



# **Economic and International Affairs Scrutiny Panel**

## **Review of the demerger of C.I.C.R.A. and formation of J.C.R.A.**

### **Witness: Jersey Competition Regulatory Authority**

Friday, 14th May 2021

**Panel:**

Deputy D. Johnson of St. Mary (Chair)

Senator S.W. Pallett

Deputy S.G. Luce of St. Martin

**Witnesses:**

Ms. S. Liston, Chair, J.C.R.A.

Mr. T. Ringsdore, Chief Executive Officer, J.C.R.A.

[14:18]

**Deputy D. Johnson of St. Mary (Chair):**

Good afternoon, everyone. Welcome to this hearing of the Economic and International Affairs Scrutiny Panel in relation to its review of the demerger of C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) and the reinstatement of J.C.R.A. (Jersey Competition Regulatory Authority). On the panel side we have at the moment, myself, Deputy David Johnson, the chair, and Deputy Steve Luce of St. Martin. We will shortly be joined by Senator Steve Pallett. My apologies for the fact he is not here yet. For J.C.R.A., could I please ask you to introduce yourselves?

**Chair, J.C.R.A.:**

I am Stephanie Liston, chair of the J.C.R.A. since 1st July last year.

**Chief Executive Officer, J.C.R.A.:**

Good afternoon. I am Tim Ringsdore. I am the chief executive officer of the J.C.R.A.

**The Deputy of St. Mary:**

Thank you both and welcome. As you know, this review did start back in April of last year following the news of the demerger and we did undertake quite a bit of work in public hearings at that time. It then had to be paused mainly because of the COVID pandemic and the subsequent move of our then chairman to another position. We are just picking up the baton, so to speak. The purpose of this part of the review is to basically look more forward than in the past but we may, of necessity, have to refer to what happened at the demerger, so our apologies for that. Leading on from that, have you identified any advantages or disadvantages of the Authority operating as a single entity for the purposes of competition regulation rather than continuing as before, through C.I.C.R.A.?

**Chair, J.C.R.A.:**

I think there are a number of advantages and a few disadvantages. What I would say is it would be helpful to us to understand exactly what the panel is looking for because I understand why there was a panel associated with the demerger of C.I.C.R.A. and what I am trying to understand is what is the output or the end result of this panel. Would there be one report or 2 reports? What would you like to accomplish today because we want to accommodate you?

**The Deputy of St. Mary:**

Thank you for the question and your concern. It is a difficult one because the more interrogatorial side, per se, has already taken place as to why there was a demerger, which took everyone by surprise, I think. We are more concerned now about the future of J.C.R.A. in its present format and, for that reason, for comparison sake, we would like to know where you are going, what are the advantages of J.C.R.A. in its new form and again, as I have just asked, any possible downsides to the situation that we had before?

**Chair, J.C.R.A.:**

Tim, as you were there at the demerger can I ask that you kick off with this?

**Chief Executive Officer, J.C.R.A.:**

Yes, of course. Let me give you a little bit of the background then obviously in terms of where we have come from because, as you are aware, back in February last year the Minister made the decision to demerge and move forward with a single J.C.R.A., which did come as a surprise but we took that on the chin and very quickly we developed a plan to transform the business from C.I.C.R.A. into the new J.C.R.A. Obviously that involved demerging the company technically but also from a resource point of view, which fundamentally meant that until the middle of last year there was literally just 2 of us left in Jersey running the J.C.R.A. until we started the transformation programme. That

programme involved my appointment as the interim. C.E.O. (chief executive officer) in May last year and then we quickly managed to recruit Stephanie as our chair, and she commenced with us in July. Then we started to make some further recruitments to obviously bolster the resource that we had here. Over the last year ... well certainly up until the end of last year we had a transformation plan to recruit a senior economic case officer, which we managed to achieve in August last year. We employed an office co-ordinator and Caroline joined us in July last year. Then we were looking for a general counsel, which took some time and we managed to employ Rory Graham from the U.K. (United Kingdom) who is a commercial lawyer, not a litigator. We were very keen to employ somebody that had commercial experience and was not a pure litigator so that we had an opportunity to engage in a much more pragmatic manner moving forward. Then we were also looking for a finance officer, which we managed to recruit before the end of last year as well. Up until really the beginning of this year we were not at full complement in terms of the transformation plan but we managed to achieve that transformation plan on time and within budget. We have managed to continue to undertake the major projects that were already underway, such as the business connectivity market review, a wholesale price market review, and we also were undertaking 3 separate investigations; 2 for telecoms and one under the Competition Law. We managed to keep those on track and deliver those on time. I think we did a tremendous job given obviously the pandemic as well, which obviously affected us, as with everybody. Certainly, since that time I believe we have made great strides in terms of setting up the J.C.R.A. in a new form with a new approach.

**The Deputy of St. Mary:**

Thank you for filling in that big gap, as it were. I appreciate the difficulties at the time of the demerger. Sorry, before I go on, Steve Luce, do you want to comment on something at this stage?

