
STATES OF JERSEY



JERSEY COMPETITION REGULATORY AUTHORITY: APPOINTMENT OF CHAIR

Presented to the States on 16th June 2020
by the Chief Minister

STATES GREFFE

REPORT

Ministerial responsibility for competition policy

In January 2020, it was decided to transfer political responsibility for competition policy to the Minister for Economic Development, Tourism, Sport and Culture. The transfer of political responsibility to the Minister for Economic Development, Tourism, Sport and Culture includes the transfer of all ministerial functions under the [Competition \(Jersey\) Law 2005](#) and the [Competition Regulatory Authority \(Jersey\) Law 2001](#). To date, statutory responsibilities have not yet been formally transferred for competition matters, and until such time as they do, statutory responsibilities remain with the Chief Minister whilst political responsibility lies within the portfolio of the Minister for Economic Development, Tourism, Sport and Culture.

Background

The Chief Minister intends to appoint Stephanie Liston as Chair of the Jersey Competition Regulatory Authority (“**JCRA**”) under powers conferred by Article 3(1)(a) of the Competition Regulatory Authority (Jersey) Law 2001 (“**the Law**”). The period of appointment is from 1st July 2020 for a period of 4 years to expire on 30th June 2024.

Under Article 3(1)(a) of the Law, it is for the Chief Minister to appoint one member of the Authority as its Chair. Article 4(2) of the Law provides that a member shall be appointed for a period not exceeding 5 years and upon expiry of such period shall be eligible for re-appointment.

Article 3(3) of the Law provides that Article 2 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) shall apply to the appointment of the Chair of the JCRA. Under Article 2 of that Law, the Chief Minister is required to notify the States of the intended appointment at least 2 weeks before the appointment is made.

Appointment process

States Members will recall that a decision has been made to demerge the Channel Islands Competition and Regulatory Authorities (“**CICRA**”). From 1st July 2020, the JCRA will function independently under its own Board and staff. Whilst the JCRA and the Guernsey Competition and Regulatory Authority (“**GCRA**”) will continue to co-operate where appropriate, the Authorities will no longer share a Chair, Board, and staff under the joint heading of CICRA.

Before the decision to unwind CICRA was made, discussions with Guernsey government officials were underway to prepare for the end of Mr. Michael O’Higgins’ term as JCRA Chair on 12th July 2019. Guernsey has its own governance arrangements, which it must apply to the replacement of the GCRA Chair. As a result of ongoing discussions with Guernsey regarding the appointment process, it became unlikely that the actual recruitment process would be completed before the end of Mr O’Higgins’ term of office on 12th July 2019. To ensure the operational continuity of the JCRA,

Mr. O'Higgins' appointment as Chair was extended until 31st December 2019 ([R.76/2019](#)).¹

In August 2019, advertisements were placed in the Jersey Evening Post and the Guernsey Press to recruit a JCRA and GCRA Chair on a 4-year fixed term basis, commencing on 1st January 2020, and with potential for reappointment thereafter. The process was overseen by the Jersey Appointments Commission ("JAC") and was expected to lead to an appointment well before the end of 2019. However, a change of circumstances in early October 2019 led to a decision taken by both islands under the supervision of the JAC to operate a wider search.

To prevent the position of JCRA Chair from being vacant upon the expiry of Mr. O'Higgins' term of office on 31st December 2019, Mr. Paul Masterton was appointed as Chair of the JCRA for a transitional period of 6 months until 30th June 2020 ([R.144/2019](#)). Before taking on the role of Chair of the JCRA, Mr. Masterton served as a Non-Executive Member and the Senior Independent Director of the Authority.

In December 2019, an executive search firm (Saxton Bampfylde) was selected, under the supervision of the JAC, to undertake the search and advertising assignment for role of JCRA and GCRA Chair. Advertisements were placed locally in the Jersey Evening Post and the Guernsey Press and off-islands in The Economist and The Times.² By the closing date, 22 applications had been received. A long list was drawn up comprising 8 candidates. However, following initial discussions on the future of the JCRA arrangement, it was decided to put the recruitment process for a new Chair on hold until a decision had been made on the separation of the Authorities.

