



# Jersey Competition Regulatory Authority

Annual Report 2006

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[www.jcra.je](http://www.jcra.je)



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## Foreword

**This is the sixth Annual Report of the Jersey Competition Regulatory Authority (JCRA). The JCRA is an independent body, established in May 2001 by the States of Jersey, with the purpose of promoting greater competition in the Island for the benefit of businesses and consumers.**

Jersey is committed to encouraging competitiveness and improving services; the JCRA's role in increasing competition should further the economic prosperity of Jersey and its competitive advantage.

This report is made by the JCRA. It is presented to the Economic Development Minister pursuant to Article 18 of the Competition Regulatory Authority (Jersey) Law 2001. The accounts of the JCRA with respect to the financial year ending 31 December 2006 are included in this report, fulfilling the requirement of Article 17 of the same Law. This report also fulfils the demands of Article 59 of the Telecommunications (Jersey) Law 2002 and Article 13 of the Postal Services (Jersey) Law 2004, which require the JCRA to publish an annual report in respect of each financial year surveying relevant developments and reviewing competition in, and restrictions on, the supply of telecommunications and postal services in Jersey.

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## Chairman's Statement



**This year we have had to face a number of new challenges.**

With the incorporation of Jersey Post on 1 July 2006, we assumed our role as regulator of the postal services industry. From that date, Jersey Post ceased to be a statutory monopoly. In this new environment, we are seeking to encourage a postal sector which provides a high quality service at competitive prices.

In the other regulated sector, telecommunications, 2006 has seen the introduction of mobile telephone competition. Cable & Wireless has already joined Jersey Telecom in providing mobile services, and Jersey Airtel is expected to do so in a few months time. As a result, consumers are beginning to experience the benefits of wider choice and lower prices.

2006 marked the first year in which the Competition Law was fully operative. It was particularly heartening to discover that many firms and professional associations had anticipated its arrival by adjusting their practices to conform with its provisions. Our approach to compliance has been, and will continue to be, to resolve where possible potential breaches informally through discussions and guidance.

The year also saw the move to ministerial government, and we have sought to build a successful working relationship both with the Economic Development Department and the various Scrutiny Panels which have responsibilities in our area of work. In addition to our powers as an independent competition and regulatory authority, we may also be called upon by the Minister to advise him on the competition consequences of proposed legislation and policies – which we have done with respect both to the shipping and ports sector, and the proposed sale of Jersey Telecom.

In conclusion, I and my colleagues on the Board would like to pay tribute to the Executive Director, Bill Brown, and his team for the energy and commitment that they have brought to the work of the Authority during what has been an extremely demanding year.

**The Rt. Hon. the Lord Kingsland, QC**  
Chairman

## Executive Director's Statement

2006 was a significant year for the JCRA in a number of major respects. To name just a few: it was the first full year of the Competition (Jersey) Law being in force; it marked the establishment of our role as regulator of the postal services industry; and it saw the introduction of long-awaited competition in the mobile sector of telecommunications, the other industry where we act as regulator.

In competition law, our focus shifted from preparation to enforcement, the Law having taken full effect on 1 November 2005. The transitional period for bringing pre-existing arrangements into line with the Law expired on 1 May 2006. In anticipation of that date, we were pleased to see several trade associations in the building, plumbing and electrical sectors removing recommended minimum charges and wages to comply with the Law, after discussions with us.

We issued our first exemption decision (the medical general practitioners' cooperative for 'after-hours' services) and our first conditional merger approval decision (FerrySpeed / Channel Express). In total we issued seven decisions on mergers and acquisitions. We recognise the need by business for speedy decisions on these transactions, and I am pleased to report that most of our decisions were issued well within the target periods set out in our guidelines.

Compliance is a major issue for businesses under the Competition Law and we were pleased to meet and give guidance to a number of businesses on their compliance efforts. This is an area we are targeting as a priority next year, and as part of that process we will be aiming to issue an updated set of competition guidelines (after public consultation) early in the year.

On 1 July, Jersey Post was incorporated, and its statutory monopoly to provide postal services removed. At the same time, we were given the responsibility to regulate the postal services industry.

As well as finalising Jersey Post's licence, we prepared for a consultation on whether Jersey Post should be subject to price controls on certain services which are not yet subject to competitive pressures. We expect our work in this area to be completed in the early part of 2007.