**Deputy S.G. Luce of St. Martin:**

I know we are not looking backwards and I do not want to go back into all that, but Tim did say something that he was surprised, like many of us were, about the demerger. Can I just ask a very simple question? Was there any consultation with the Minister before it happened from the C.I.C.R.A. point of view?

**Chief Executive Officer, J.C.R.A.:**

Steve, as you appreciate, I was not the C.E.O. at that time and I certainly had no personal engagement with the Minister on the separation. We were informed literally the day the Minister made that decision. I can only say from my point of view I was not personally engaged. I cannot speak on behalf of the previous C.E.O. of course.

**The Deputy of St. Martin:**

That is fine. I just wanted to clear that up. Thank you.

**The Deputy of St. Mary:**

Before I go on, welcome to Steve Pallett, who has now been able to join us. From what you say, Tim, your recruitment, would you say that your various members of staff have a more focused expertise maybe than previously? Is that fair or not?

**Chief Executive Officer, J.C.R.A.:**

Yes, definitely. I think we have a broad spectrum of skills within the team. Not just within the functional team here based in Jersey but also from a board perspective as well. I will let Stephanie speak about the board a little bit later but certainly the complement of the team that we have overall now I think is excellent and we have the skills in-house to be able to deal with both the regulatory and the Competition Law side of things. As you are aware, we also engage with a number of external expert consultants to supplement the team as is required.

**The Deputy of St. Mary:**

I am in danger of throwing into another area but apart from the M.O.U. (memorandum of understanding) between Government and yourselves, there is one between J.C.R.A. and G.C.R.A. (Guernsey Competition and Regulatory Authority), so you envisage doing ... if not joint work but combining to do reviews as and when in the interests of costs?

**Chair, J.C.R.A.:**

The M.O.U. was signed in July. I have been working relatively closely with the chairman of the G.C.R.A. They have taken a different tack on a variety of issues and we are hopeful that on things that are really fundamental to the Channel Islands as a whole that we can work closely together. For example, spectrum release for 5G. That is fundamental that we work with Ofcom to be able to release that at a particular time. There is close co-ordination between myself and the chair. There are also regular updates and co-ordination between Tim and the C.E.O. of the G.C.R.A. I think it is probably fair to say we have taken a slightly different approach as the J.C.R.A. because we really are keen to use both soft powers as well as hard powers and we are very focused on what outcomes we are able to achieve as opposed to being in fighting mode all the time. I think that is a slight difference in tack between the G.C.R.A. and the J.C.R.A.

**The Deputy of St. Mary:**

You use the words "slightly different tack" earlier on. In some ways does what you are seeing from your present position justify or you can appreciate the reason why the Minister took a decision to go solo, can you?

**Chair, J.C.R.A.:**

Yes, I can. I think one of the things that we are focusing on in Jersey is Jersey and the economy of Jersey and the citizens of Jersey, as well as consumerism businesses. One example of that is the failure of emergency services for months at various times, which we took a very hard line on. We are trying to get some good outcomes associated with what we do on the 12th July outage, which is being treated separately. I think taking those different approaches is a good one. We also have a competition case that was ongoing with C.I.C.R.A. with respect to some collaboration on 5G between J.T. (Jersey Telecom) and Sure. We have taken a different approach to that than the G.C.R.A. has taken. They are taking a much more aggressive approach with respect to that.

**The Deputy of St. Mary:**

Thanks, both of you, on that area. Generally speaking, going back to the demerger time, have you had any adverse comments from industry or business organisations or comments generally as to the advantages or otherwise of the present arrangement?

[14:30]

**Chief Executive Officer, J.C.R.A.:**

Certainly from my perspective, I have not received any particular negative. Obviously there are some concerns in the telecoms sector with the operators that operate from a pan-Channel Island point of view in terms of the challenge of dealing with 2 regulators on similar matters. As Stephanie has mentioned before, we are trying to address that with as close a co-operation with the G.C.R.A. as we can to try and co-ordinate as closely as we can and keep the costs and the challenges down. But that is not always going to be possible. However, I would say we have received some very positive feedback from a number of different stakeholders regarding the level of engagement we have undertaken since the separation. The combination of what we have done with our business plan and what we have been undertaking with market reviews I would say overall the feedback we have received is very positive.

**The Deputy of St. Mary:**

Again, I will hand you over to Steve Luce who has a question.

**The Deputy of St. Martin:**

I just want to pick up on the different tack that we have just been speaking about. Obviously you are heavily involved in regulation of telecoms and postal services but can I just ask whether you go into a calendar year with an idea of splitting your work on regulation and your work on the rest of the competition world, and whether you have a relationship there that you try to make sure that you do both sides of it equally over the course of the 12-month period.

