

STATES OF JERSEY



POSTAL SERVICES (JERSEY) LAW 2004: DIRECTIONS AND GUIDANCE TO THE JCRA UNDER ARTICLE 9

**Presented to the States on 1st February 2005
by the Economic Development Committee**

STATES GREFFE

DIRECTIONS AND GUIDANCE TO THE JERSEY COMPETITION REGULATORY AUTHORITY UNDER ARTICLE 9 OF THE POSTAL SERVICES (JERSEY) LAW 2004

Introduction

1. The Postal Services (Jersey) Law 2004 (**PSL**) empowers the Jersey Competition Regulatory Authority (the **Authority**) to issue licences to operators that intend to convey letters (as defined in **PSL**) within a restricted area (broadly, those either weighing 500 grams or less or costing £1.30 or less in postage).
2. The States, through the Economic Development Committee (**EDC**), retains strategic political responsibility for Jersey's postal services industry. **PSL** places a duty on both the **Authority** and **EDC** to perform their functions under **PSL** –

“in such manner as it considers is best calculated to ensure the following –

(a) *that (so far as in its view is reasonably practicable) such postal services are provided, both within Jersey and between Jersey and the rest of the world, as satisfy all current and prospective demands for them, wherever arising;*

(b) *[...].”*

3. The demanded postal services within this duty are defined in more detail in **PSL**. Both **EDC** and the **Authority** are required, in considering whether the Island's postal services satisfy these demands –

“to have regard to –

(a) *whether the services are rapid, of high quality and reliable;*

(b) *whether the services are affordable by and accessible to the highest number practicable of business and domestic users;*

(c) *whether the services are provided at times, at places and in ways, that meet the demands of the highest number practicable of business and domestic users;*

(d) *whether users are able to express their views about the provision of the services; and*

(e) *any objectives that the States prescribe by Regulations, including, but not limited to –*

(i) *the provision of a universal postal service, a social postal service or any form of subsidized postal service, and*

(ii) *the provision of certain services at uniform tariffs or at subsidized tariffs.”*

4. **EDC** may, in addition under **PSL**, give to the **Authority**, written **directions** or written **guidance**. **EDC** may –

*“if it considers it desirable in the public interest to do so, give to the Authority written **directions** in respect of the principles, procedures or policies to be followed by the Authority in relation to –*

(a) *the implementation of any social or environmental policies in respect of postal services; or*

(b) *philatelic services.*

And

*“if it considers it desirable in the public interest to do so, give to the Authority written **guidance** in*

respect of the principles, procedures or policies to be followed by the Authority in relation to any matter relating to the performance of its functions under this Law.”

5. Under **PSL**, it is the duty of the **Authority** in carrying out any of its functions –
 - (a) to comply with any **direction**;
 - (b) and to consider (without necessarily complying with) any **guidance**.

Because there is this fundamental difference between **directions** and **guidance**, they are given separately below.

6. Following consultation with the **Authority** (subsequent to public consultation earlier this year), **EDC** has given the following written **directions** and written **guidance** to the **Authority**.
7. **PSL** requires **EDC** to notify the States not only of the **directions** and **guidance** given by it to the **Authority** but also of comments received by it from the **Authority**. Those comments are also reproduced below.

Directions

Written **Directions** about social and environmental policies

8. In considering licence applications and in setting conditions for such licences, the **Authority** shall –
 - (a) have due regard for the agreed States Strategic Aims relating to social and environmental matters set out in the agreed States Strategic Plan 2005 to 2010;
 - (b) continue to procure the provision of preferential postage rates for literature for the blind;
 - (c) continue to procure the provision, from time to time, of preferential rates in respect of mail to addresses within the BFPO (British Forces Post Office).

Written **Directions** about Philatelic Services

9. In considering licence applications and in setting conditions for such licences, the **Authority** shall regard the profits made by a postal services operator in connection with philatelic services as unavailable for use to protect or further the interests, whether short-term or long-term, of users of postal services and, therefore, regard such profits as proprietary funds of such an operator.

Comments

Comments received from the **Authority** about the above **Directions**

10. Having been consulted by **EDC**, the **Authority** has no comments on the above Directions under Article 9 of **PSL**.