In telecommunications, our efforts to introduce competition led to the launch of Cable & Wireless's new mobile services in September, and Jersey Airtel's proposal to introduce its service in early 2007. We are pleased to see that mobile customers are already seeing the benefits of competition in terms of lower prices and greater choice. One of our tasks is to ensure fair competition, and we intervened in a number of areas (including number portability) to ensure that the new entrants are able to compete fairly with Jersey Telecom.

Our roles are not only competition enforcement authority and economic regulator: we can also be asked to advise the government on competition and related issues. We were asked to advise the Economic Development Minister on whether he should issue certain exemptions under the Competition Law. We are currently being asked to advise him on how competition can be promoted in the shipping and ports sectors, and in telecoms through the proposed sale of Jersey Telecom. We also gave evidence to Scrutiny Panels on various issues, including the future of the dairy industry.



Finally, while we need to take account of Jersey's particular circumstances in all of our activities, it is important that we monitor and learn from international developments and experience. In this context, I am delighted to report that we were admitted as the 95th member of the International Competition Network, an association of competition authorities from jurisdictions of all sizes around the world. The JCRA has played a lead role on the competition issues of smaller jurisdictions, discussions on which are held mainly by teleconference and e-mail exchange. This has proved to be a cost-effective means of keeping up-to-date with, and contributing to, international best practice in this field, enhancing Jersey's reputation as a leading Island economy in terms of encouraging competition.

With our full statutory responsibilities now in place, 2006 has brought a corresponding increase in our workload. I am confident that by continuing to use our resources effectively, we will bring further value to Jersey consumers and business in 2007.

**William Brown**  
Executive Director

# About the JCRA

## What is the JCRA?

The JCRA was set up by the States of Jersey in 2001 as an independent body, accountable to the Economic Development Committee (whose functions have now been transferred to the Economic Development Minister) with expertise in promoting competition and consumer interests through economic regulation and competition law.

## Why Competition?

The JCRA aims to facilitate competition to benefit consumers and the Jersey economy. Encouraging competition will help to improve overall economic welfare and growth in Jersey, and contribute to the quality of life of Jersey's citizens.

## Our Functions

### Competition

The JCRA is responsible for administering and enforcing the Competition (Jersey) Law 2005, which came fully into force on 1 November 2005. The aim of this Law is to prevent consumers being harmed by anti-competitive or exploitative behaviour in the market, such as price-fixing or abuse of market power.

### Advisory

We can be called on to advise the Economic Development Minister on matters of economic regulation and competition. For example, in 2006 we were asked to advise the Economic Development Minister on competition and regulatory issues concerning the shipping and ports sectors, and the proposed privatisation of Jersey Telecom. We were also asked to advise on whether exemptions from the Competition (Jersey) Law should be granted for small businesses, for the Jersey milk marketing scheme, and for particular categories of commercial agreements.

### Economic Regulation

In common with many jurisdictions in the European Union and further afield, the States of Jersey has decided to structure certain businesses previously carried on by the States as separate companies, albeit wholly-owned by the States. In Jersey's case this decision was taken in respect of the telecommunications and postal businesses, now run by Jersey Telecom Limited and Jersey Post Limited.

The States also decided to withdraw, upon incorporation, the statutory monopolies which Jersey Telecom and Jersey Post had previously enjoyed, to allow for the possibility of competition in these sectors. The JCRA was given the task upon incorporation of ensuring that these organisations continue to satisfy all current and prospective demands for services, while promoting competition where appropriate. This is achieved primarily through the conditions of the licences granted to Jersey Telecom and Jersey Post, which the JCRA has a statutory responsibility to enforce.

### Who we are

The JCRA is managed by a Board consisting of a Non-Executive Chairman, Executive Director, and three Non-Executive Directors. Its staff complement comprises three case officers, one junior case officer, a legal adviser, an economic adviser, a finance & operations manager, and a personal assistant.

# Board Members

## 1 The Rt. Hon. the Lord Kingsland, QC Chairman

The Rt. Hon. the Lord Kingsland, QC, was appointed Chairman of the JCRA in July 2004. He has been Shadow Lord Chancellor since 1997 and is also a practising barrister, with an extensive knowledge of competition law, a Recorder and a Deputy High Court Judge. In addition, he is Chairman of the Board of Trustees of the Plymouth Marine Laboratory. He was appointed Queen's Counsel in 1988, a Knight Bachelor in 1990, and Privy Counsellor in 1994, the same year that he received his peerage.