**Chief Executive Officer, J.C.R.A.:**

Absolutely. I think what you see in the public is obviously telecoms is very high profile and has been very high profile certainly in the last year for a combination of reasons with investigations and some of the general communication. Some of the competition side of the work that we do is obviously confidential. We have a lot of work that goes on behind the scenes where companies come to us for guidance or advice and obviously that is not made public. We did spend a considerable amount of time last year working on a new framework to undertake competition market studies. We have been engaging with Government on that over the last 6 months and you will see some further work being published on that very shortly. We are hoping to be able to publish a rolling programme of market studies, which will support government policy but obviously we will undertake those studies as a very independent organisation and either come out with recommendations or guidance or recommendations for new policy depending on the studies that we undertake. I would say that we do. It is quite challenging. As you can imagine we are a very small organisation. We are a combination of effectively Ofcom and C.M.A. (Competition and Markets Authority) in the U.K. and there are only 6 of us so it is quite challenging. But I would say the balance of work has been managed well and we will continue to do that.

**The Deputy of St. Mary:**

Just a very quick follow up. One should not use personal experiences but my own experiences in the past, and this is going back 10, 15 years maybe, was that C.I.C.R.A. and J.C.R.A. seemed to get involved in some very small low-level acquisitions, mergers, takeovers and demergers, which were pretty much inconsequential. This new pragmatic or different tack that you will be taking, is it possible that you will take a very quick scan at some of these small mergers and demergers and acquisitions and just say: "No, that is not important enough. We have got bigger fish to fry"?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Obviously the Competition Law has to be followed very closely and I think we already take quite a pragmatic approach to this, but we have to be thorough obviously on any merger that has any potential competitive impact in the market, so I think we will be thorough where we need to be. This is all down to the legislation in the process of being changed now, where we are obliged to undertake some mergers and acquisitions that do not necessarily impact directly on Jersey, but we are obliged to sign them off. We have had a couple of those recently. So once that legislation is changed, it will make it easier for us to focus primarily on just Jersey acquisitions and mergers.

**The Deputy of St. Mary:**

I think Stephanie wants to come in, yes.

**Chair, Jersey Competition Regulatory Authority:**

Can I just add, in the meantime I think we are obviously obliged to comply with the Competition Act to review whatever comes across our desk that is within that category. I would also like to add to

Tim's comment, it is not just Ofcom and the C.M.A., it is the Civil Aviation Authority and the Port Authority in the U.K., so we are covering a very broad brush of industry.

**The Deputy of St. Martin:**

Thank you. I would like to come back to Ports and associated subjects later, if we can. Chairman, could I just suggest, I know we had said we had jumped ...

**The Deputy of St. Mary:**

Yes, we are on the same wavelength.

**The Deputy of St. Martin:**

Senator Pallett is here now, so maybe we will go straight into number 2.

**The Deputy of St. Mary:**

I was going to suggest that very thing, if he is ready for it.

**Senator S.W. Pallett:**

Good afternoon, good to see you. Sorry I was a little bit late, I got caught up in a visit to J.S.P.C.A. (Jersey Society for Prevention of Cruelty to Animals), unfortunately, which was important. This is a question that came out of a meeting we had with Chamber of Commerce. It is an interesting question, I think, but does the J.C.R.A. or would the J.C.R.A. scrutinise competition between private and public sporting bodies, sporting activities such as those offered by Jersey Sport and those offered by smaller private personal trainers and gyms? Just adding to that, clearly anybody such as Jersey Sport that is part of Government would access facilities at reduced rates, where some of the competition would not. Is that something that you would ever consider looking at?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Sorry, Stephanie, were you going to ...

**Chair, Jersey Competition Regulatory Authority:**

No, I will let you.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Steve, I listened to the Chamber discussion and that is the first time I had heard any sort of reference to sport in particular, but obviously from a competition point of view, if there were to be any issues in terms of Government effectively competing with competition, we would be happy to look at that and understand more in detail. I think the way we would look at that is, as Stephanie mentioned a little bit earlier, about using soft powers as well as our powers under the Competition Law. I think we would need to have further engagement with Government and business to understand what the issues are. So I think we would be happy to listen to anybody that had concerns from a competition point of view and we do that on quite a regular basis. As I say, some of those issues are never published because people have confidential conversations with us and we can normally give guidance or advice as to whether things are acting as anticompetitive behaviour or not. A lot of the advice we provide gives the companies confidence so it does not go any further. But I think it is an

area that we are happy to look at should there be concerns in sport or any other area where Government have control.

**Senator S.W. Pallett:**

That is interesting, because if you listen to it, it was not a concern that came from us, it was a concern that came from the Chamber of Commerce themselves. Is there a strategy to widen the remit of the J.C.R.A. - I suppose you have answered this to some degree - to include sporting venues, for example, and licensed premises under the new independent J.C.R.A. structure?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

There is nothing, to my ... we have not been asked to do that and we have got no plans to expand beyond. That is simply down to the current remit we have is quite wide, as Stephanie just mentioned, so I think for us to expand our reach, if you like, in terms of other areas would be very challenging for us with the current resource and would obviously cost more money and we would have to understand the benefits of doing that. That does not mean to say that we are not willing to do that and we are not able to do that, but that would be a resource and budget issue, but we have not been requested to do anything beyond our current remit.