Guidance

Written **Guidance** about Demanded Postal Services

11. In performing its functions under **PSL**, and to the extent consistent with its duties under Article 8(1)(a) which requires it to form a view about the postal services to be provided (so far as in its view is reasonably practicable) within Jersey and between Jersey and the rest of the world, and under Article 8(1)(b), the need to ensure that the Licensee has sufficient financial resources to discharge its liabilities under securities issued by the company to the States, the **Authority** should have regard to the following

guidance regarding such postal services –

Local to local Delivery and Collection

- (a) At least one delivery of **relevant postal packets** (being, for these purposes, postal packets whose weight does not exceed 20Kg and whose dimensions fall within the minimum and maximum limits laid down in the Universal Postal Union Convention and Postal Parcels Agreement) posted in Jersey should be made on each of not less than 5 working days each week to each **delivery point** (being, for these purposes, the home or premises of every individual or other person in Jersey or to such identifiable points for the delivery of **relevant postal packets** as the **Authority** may decide).
- (b) At least one collection of **relevant postal packets** should be made on each of not less than 5 days each week from each **access point** (being, for these purposes, any facility provided for the purpose of receiving **relevant postal packets** of all kinds) and from each **post-box** (being, for these purposes, any facility provided for the purpose of receiving **relevant postal packets** of a class appropriate for that facility).
- (c) Collections at one or more **access points** or **post-boxes**, on a district basis, should be made at latest times that will enable **relevant postal packets** to access key delivery and transport connections.

Access points and post-boxes

- (d) Attention should be given, in addition to demographic, social, operational, safety and financial factors, to the desirability of –
 - (i) siting **access points** and **post-boxes** near to other public amenities;
 - (ii) making **access points** and **post-boxes** convenient to motorists as well as pedestrians;
 - (iii) facilitating, if appropriate, the continued economic provision of **access points** by providing appropriate financial, transactional or other services through them.

Uniform prices

- (e) At least one service of conveying **relevant postal packets** from one place to another in Jersey by post and the incidental services of receiving, collecting, sorting and delivering such packets should be provided at prices determined in accordance with a public tariff which is uniform throughout the Island irrespective of **access point** or **delivery point**.

Relevant postal packets posted outside Jersey

- (f) The deliveries referred to in (a) above should also include deliveries of **relevant postal packets** posted outside Jersey and these should be accorded all due priority –
 - (i) in accordance with the perceived service-level intentions of the senders; and
 - (ii) recognising the importance for recipients in Jersey that such **relevant postal packets** are received at **delivery points** in Jersey without delay.

Relevant postal packets posted in Jersey

- (g) The following internal postal services should continue to be provided –
 - (i) One or more services encompassing the delivery in Jersey of all categories of **relevant**

postal packets posted in Jersey.

- (ii) One or more services, discounted appropriately, for the delivery in Jersey of **relevant postal packets** that are circulars, promotional material or marketing literature posted in bulk.
- (h) The following outwards postal services should continue to be provided –
 - (i) One or more services encompassing the delivery in the U.K. of all categories of **relevant postal packets** (subject to U.P.U. weight limits).
 - (ii) One or more services for the delivery in Europe of all categories of **relevant postal packets** (subject to U.P.U. weight limits).
 - (iii) One or more services for the delivery outside Jersey, the U.K. and Europe of all categories of **relevant postal packets** (subject to U.P.U. weight limits).

Additional postal services

- (i) The following additional postal facilities should continue to be provided in respect of appropriate **relevant postal packets** –
 - (i) A facility to receive certificates of posting.
 - (ii) The facility to receive confirmation of delivery.
 - (iii) A facility to receive compensation for loss or damage.
 - (iv) Business Reply facilities outwards from Jersey and inwards to Jersey.
 - (v) A redirection facility for Jersey addresses.
 - (vi) A retention facility for Jersey addresses.

Written **Guidance** About Proportionality of Regulatory and Licensing Costs and Fees

12. In performing its functions under **PSL**, and to the extent consistent with its duties under Article 8, the **Authority** should ensure that it exercises its own disciplines over the economy of its regulatory operations, should ensure that such operations reflect the size of Jersey's population, geography and postal services industry, and should tailor its costs and fee recoveries appropriately.

Comments

Comments received from the **Authority** about the above **Guidance**

13. Having been consulted by **EDC**, the **Authority** has made the following comments on the above **Guidance** under Article 9 of **PSL** –
- (a) The **Authority** will use its best endeavours, first, to ensure that postal licence fees for the first 4 years of licensing do not exceed £1 million, and second, to operate in the same spirit thereafter to the extent that it can do so without compromising its ability to discharge its statutory duties under **PSL**. The **Authority** is committed to achieving the greatest degrees of efficiency and effectiveness in all areas of its activity within its limited resources, and the regulation of postal services is no exception.
 - (b) The **Authority**, in placing obligations on postal service operators, intends, in accordance with the duties imposed on it through **PSL**, to keep those obligations to a minimum.

- (c) We would draw to the attention of the **EDC** the fact that Article 8(1)(b) of **PSL** requires both the **EDC** and the **Authority** each “to perform its functions under this Law in such a manner as it considers is best calculated to ensure that the company, to the extent it is ... to be licensed under this Law, has sufficient financial resources to discharge ... its liabilities under securities issued by the company to the States”.