## 2 William Brown Executive Director

William Brown was appointed Executive Director of the JCRA in October 2004. He has worked in the field of competition law and economic regulation since qualifying as a Solicitor in 1984. After eight years as a partner in a major commercial law firm, he was a Senior Legal Adviser at the Office of Telecommunications and Office of Fair Trading in the UK, and spent three years as a General Manager, Regulatory Affairs in the Hong Kong telecommunications sector.

## 3 Chris Bright Non-Executive Director

Chris Bright was appointed a Non-Executive Director of the JCRA in August 2004. He is a solicitor in private practice, specialising in competition and regulation, as well as an accredited mediator. He is a member of the UK Competition Commission, a member of the Disciplinary Tribunal of the Accountancy Investigation and Discipline Board in the UK, and a Visiting Fellow at the Institute of European and Comparative Law, University of Oxford.

## 4 Robert Foster Non-Executive Director

Robert Foster was appointed a Non-Executive Director of the JCRA in August 2004. He is a Commissioner at the National Lottery Commission, and Chair of the Project Board running the competition for the next licence. He is also a Non-Executive Director, and Vice-Chair, of King's College Hospital NHS Trust in London, and a member of the Advisory Council of a venture capital company, Oxford Capital Partners. He was Chief Executive of the UK Competition Commission from 2000 to 2004. Previously, he was an engineer in industry, then a senior civil servant in the Cabinet Office and Department of Trade and Industry responsible for innovation policy.

## 5 Richard Povey Non-Executive Director

Richard Povey was appointed a Non-Executive Director of the JCRA in May 2005. He has extensive industry experience, particularly in the petrochemical, mechanical and electrical engineering, and telecommunications sectors. He held a number of senior management positions in Swire Pacific Ltd in Hong Kong and Taiwan between 1979 and 1996. Since 1996, he has held non-executive positions for various fund management and industrial companies. He is also currently a Non-Executive Director of Opsec Security Group plc and Henderson Far East Income Ltd.



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# Our Values

We believe it is important for any organisation to have a set of values to guide its work. The JCRA is no exception. Such values help enable the businesses, consumers and others we deal with to know what to expect of us, and our Board and staff to act in a consistent and fair manner. Our values encompass:

### Fairness

The JCRA has to be fair and objective. We are committed to ensuring that Jersey consumers and businesses understand our processes and how the JCRA goes about its business. We intend to listen to all relevant views of consumers, businesses, and all parties who wish to be heard.

### Accountability

We are accountable to Jersey citizens through their political representatives, namely the Economic Development Minister and his colleagues, and through the legal framework. The Minister can issue directions and guidance to the JCRA in telecoms and postal matters. We have a Service Level Agreement with the Minister, regulating the grant funding for the administration of the Competition (Jersey) Law.

### Proportionality

Our actions will be proportionate to the problems we seek to remedy.

### Efficiency

Our resources will be tightly managed and we will aim for maximum efficiency in our operations.

# Our Performance in 2006



In 2006, we had five main aims. The first four relate to our statutory responsibilities: enforcing the Competition (Jersey) Law 2005; advising the government on matters of competition and economic regulation; implementing telecommunications policy; and implementing postal services policy. The fifth relates to our core values, referred to in the previous section.

## Aim 1

**To ensure compliance by businesses with the Competition (Jersey) Law.**

The Competition (Jersey) Law came fully into force on 1 November 2005, and the transitional period of protection for commercial agreements signed before that date expired on 1 May 2006. While we continued our efforts to raise awareness and understanding of the new law amongst the business community, our focus in 2006 turned to implementing and enforcing the Law.

## Objective

Pursue suspected or potential infringements of the Law following complaints, or on own initiative.

## Performance

We raised concerns with the Jersey Milk Marketing Board that its decision to require registered milk producers to sell their milk exclusively to the Board appeared to be incompatible with the Law. We suspended our investigation pending the outcome of a report commissioned by the States into the future structure of the Jersey dairy industry. Consistent with our concerns, the report has recommended that membership of and supply to a producers' organisation should be voluntary and not compulsory. Should this recommendation be implemented, further proceedings under the Law may be unnecessary.