**Chair, Jersey Competition Regulatory Authority:**

Just to add to that, I also listened to the Chamber of Commerce public hearing and I think our remit is to help consumers and citizens in terms of anticompetitive behaviour, so if it were brought to our attention that there was anticompetitive behaviour in sports or in any area of business across Jersey, that would be in our remit to have a think about. I think we have provided to you our prioritisation principles. As Tim has clearly mentioned, we are, as a board, acutely aware it is a small organisation, relative to some of the larger ones in the U.K. We would want to make sure that whatever we were dealing with at a particular moment is the most important thing to the consumers, citizens and to the Jersey economy generally.

**Senator S.W. Pallett:**

Just following on from this again, your independence I think everybody would agree is important, but would you envisage any conflict in undertaking a review involving public bodies? I will use Jersey Sport as an example.

**Chair, Jersey Competition Regulatory Authority:**

I think, Tim, we have used J.T. as an example, so we reviewed the emergency services, which is a Government-owned entity, so I do not think we are constrained in that way. I know Tim is acutely aware of our independence and we are making sure that both the funding agreement and the M.O.U. are very clear on this subject and we cannot be held to ransom if we do not have the funds to cover something we need to do, so the funding agreement is potentially ... just we are being very careful about what we are agreeing to under both documents. We are just about there, which I am pleased to say that the Minister and his team have been very helpful and co-operative and our new general counsel has done a super job in getting us to almost signed.

**The Deputy of St. Mary:**

If I can just intervene there, you made several references - and I fully understand why - to funding and independence. I have got a mini-section on the M.O.U. later on, so we will perhaps go into a little more detail then, if we may. Thanks.

**Senator S.W. Pallett:**

I have got one more question just in this area, David, if you are happy to finish that.

**The Deputy of St. Mary:**

Carry on, Steve, yes.

**Senator S.W. Pallett:**

How does J.C.R.A. manage relationships with businesses that operate a monopoly over certain industries, ensuring they offer good value for money to consumers without causing disruption to the business operators or to their business operators, I should say?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Have you got a particular example, Steve? Is there anything of particular concern? Obviously we deal with Ports. You could say that they are a monopoly in that area.

**Senator S.W. Pallett:**

They are.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

We have a very good ...

**Senator S.W. Pallett:**

Using that as the example would be one, I suppose, and how you would manage that relationship with Ports.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

I would say we have a very good relationship with Ports. We have met with them on several occasions since Stephanie's appointment. We have a board-to-board meeting coming up with them on 3rd June where we are obviously going to discuss some of the challenges that they have currently been through with the pandemic and what their plans are to come out of this. As you are probably aware, they are under a current price control which was put in just over a year ago, so I am sure they are going to have some comments on that in terms of the challenges they face. So I would say we have a very strong engagement with the entities that we regulate and any particular company that want to speak to us and, as I say, we have the board-to-board coming up with them. I am pretty confident ... as we have done with Jersey Post, by the way, quite recently. We just had a board-to-board meeting with Jersey Post and their board which was very productive, so I think we are trying very hard to build a very close working relationship with them so that we fully understand their business, fully understand their challenges and we take a pragmatic way in how we regulate them in the future.

**Senator S.W. Pallett:**

Just following on from that - and this will be my last question - I know there was some concern a couple of years ago. I think Ports had been trying to increase fees for several years and they had to do that with the agreement of C.I.C.R.A. Is that something that is still in place and something that J.C.R.A. will oversee moving forward?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes, it is still currently in play. As I say, we will be having some discussions with them about that price control on 3rd June to understand whether or not they are requesting any change to that. Obviously depending on the discussions, it will depend on what we may or may not do in the future.

**Senator S.W. Pallett:**

What would that cover? Does it include things like landing fees, for example? Sorry, go ahead.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

It is a complete basket of their costs, so it is not one individual. You have to take it in the round overall.

**Senator S.W. Pallett:**

Okay, that is great. Thank you.

**The Deputy of St. Mary:**

Thanks, Steve. Can I move on to the other Steve now if we are back on our agenda?

**The Deputy of St. Martin:**

Thank you, Chair, but before I just go into a couple of questions about telecoms, could I just ask: we just touched on meetings there, Tim, and 7.4 of your draft M.O.U. says that: "The Minister confirms that regular meetings will be held between Government and the J.C.R.A."

[14:45]

Can I ask you, you are meeting industry; has the Minister come to see you recently?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes. We had a meeting with the Minister earlier this year and we have got another one planned in July, so we do meet with the Minister on a regular basis and certainly with his direct reports as well, the civil servants that work under his control. So I would say that relationship has developed very well since the separation. I will let Stephanie speak on behalf of her with the Minister. Obviously she was appointed by the Minister and I would say the relationship is good with the board as well.