Following the decision to demerge the Authorities, the search for a new JCRA-only Chair was relaunched, through the previously selected executive search firm and utilising the long list that was prepared for the recruitment of a new Chair for both the JCRA and the GCRA. A recruitment Panel was selected comprising Mr. Paul Masterton (Chair of the JCRA), Ms. Hannah Nixon (Non-Executive Director of the JCRA), Mr. Douglas Melville (principal ombudsman and chief executive of the Channel Islands Financial Ombudsman) and Mr. Richard Corrigan (Group Director, Financial Services and Digital Economy, Government of Jersey). The Panel was chaired by Jennifer Carnegie (Commissioner of the JAC).

Following an extensive shortlisting exercise with all Panel members, 5 candidates were shortlisted for interview. One of these candidates subsequently withdrew from the process, prior to their interview. After the remaining shortlisted candidates were interviewed, the Panel made a unanimous recommendation to the Chief Minister to appoint Ms. Stephanie Liston as the new JCRA Chair.

¹ As expressed in R.76/2019, presented to the States on 24th June 2019, under normal circumstances, the States would have been notified of an intention to re-appoint the Mr. O'Higgins for a longer term, having only been appointed in 2016. Mr. O'Higgins had the support of the other Non-Executive Directors of the JCRA and had ensured that the Authority continued to function effectively over a difficult period.

² Advertisements were also placed on www.womenonboards.net and on www.diversityjobsite.co.uk.

Recommendation of Stephanie Liston

The Government is very fortunate to have an exceptional candidate from this process, with extensive regulatory experience, strong leadership skills and experience working in a small-island context.

Ms. Liston is a corporate and commercial lawyer and has enjoyed a rich and varied legal career working for several prestigious international law firms since her graduation from Cambridge University in 1984. She currently leads the cross-disciplinary Regulatory Group at Mishcon de Reya, LLP in London and her legal expertise lies in the telecommunications sector. She specialises in providing international strategic, legal and regulatory advice in relation to a variety of types of projects and commercial transactions across multiple jurisdictions and industry sectors.

Ms. Liston is also a senior advisor to Frontier Economics (part-time) on telecoms and spectrum issues. She works with the telecoms team to deliver international strategic and regulatory advice to domestic and international companies and regulators on how best to introduce, implement and adapt to regulatory frameworks.

In addition to the above, Ms. Liston has a strong understanding of the particular challenges facing small island economies, having previously worked as the Chief Legal Advisor of the Telecommunications Regulatory Commission in the British Virgin Islands (“BVI”). Whilst working in the BVI, Ms. Liston was able to build valuable relationships with local stakeholders and effect change for benefit of local consumers.

Furthermore, from 2005 to 2008, Ms. Liston served on the Board of the Office of Communications (“Ofcom”). During her term, she was a member of the Ofcom Audit Committee and supported Ofcom’s international engagement and activities. Prior to this, Ms. Liston was on the Board of the European Competitive Telecoms Association (“ECTA”) for 5 years. ECTA is the trade association representing competitive telecoms operators in Europe. Ms. Liston also served as an independent member of the BT Equality of Access Board between 2013 and 2018 and co-founded, chaired, and now continues to be a Board member of Woman in Telecoms and Technology.

Financial and manpower implications

The Chief Executive’s Office provides the JCRA with an Annual Grant to administer the Competition (Jersey) Law 2005 (£300,000 in 2020). Fees payable to the Chair of the JCRA are sourced from the Annual Grant made to the Authority, as well as from the JCRA’s own accounts.

There are no other resource implications for the Government of Jersey arising from this appointment.

Saxton Bampfylde’s costs have initially been shared between the JCRA and the GCRA, whilst the search was for a new CICRA Chair. Costs emerging following the decision to demerge the Authorities have been sourced from the JCRA’s budget.