We also raised concerns with certain trade associations in the building, plumbing and electrical sectors that their practices of recommending to their members minimum charges to customers and minimum salaries for staff appeared to be incompatible with the Law. As a result the associations have terminated the practices in question.

In all, 12 investigations were opened during the year, of which five were completed, and seven still active at the year-end.

## Objective

Deal with applications for exemption of potentially anti-competitive agreements.

## Performance

We granted exemption (subject to conditions) to a cooperative set up by most of Jersey's general medical practitioners to provide 'after-hours' services, and received a further exemption application which was in the course of being considered at the year-end.

## Objective

Deal with requests for guidance on possible anti-competitive arrangements/abuse of dominant position.

## Performance

Five requests for statutory guidance were received. Guidance has been provided in three of those cases, and two were in the course of being considered at the year-end. The details are confidential.

## Objective

Deal with applications for approval of mergers and acquisitions.

## Performance

Nine applications have been received, of which six have been approved unconditionally, one has been approved subject to conditions (Ferryspeed/Channel Express) and two were in the course of being considered at the year-end. Further details are available from our website [www.jcra.je](http://www.jcra.je).

## Objective

Ensure understanding by businesses of the Law.

## Performance

We participated in a seminar organised by the Chamber of Commerce, attended by a large number of businesses, to discuss the first year's experiences of the Law.

## Our Performance in 2006



### Aim 2

**Advising the States where appropriate on Competition issues.**

#### Objective

Advising the Economic Development Minister on exemptions under the Competition (Jersey) Law.

#### Performance

On the Minister's request, we advised him on whether he should grant an exemption for small businesses, for particular categories of commercial agreements, and for certain aspects of Jersey's milk marketing arrangements. Copies of our advice can be found on our website [www.jcra.je](http://www.jcra.je).

#### Objective

Advising the Economic Development Minister on other competition/regulatory matters.

#### Performance

On the Minister's request, we have agreed to advise him on promoting competition in the shipping and ports sectors, and in telecommunications through the proposed sale of the States' shareholding in Jersey Telecom.

### Aim 3

**To create a competitive environment in telecommunications which enables users to benefit from greater choice and value for money.**

We continued in 2006 to take active steps to achieve this aim. These efforts resulted, for example, in the introduction of competition to Jersey Telecom (JT) in the mobile sector.

#### Objective

Facilitate new entry to telecommunications markets in Jersey.

#### Performance

As a result of our efforts with Ofcom (the UK communications regulator) to make the necessary spectrum available, Cable & Wireless was able to launch its mobile service in competition with JT in September, with Jersey Airtel (a subsidiary of the Bharti Group) due to enter the mobile sector in early 2007. We assisted in ensuring that the negotiations between JT and the new entrants were successful.

In June, we issued a Direction to JT and the two new mobile entrants requiring them to put mobile number portability (MNP) in place by 31 March 2007 at the latest, in order to facilitate customer choice and promote competition. Having initially engaged in the preparatory work to put MNP in place, JT later withdrew from the process in breach of the Direction, which led to the JCRA commencing enforcement proceedings.

#### Objective

Investigate practices by operators which restrict competition or otherwise breach their licence obligations, and take effective remedial action.

#### Performance

We engaged in discussions with JT which resulted in JT reducing its wholesale prices for the termination of calls from the customers of the new entrants, and withdrawing a scheme which effectively tied-in its mobile customers for 18 months, to the detriment of the new entrants. We also commenced enforcement proceedings in respect of certain breaches by JT of its price publication requirements.



## Our Performance in 2006



### Aim 4

**Implement the new regulatory framework for postal services, following the transfer of Jersey Post to a commercial environment.**

During the early part of the year, we completed our input into the preparation for the incorporation and licensing of Jersey Post (JP). Incorporation took place on 1 July, and we issued a licence to JP with effect from that date. (Under the Postal Services (Jersey) Law, it is the JCRA's responsibility to issue and enforce postal services licences). We proceeded during the remainder of the year to take steps towards assessing whether price controls on any of JP's services were appropriate.

### Objective

Prepare the necessary regulatory framework for the corporatisation of JP.

### Performance

We completed our input prior to 1 July, when JP was incorporated and licensed.

### Objective

Protecting postal users from potentially excessive postal charges.

### Performance

We conducted a review of JP's costs and profit margins, and the level of competition, across its various services, to assess whether price controls on any of its services are appropriate. We intend to issue a consultation paper on this matter in January 2007, with a view to reaching a decision by March 2007.