**The Deputy of St. Martin:**

Okay. Well, we are coming to M.O.U. matters after these very short questions about telecoms, so maybe I should just try and get through these quickly, if I can, if I may. We have received a submission from one operator who expressed concerns about the uncertainty of licence fees in the

medium and long term. Can I just ask a couple of questions? The first one is around the structure and whether the licence fee is transparent and the other one is about advance notice of anticipated future increases in licence fees. I just wonder if you could just touch on that, please.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes, sure. I think the licence fees are completely transparent and they have not changed since the demerger. They are based on revenues from the operators and nothing has changed. Obviously because of the separation and because they are based on revenues, we are anticipating in the telecoms sector potentially revenues could decrease and obviously that would mean that the contribution to the J.C.R.A. would decrease as well. So we have taken a very pragmatic approach because there was a view potentially that we could have increased licence fees this year. We took the decision not to do that. We have some reserves, so we have decided to use some of the reserves, but we have indicated that we need to look at the structure and how the licence fees are currently structured to decide whether or not they are appropriate or whether they need to change for the future, but we have not made any decision on that at this moment in time. We are just commencing our budget process now and we have indicated to the operators that we would obviously engage with them should there need to be any change to the current situation.

**The Deputy of St. Martin:**

Okay, thanks for that, Tim. Obviously it is clear it has gone from a Channel Island to a Jersey Regulatory Authority. Now, that is going to give you a different feel to the overheads for running it. Is it going to be more expensive, do you think, to run J.C.R.A. than it was to run half of C.I.C.R.A.?

**Chair, Jersey Competition Regulatory Authority:**

I will let Tim carry on answering the question, but Jersey will be paying for a separate regulator, so there will be additional costs associated with having 2 regulators rather than one. We do hope that we can be a regulator who will be revenue-generating for the Island, rather than the other way around, so we ...

**The Deputy of St. Martin:**

You will know the thrust of the question. Obviously if your costs are greater and there are licence fees to be applied and those licence fees are a direct result of the turnover of the business, the business turnover goes down and you are getting squeezed in all directions, so that is a challenge for you, I guess.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes. Steve, I think it is worth pointing out that the increase in costs, which obviously are related to the separation, were roughly about £277,000. That extra funding came from the Government in the form of the competition grant, because most of the costs that needed to be incurred were in that area, so as a result the licence fees were not increased as a result of the separation. So that has been agreed by the Government. The Government are paying that and that is part of the funding agreement that we are finalising and hopefully going to be signing off at our board meeting on 20th May.

**The Deputy of St. Martin:**

Okay, thanks for that. I will hand back to the chairman for some questions on the M.O.U.

**The Deputy of St. Mary:**

Thank you for that. Yes, on the M.O.U., and I appreciate this predates your involvement to a certain extent, but I go back to the Oxera report of 2015, which suggested that - or more than suggested - an M.O.U. would be helpful to better define your respective areas of responsibility. Yet on a general point, does the fact that it is only now that we are getting to terms with an M.O.U., which I am pleased to see is almost in final form, does that delay sort of indicate that there were differences of opinion between the authority on the one hand and the Minister on the other as to how the authority should operate?

**Chair, Jersey Competition Regulatory Authority:**

I think one of the challenges with the M.O.U. is the law is really quite well-defined and so in terms of putting together a M.O.U. with the Government, the M.O.U. should not restate or redefine what the law is. I think because of the relationship - I think the very positive relationship - that we have developed with Government, at least since I have been on board, the M.O.U. is like any contract. I think if you have got a good relationship ... and we have a "no surprises" clause in the M.O.U., so if you need to go back and look at it, you have not done the right thing. I am really confident and happy with the way the documentation is looking. It is a sort of analysis ... well, not analysis, it is a description of how we will work together, which is more about the co-operation than about the details of who does what, which I think is entirely appropriate. We also want to make sure that our M.O.U. is in no way inconsistent with Government's M.O.U.s with their own businesses, so that is another area we will be looking at.

**The Deputy of St. Mary:**

I appreciate your reply. You could almost be a politician, by the way.

**Senator S.W. Pallett:**

That is a bit of an insult, surely, Chairman.

**The Deputy of St. Mary:**

I withdraw that, sorry. Yes, you are absolutely right in saying that the M.O.U. should set out the legal responsibilities, but where I am getting it from is my position on the Back Benches from time to time. It had occurred to me that while I am aware what the law is, it did strike me that certain politicians might not fully accept what it was. Am I right in thinking - or perhaps it is unfair to ask you - that the M.O.U. is very clear and it does seem to emphasise certain areas? Can I ask if you felt it necessary to emphasise certain areas when the original draft came through from the department? Was there much change between the 2 versions?

**Chair, Jersey Competition Regulatory Authority:**

Yes. I think the changes are very positive and both Government and the authority are happy with the changes. We believe that it does reflect the positive relationship that we have developed. I am not sure how much it really adds to the law. It refers to various different parts of the law, because I

think to the extent you were going to spend time in the M.O.U. restating the law, you might make a mistake, so the M.O.U. is about how we will work together, which I think is a really positive step forward. It is kind of an umbrella. I think for politicians it is worth a read, because you probably do not want to read the whole of the Telecoms Act or the Competition Act. I also would comment that the Oxera report came into place when there was a very different relationship between Government and C.I.C.R.A., so I think that we have made a lot of progress in that.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

I re-emphasise what Stephanie is saying. I am hoping even when we have signed the M.O.U. it will be unnecessary to refer back to it at any time. I think if that happens then there is a bit of a breakdown in the relationship. I am not anticipating that to happen because, as Stephanie said, we and they have spent a considerable amount of time rebuilding the relationship and I would say it is very good at this moment in time. I have got no concern about our independence at this moment in time.

