list below the positives and negatives we see with the separation of the authorities.

Positive:-

- Will provide the ability for the authority to focus resources and effort on bailiwick specific issues.
- The utilities regulated in each bailiwick differ. For example, the electricity market is regulated in Guernsey only and the ports authority is regulated in Jersey only. The separation of the authorities will allow them to focus on the specific needs of the economy in each of the markets.
- When the JCRA and GCRA formed CICRA in 2013 both bailiwicks had similar telecommunications infrastructures and products. This has since changed with Jersey moving to a fibre infrastructure and product set. It is therefore appropriate now to focus on the needs of each bailiwick's economies.
- The differences in the legal frameworks in both bailiwicks makes it challenging for a merged authority. In order for there to be a successful joint authority there has to be a convergence of the laws of each bailiwick. There was never any evidence of one legislative approach, and this was apparent in the demerger of the joint data protection authority.
- The political environment must be similar in each bailiwick with similar policies otherwise joint authorities, such as CICRA, find it very difficult to gain agreement on its priorities and programme of work.

Negative:-

- Additional costs in running two authorities will result in an increase in licence fees which will ultimately be passed on to consumers through price increases;
- Lack of alignment on certain aspects could mean sub-optimal roll out programmes for operators, for example, where spectrum is not allocated at the same time and operators have different roll out commitments in each bailiwick.
- Timing differences has already impacted the introduction of a rate change for mobile termination. This type of misalignment is likely to be more common in the future and adds additional change effort for the operator.
- Each operator has a finite number of resources who work in the regulatory area and they will have to respond to more consultations as priorities may differ for each authority. This may increase the workload of the operators.

3. When did you first learn of the possibility of this decision? Were you consulted before the decision was made?

JT were not consulted before this decision was made and we were only aware of the decision when the media release went out.

I hope that the information provided above is helpful to your review and should you need anything further please do not hesitate to contact me.

Yours sincerely

**GRAEME MILLAR
CEO**