### Aim 5

**Implementing our core values.**

We continued in 2006 to put our core values into practice, through a number of measures.

### Objective

Implement transparency in our operations.

### Performance

In early 2006, we published a Guideline on our Investigation Procedures.

We published a draft of our 2007 Aims and Objectives for consultation, which were issued in final form (having taken account of responses) in January 2007.

Where possible, we aim generally to consult publicly before finalising our positions. For example, our Direction on Mobile Number Portability was issued following an extensive consultation process.

### Objective

Putting proportionality into practice.

### Performance

In our dealings with businesses, we strive to resolve compliance issues where possible through discussions rather than formal enforcement action. The compliance steps taken by Jersey Telecom, Jersey Dairy, and certain trade associations (reported above) followed such discussions.

# JCRA Financial Statements 2006

As can be seen from the financial statements, the JCRA was able to match costs with income for the year. Overall, income and costs increased for the full year in comparison to 2005 now that the JCRA is fully responsible for administering the Competition Law as well as telecoms regulation and postal regulation. With the increased responsibilities and workload arising from postal regulation and the first full year of the competition law, three new staff members joined the JCRA during the year. Along with the JCRA's core workload, work was also undertaken on major projects for the Economic Development Minister as previously mentioned in the Executive Director's statement.

This was the first full year of administering of the Competition Law, which had come into full effect on 1 November 2005. In line with the Service Level Agreement between the JCRA and the Economic Development Department (EDD), funding was received quarterly in advance. Costs in relation to the Competition Law and related projects continued to be closely monitored and strictly allocated against the relevant funding received. There was deferred income carried forward at the year end in the sum of £274,961 (2005: £91,837). This has occurred for several reasons, mainly due to the fact that various cost savings were made against budget, but also due to the time allocation of staff over the year and the timing of grant payments

received. This deferred income will, at EDD's option, either be paid back to EDD or carried forward to offset funding in 2007. Income of £60,596 (2005: £10,846) was also received in the form of mergers and acquisitions fees from the relevant parties involved.

The total of deferred telecommunications licence fees carried forward from 2006 is £80,373 (2005: £290,107), which will be refunded to the licensed operators. Based on budgeted costs for 2007, which includes continuing work on mobile number portability and competition issues, the licence fees for 2007 have currently been set at 0.75% of regulated turnover, subject to subsequent adjustment in the light of actual costs.

With Jersey Post having been granted a Class III postal licence on 1 July 2006, an application fee of £100,000 was received to help cover pre-incorporation costs incurred by the JCRA, and licence fees are now received quarterly in advance currently charged at an annual rate of £300,000. At the year end there was deferred postal licence fee income of £3,138 (2005: nil). Two major projects were undertaken within the first six months of regulation, namely the efficiency review of Jersey Post and price control study.

# Report and Financial Statements

For the year ended 31 December 2006

## Jersey Competition Regulatory Authority (Incorporated in Jersey, Channel Islands)

### Members

The Rt. Hon. the Lord Kingsland, QC  
Chairman

William Brown  
Executive Director

Christopher Bright  
Non-Executive Director

Robert Foster  
Non-Executive Director

Richard Povey  
Non-Executive Director

### Secretary

Paul O'Toole

### Auditors

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PO Box 179, 40 Esplanade,  
St Helier, Jersey JE4 9RJ

### Bankers

HSBC  
PO Box 14,  
St Helier, Jersey JE4 8NJ

### Registered Office

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Jersey JE2 3RF

# Members' Report

The Members of the Authority present their report and financial statements for the year ended 31 December 2006.

## Activities

The principal activities of the Authority during the year were the regulation of the telecommunications and postal industries and the administration and enforcement of the Competition (Jersey) Law 2005.

## Results

There was a surplus for the year of £1 (2005: deficit £103,000).

## Members

The Members in office when these financial statements were approved are shown on page 17.

## Auditors

On 6th January 2006, RSM Robson Rhodes resigned as auditors and were replaced by RSM Robson Rhodes (Jersey) Limited.

By order of the Members



**Paul O'Toole**  
Secretary

## Statement of Members' responsibilities in respect of the financial statements

The Competition Regulatory Authority (Jersey) Law 2001 requires the Members to prepare financial statements which shall be in accordance with generally accepted accounting principles and show a true and fair view of the surplus or deficit of the Authority for the year and of the state of the Authority's affairs at the end of the year.