**The Deputy of St. Mary:**

Thank you both for that reply, which is reassuring. I fully agree that if you have got to get out of the filing cabinet the contract or whatever it is to look at the minutiae there is perhaps a problem, which is best avoided. I also equally endorse your suggestion that it might be good reading for States Members. It is easy to read an M.O.U. in the language in which it is couched rather than the Act itself, so I thank you on that. If I may, there are certain items in the M.O.U. which perhaps merit special attention. The one word which jumped out at me was in para 4.6, which says, if I can quote it: "As Oxera has identified, in a small jurisdiction it is important that an authority is ruthless about conserving its limited resources." The word "ruthless" I do not think I have heard or seen in an M.O.U. before. Was that on the insistence of Government?

**Chair, Jersey Competition Regulatory Authority:**

No. I am afraid I have amended it since then, so if I could ask Tim and the team to send you an amended version. I have never seen "ruthless" either so I struck it out. I think it now says something like "committed" or "will be worked to achieve." It will be words that you would be expecting to hear in this sort of document. So "ruthless" is gone, so let us get you a revised version. If you have further questions on it, we are obviously happy to answer them.

**The Deputy of St. Mary:**

Through our officers, we have asked for an updated version and also of your amendments, but they have not yet been forthcoming. Anyway, I am pleased that the word "ruthless" identified the point well enough. That phrase or word does seem to identify - and it comes time and again - that you are not necessarily concerned with your resources, but they are very much a factor in your *modus operandi*, are they not?

**Chair, Jersey Competition Regulatory Authority:**

Yes.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes. I think obviously with a small organisation, we have to ... and that is why we have just relaunched the prioritisation principles, so that gives us another tool to really challenge ourselves in terms of if we are asked to do something, are we going to get the best outcome for Jersey and its citizens. So we cannot be expected to do everything all at once and we have to balance these resources, like any small business, so it is ensuring that we get the - excuse the pun - best bangs for the buck and that is what we are doing. I think we have got a broad spectrum of challenges, as we have discussed before, both on the competition and the regulatory side, and it is weighing up that balance in terms of what you focus on at any particular time. There are obviously things that come up that you cannot control, like last year we had 3 major investigations. You cannot ignore those things. Those are things that you have to deal with immediately and some other things may suffer as a result.

**The Deputy of St. Mary:**

Thanks. Obviously Government themselves are well aware of the term “prioritisation”, but do you feel slightly frustrated if you are not able to do the job as well as you would wish because of the lack of resources?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

I personally say I think we have done an excellent job in the last year and I hope you would expect me to say that, but you are correct. We would love to do more. I think there is more we can do certainly in terms of supporting the Government’s long-term strategy and certainly hopefully you have seen with our business plan we have tried to align our work programme as best we can with government policies and government strategy. Obviously we have been working with Nick Vaughan and the Economic Development Department to try and ensure that every piece of work that we do does contribute to trying to control inflation, for instance. We are currently undertaking a broadband market price review at the moment, which will hopefully bring down the price of broadband in the future. Again, that all helps to address some of the digital divide, but also in terms of the spend by citizens. We have got a combination of things that we will look at to try and support government policies where we can.

**The Deputy of St. Mary:**

I hasten to add, by the way, I was not insinuating that you had not done a good job with what your resources were, I just wanted to know whether you felt you could do even more and even better if you had more resources and you more or less said you can. Sorry, Stephanie, yes.

**Chair, Jersey Competition Regulatory Authority:**

I would just say that the board is very focused on the issue of resources. To the extent that we think that we should be doing more and that we do need more resources, we will be going to Government, and we will be considering this on a regular basis. With the prioritisation principles, those are not going in a drawer. Those are going to be considered actively when we are looking at new cases that we ought to be taking or issues that we need to be considering and we will be looking at those actively in deciding what to address and what not to address. If there is something fundamental that we need additional resource for, we will go back to Government for that.

**The Deputy of St. Mary:**

A final question in this area, generally. Your identification of topics that should be reviewed, do they mainly come from in-house, from yourselves, or it is due to members of the public or organisations writing in and saying: "Please investigate this"?

[15:00]

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

I think it is a combination. We have reached out. For instance, we work quite closely with the Consumer Council and a number of the other regulatory bodies and will continue to develop that relationship to take soundings from a wide spectrum of the stakeholders within Jersey. I did listen to the Chamber meeting that you had and unfortunately, if Murray or Jennifer had been on the call, I would like to think they would have said that we have engaged with Chamber. We are hoping to meet with the Chamber and its members in Q3, which is something that I had agreed with Murray at the end of last year. Again, we have already engaged with the I.o.D. (Institute of Directors). The plan was that we would do this, certainly once the pandemic has calmed down and we can meet more formally, but yes, we will take a wide spectrum of feedback and obviously from Government as well. For instance, with the market studies we have got a whole programme of works that we would like to start rolling out over the next few years and that will be in conjunction with the Minister and his department because obviously we want to ensure that we do get ministerial support for things such as market studies.

**The Deputy of St. Mary:**

I have got a couple more general questions, but before I leave the M.O.U., have either of the 2 Steves got questions in this area?

**The Deputy of St. Martin:**

If I could, please, Chair. Tim, 2.3 says that the States were clear that the J.C.R.A. should be independent of the Minister and the States in respect of licensing and regulatory functions and that is fine. Then 2.4 goes on to talk about competition as opposed to regulatory, but also mentions that you should always be able to make independent decisions when it comes to competition outcomes. Can I ask, when it comes to competition as opposed to regulation, do you have input from the Minister into where you might look?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Only from our instigation in terms of keeping the Minister informed. The Minister has not, through my tenure, come to us and said: "I want you to look at any particular area." Obviously the Minister has the power to direct and request us to do things. That has not been the case to date since I have been appointed. I think it is a case of a combination of us making sure that we have ministerial support as we move forward should we need further information-gathering powers, for instance. But we are fairly confident where we are today that we have got sufficient powers to undertake market studies in any area and keep our independence.

**The Deputy of St. Martin:**

Okay. I note the reference to market studies in the paperwork that we had from you, which we were grateful for when I read that. I want to touch just very lightly on the anticompetitive behaviour. I am not insinuating that any of these industries indulge in that, but it will be clear to everybody the cost of living in Jersey is extremely high. We have got the cost of travel, the cost of construction, the cost of housing. A lot of the input for those industries comes through the ports and freight. Do you have discussions with the Minister about looking into any of those industries, sectors of industries which have a major impact on the cost of living in Jersey?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes. We have had engagement with the Minister and his team and also Nick Vaughan, obviously the economic adviser to the Government, and some of our programme of works have been developed as a result of that to try and support the inflation strategy by the Government. So yes, as you will see shortly, we will announce a market study in the next few weeks possibly, after our board meeting, and that will be the start of a rolling programme. It will be aimed to make sure that we focus, where we can, to offer the best value to supporting the Government in controlling inflation.

**The Deputy of St. Martin:**

Thank you very much. That is me done, Chair.

**The Deputy of St. Mary:**

Thank you. Senator Pallett, anything? Otherwise ...

**Senator S.W. Pallett:**

I do, Chair, but it is more under the business plan, so I can wait until the end of questions.

**The Deputy of St. Mary:**

I think we have basically finished on the M.O.U. now. I will raise one general question, which is to do with court proceedings, and which I hope there will not be many. Not that long ago there was a court decision which went against C.I.C.R.A. I think most people in the industry were surprised at that and that caused not a problem, but it did cause C.I.C.R.A. to reinforce their action, I think, and get counsel's opinion as to what they thought was the merit of it. Now, coming out of that I think is the suggestion that there might be possibly a commercial court, for which the facility is already available in Jersey, that you have an expert in this field to hear these cases. I presume you would very much go along with that, would you not?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes. Sorry, Stephanie, we are going to ...

**Chair, Jersey Competition Regulatory Authority:**

No, this was before my time, so ...

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes. I think we would support that. We would like to think that court is the last resort and certainly we have no intention of going there if we can avoid it, as we have said before, using our soft and

hard powers, but if we ever got to that point where you needed to go to court, it would be appropriate that the correct commercial judge or the appropriate judge was there to listen to the complexities of any particular case.

**The Deputy of St. Mary:**

I will ask Stephanie, as an eminent lawyer, would she like to comment on that further?

**Chair, Jersey Competition Regulatory Authority:**

I think that it is good to have an expert judge if you have got a very technical case. I think competition is a complex area of the law, which based on my reading was not necessarily dealt with by the courts of Jersey in the way that it should have been. The judge had the opportunity to bring in that expertise and chose not to. C.I.C.R.A. did not take that any further, for reasons ... again, I was not engaged in that. I think going forward we would hope that we can solve the issues and achieve the outcomes, the fundamental outcome being a culture of compliance by our stakeholders without having to go to court. If they are complying we are not going to have a dispute, so I am cautiously optimistic that with the approach that we are taking to the stakeholders in Jersey that we can achieve great outcomes for the Jersey economy and for all the stakeholders in the right way without litigation.

**The Deputy of St. Mary:**

I think we have all taken note of your various references to a lighter touch in place now. Again, we wish you well on that, but it was just in the event of a dispute, yes, it must do the status of your authority and the Jersey legal system generally more good if you can have an expert judge in place, without any criticism of an earlier one.

**Chair, Jersey Competition Regulatory Authority:**

I think that is absolutely right, but I would also add if we have to use hard powers and we have to go to court based on behaviours that we think are inappropriate, we are not going to be shy and do that, it is just not going to be our first port of call.