In preparing financial statements the Members should:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Authority will continue in business;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements.

The Members are responsible for keeping accounting records which are sufficient to show and explain the Authority's transactions and are such as to disclose with reasonable accuracy, at any time, the financial position of the Authority and to enable them to ensure that the financial statements comply with the Law. They are also responsible for safeguarding the assets of the Authority and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Members confirm that these financial statements comply with these requirements.

# Independent Auditors' Report

We have audited the Authority's financial statements for the year ended 31 December 2006, on pages 20 to 25. These financial statements have been prepared on the basis of the accounting policies set out therein.

This report is made solely to the Authority's Members, as a body in accordance with Article 17 of the Competition Regulatory Authority (Jersey) Law 2001. Our audit work has been undertaken so that we might state to the Authority's Members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's Members as a body, for our audit work, for this report, or for the opinions we have formed.

## Respective responsibilities of Members and auditors

As described in the Statement of Members' Responsibilities, the Authority's Members are responsible for the preparation of the financial statements in accordance with applicable Jersey law.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements, which have been prepared in accordance with United Kingdom accounting standards, give a true and fair view. We also report to you if, in our opinion, the Authority has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

We read other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. The other information comprises the Chairman's Statement, the Executive Director's Statement and the commentary on the annual financial statements.

We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements. Our responsibilities do not extend to any other information.

## Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the Members in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Authority's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

## Opinion

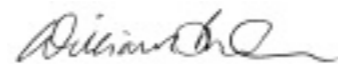
In our opinion the financial statements give a true and fair view of the state of affairs of the Authority as at 31 December 2006 and of its surplus for the year then ended.

RSM Robson Rhodes (Jersey) Limited  
Jersey, Channel Islands  
26 February 2007

## Balance Sheet

As at 31 December 2006

	Notes	2006 £	2005 £
<b>Fixed Assets</b>			
Tangible fixed assets	3	33,171	31,714
<b>Current Assets</b>			
Debtors and prepayments	4	67,682	26,331
Cash at bank		<u>522,534</u>	<u>488,733</u>
		590,216	515,064
<b>Current Liabilities</b>			
Creditors: amounts falling due within one year	5	497,942	421,334
Net Current Assets		<u>92,274</u>	<u>93,730</u>
<b>Total Assets Less Current Liabilities</b>		<u><b>125,445</b></u>	<u><b>125,444</b></u>
<b>Retained Surplus</b>	6	<u><b>125,445</b></u>	<u><b>125,444</b></u>



For and on behalf of the Members: William Brown, 26 February 2007

The notes on pages 23 to 25 form an integral part of these financial statements.

## Income and Expenditure Account

For the year ended 31 December 2006

	Note	2006 £	2005 £
<b>Income</b>			
Licence fees		564,565	347,195
Economic Development Department grant		411,694	394,123
Bank interest		13,806	17,835
Mergers and acquisitions fees		60,596	10,846
Application fees		101,500	1,475
Sundry income		<u>4,360</u>	<u>86</u>
		<b>1,156,521</b>	<b>771,560</b>
<b>Expenditure</b>			
Salaries and staff costs		685,961	569,567
Consultancy fees		286,580	141,915
Operating lease rentals		41,359	40,393
Travel and entertainment		14,721	11,433
Conference and course fees		9,589	9,638
Depreciation		22,476	19,058
Administration expenses		16,320	20,005
Legal and professional fees		605	-
General expenses		21,361	17,034
Audit and accounting fee		24,985	6,300
Advertising and publicity		4,745	3,835
Repairs and maintenance		11,160	8,595
Heat, light and water		2,187	1,629
Recruitment		13,594	24,671
Loss/(profit) on disposal of fixed assets		95	(605)
Internet web page design		<u>782</u>	<u>1,092</u>
		<b>1,156,520</b>	<b>874,560</b>
<b>Surplus/(deficit) for the year</b>	6	<u><b>1</b></u>	<u><b>(103,000)</b></u>

### Recognised gains and losses

There are no recognised gains and losses other than the surplus of the Authority of £1 in the year ended 31 December 2006 and the deficit of £103,000 in the year ended 31 December 2005.

The notes on pages 23 to 25 form an integral part of these financial statements.