**The Deputy of St. Mary:**

Thank you. Another random point I picked up somewhere was that there is now a Jersey Regulators' Forum, which I had not been aware of. Is that correct? Is that something that you are responsible or you were authors of, in a way?

**Chair, Jersey Competition Regulatory Authority:**

Tim did a great job setting this up.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes, so we have been working with the Attorney General and the Jersey Financial Services Commission and the Ombudsman, so that collectively we have created this Jersey Regulators' Forum, which is a combination of most of the regulators in Jersey. That is fundamentally to share information, knowledge, try and work out where we can run efficiencies and obviously hopefully provide good guidance to Government in terms of future policies in the relevant areas. Yes, a

combination of efforts by the whole group really to get to where we have got to, so it is something that we will continue to support.

**The Deputy of St. Mary:**

It seems an eminently suitable step to have taken, so congratulations on that. Does this forum, as a forum, deliver its composite or combined recommendations from time to time or how does it work?

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

This has been led by the Auditor General's office now, so we have only had one meeting earlier this year and there is another one planned shortly, so it is in its very early infancy, but I think it is a great start in terms of getting it together and hopefully we will see some further progress over the next year or so.

**The Deputy of St. Mary:**

Thank you for that, that is useful.

**Chair, Jersey Competition Regulatory Authority:**

You might also want to have a look at the U.K. Regulators Network, on which it was sort of designed to follow. There are a number of regulators in the U.K. that have joined together to achieve these efficiencies and that is what we are looking at. Tim has also had a number of conversations with them about what their issues are. Another important point for all the regulators is sustainability and so I think looking at some of the sustainability and environmental issues is another area that the Jersey Regulators' Forum will focus on.

**The Deputy of St. Mary:**

Sorry, can you expand on that? Sustainability on environmental issues, you say?

**Chair, Jersey Competition Regulatory Authority:**

Yes. So that is one of the things that the U.K. Regulators Network has done and I think that is an area that the Jersey Regulators' Forum will have a look at. For example, we are asking our stakeholders to report on what their sustainability packages are, which is one way to try to get them to focus on it. Tim, do you want to ...

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes. We have not started this yet, we are at very early stages, but we think one of the areas to support the Government's initiatives for the 2030 zero carbon neutral is to see whether or not we can get a report, at this stage voluntary, from a number of different sectors so that we can compare. The good work there has already been done. You probably heard yesterday the I.o.D. and J.T. have been doing some terrific work on their sustainability and we know other sectors are, Jersey Post, Jersey Electricity. All these areas are doing some good work, it is just not particularly well-publicised. I think it would be a good thing to try and produce a report that demonstrates the work that has been done today and the plans for the future, which almost creates a bit of sustainability competition without any regulation, if you like.

**The Deputy of St. Mary:**

That is interesting, thank you for that. Lady and gentlemen, thank you for your time. I myself have got no more questions. Have my 2 colleagues?

**The Deputy of St. Martin:**

No, I am fine, thank you, Chair.

**Senator S.W. Pallett:**

I do, just one around the business plan. I am glad that you have mentioned the environment because your business plan sort of touches on that and some of the work that you want to do supporting Government's strategic policies, but I just have a general question, but where I will use one specific area. You mention in your business plan around the Government priority of children, for example, and ensuring wider access to a range of broadband services to support remote learning, something that has been, I think, key over the last year with COVID, for example. You mentioned a potential market study in the area focusing on families and children. Is that something that you are currently looking at? Because it does touch on the area of inclusivity and inequality in the Island, something that I think is really important that we try to have some movement on.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Yes, certainly the wholesale broadband price review that we are currently undertaking at the moment which, as you are aware, J.T. provide the fixed service here and a number of operators take a wholesale service from J.T. We are hoping that through that potentially the price of that wholesale will come down and hopefully at the end of the review, that will mean that other competitors have a better margin to work with. That will mean that retail prices will come down, so hopefully that will support the digital divide and also support the inflation strategy.

**Senator S.W. Pallett:**

Have you had these discussions with Government and certainly with the Minister for Economic Development around how you can support these strategic policies moving forward in a more broader sense?

**Chair, Jersey Competition Regulatory Authority:**

I think our meeting with him earlier this year did touch on this area. We will be meeting with him again in June. Our business plan came out at the end of the year, so this is in a stage of development, so we look forward to speaking to the Minister in more detail about what some of our thoughts will be.

**Senator S.W. Pallett:**

I have got to say it is a very good business plan but, like you say, there is a lot of work to be done.

**Chair, Jersey Competition Regulatory Authority:**

We did a great job.

**Senator S.W. Pallett:**

Thank you for your answer.

[15:15]

**The Deputy of St. Mary:**

If no one else has got any more questions, may I thank you both again very much for your time? I am sure we will have cause to speak to you sometime in the next year, but thank you for the update to date and we wish you well in your endeavours and your application of a light touch.

**Chair, Jersey Competition Regulatory Authority:**

Thank you.

**Chief Executive Officer, Jersey Competition Regulatory Authority:**

Thank you very much.

[15:15]