## Cash Flow Statement

For the year ended 31 December 2006

	Note	2006 £	2005 £
<b>Net cash inflow/(outflow) from operating activities</b>	8	<b>44,023</b>	<b>(204,343)</b>
<b>Returns on investment and servicing of finance</b>			
Interest received		13,806	17,835
<b>Capital expenditure and financial investment</b>			
Payments to acquire tangible fixed assets		(24,273)	(11,415)
Proceeds from sale of fixed assets		245	2,075
Management of liquid resources		(350,000)	-
<b>Decrease in cash</b>		<b>(316,199)</b>	<b>(195,848)</b>

## Reconciliation of net cash flow to movement in net funds

For the year ended 31 December 2006

	2006 £	2005 £
Decrease in cash in year	(316,199)	(195,848)
Cash used to increase liquid resources	350,000	-
Change in net funds	33,801	(195,848)
Net funds at 1 January	488,733	684,581
<b>Net funds at 31 December</b>	<b>522,534</b>	<b>488,733</b>

## Analysis of net funds

	1 Jan 2006	Cash flows	31 Dec 2006
Cash at bank	488,733	(316,199)	172,534
Current asset investments	-	350,000	350,000
<b>Total</b>	<b>488,733</b>	<b>33,801</b>	<b>522,534</b>

## Notes

### 1. Incorporation

The Authority was incorporated in Jersey on 1 May 2001 as a body corporate under the terms of the Competition Regulatory Authority (Jersey) Law 2001.

### 2. Accounting policies

#### Accounting principles

The financial statements are prepared under the historical cost convention and in accordance with accounting principles generally accepted in the Island of Jersey, incorporating United Kingdom accounting standards.

#### Interest receivable

Interest on bank deposits is accrued on a daily basis.

#### Fixed assets

All fixed assets are initially recorded at cost.

#### Depreciation

Depreciation is provided on all tangible fixed assets, at rates calculated to write off the cost over their estimated useful lives in equal installments. The depreciation rates used are as follows

Leasehold improvements	- remaining lease term
Computer equipment	- 33% per annum
Fixtures and fittings	- 10% per annum
Other equipment	- 20% per annum

#### Leasing commitments

Rentals payable under operating leases are charged in the income and expenditure account on a straight line basis over the lease term.

#### Pensions

The Authority provides a defined contribution pension scheme. Contributions are charged in the income and expenditure account as they become payable in accordance with the rules of the scheme.

#### Grants

Grants and income received from the Economic Development Minister are recognised on receipt of the funds. Any unused funds at the financial year end are either deferred or repaid to the Minister. Deferred grant income as at 31 December 2006 amounted to £274,961 (2005: £91,837).

#### Telecoms licence fees to Class II and Class III Operators

Licence fees are set on the basis of cost recovery under Article 17 of the Telecommunications (Jersey) Law 2002. The Authority's costs are determined on an annual basis and these are recovered by applying a percentage to the licensed revenues of the Operators on the basis of relevant pro-rata turnover, or if appropriate an annual fee.

The percentage for 2006 was 0.75% (2005: 1%).

The Operators are invoiced quarterly in advance and fee income is recognised when invoiced. Should fee income exceed costs the balance is treated as deferred revenue. Deferred licence fee income as at 31 December 2006 amounted to £80,373 (2005: £290,107).

#### Postal licence fees to Class III Operators

Licence fees are set on the basis of cost recovery under Article 18 of the Postal Services (Jersey) Law 2004. The Authority's costs are determined on an annual basis and these are recovered by applying a percentage to the licensed revenues of the Operators on the basis of relevant pro-rata turnover, or if appropriate an annual fee.

The fee for 2006 was set at £150,000 (2005: nil).

The Operators are invoiced quarterly in advance and fee income is recognised when invoiced. Should fee income exceed costs the balance is treated as deferred revenue. Deferred licence fee income as at 31 December 2006 amounted to £3,138 (2005: nil).

## Notes

3. Tangible fixed assets	Leasehold improvements £	Computer equipment £	Fixtures and fittings £	Other equipment £	Total assets
<b>Cost</b>					
At 1 January 2006	-	52,259	15,416	14,397	82,072
Additions	3,985	18,434	1,549	305	24,273
Disposals	-	(5,120)	(170)	(240)	(5,530)
<b>At 31 December 2006</b>	<b>3,985</b>	<b>65,573</b>	<b>16,795</b>	<b>14,462</b>	<b>100,815</b>
<b>Depreciation</b>					
At 1 January 2006	-	33,578	5,445	11,335	50,358
Charge in the year	1,672	16,251	1,644	2,909	22,476
Disposals	-	(4,872)	(82)	(236)	(5,190)
<b>At 31 December 2006</b>	<b>1,672</b>	<b>44,957</b>	<b>7,007</b>	<b>14,008</b>	<b>67,644</b>
<b>Net book value</b>					
At 1 January 2006	-	18,681	9,971	3,062	31,714
<b>At 31 December 2006</b>	<b>2,313</b>	<b>20,616</b>	<b>9,788</b>	<b>454</b>	<b>33,171</b>

4. Debtors and prepayments	2006 £	2005 £
Prepayments	29,310	22,860
Trade debtors	36,640	3,400
Sundry debtors	1,732	71
	<b>67,682</b>	<b>26,331</b>

5. Creditors: amounts falling due within one year	2006 £	2005 £
Accruals	94,108	20,321
Deferred grant income	274,961	91,837
Deferred licence fee income	83,511	290,107
Other deferred income	12,358	4,154
Trade creditors	23,047	7,547
Social security	9,957	7,368
	<b>497,942</b>	<b>421,334</b>

6. Movement on retained surplus	Income and Expenditure Account £
At 1 January 2006	125,444
Surplus for the year	1
<b>At 31 December 2006</b>	<b>125,445</b>

## 7. Taxation

Article 16 of the Competition Regulatory Authority (Jersey) Law 2001 provides that the income of the Authority shall not be liable to income tax under the Income Tax (Jersey) Law 1961.

## Notes

## 8. Note to the cash flow statement

Reconciliation of surplus/(deficit) for the year to net cash inflow/(outflow) from operating activities:

	2006 £	2005 £
Operating surplus/(deficit)	1	(103,000)
Depreciation	22,476	19,058
Interest on current asset investments	(13,806)	(17,835)
Loss/(profit) on disposal of fixed assets	95	(605)
(Increase)/decrease in debtors	(41,351)	4,390
Increase/(decrease) in creditors	76,608	(106,351)
<b>Net cash inflow/(outflow) from operating activities</b>	<b>44,023</b>	<b>(204,343)</b>

## 9. Related parties

## The transacting parties are:

- The Economic Development Minister
- Jersey Competition Regulatory Authority (JCRA)

## Relationship

The JCRA acts independently of the States, but is accountable to the Economic Development Minister in respect of its funding for the Competition Law and which is also covered by a Service Level Agreement. The Minister acts as a conduit for requests from other Ministers who may require the JCRA to carry out projects. The JCRA reports formally to the Minister on an annual basis.

## Transactions

In 2006 the Economic Development Minister provided funds to the JCRA in order that work on the Competition Law could be carried out.

## Amounts involved

- £91,837 brought forward as deferred grant income, as agreed from 2005 (of which £56,178 was utilized to reimburse the Authority in respect of part of the pre-incorporation costs of Postal Regulation).
- £480,000 received during the year under the Competition (Jersey) Law 2005 grant.
- £58,640 received in respect of advice given to the Minister on competition matters.

## Amounts due to the Economic Development Department at the balance sheet date

	2006 £	2005 £
Deferred grant income (included in creditors)	274,961	91,837

## 10. Financial commitments

At 31 December 2006 the Authority had annual commitments under non-cancellable operating leases as set out below:

	Land and buildings	
	2006 £	2005 £
Operating leases which expire:		
In more than one year but less than five years	34,545	34,545

## 11. Pension commitments

The Authority provides a defined contribution pension scheme for its Executive Director and employees. The assets of the scheme are held separately from those of the Authority in an independently administered fund. Contributions of £74,276 (2005: £47,489) were charged in the year and there were no unpaid contributions at the year end.

# Corporate Governance Guidelines

## 1. The Jersey Competition Regulatory Authority (JCRA) and the Economic Development Minister (the Minister)

1.1 The JCRA (The Authority) is an autonomous body and entirely independent in its decision taking from the States of Jersey. But under powers of the Competition Regulatory Authority (Jersey) Law 2001 (the CRA Law), Article 10(1) the Economic Development Minister, "may give to the Authority written guidance, or general written directions, on matters relating to corporate governance, that is relating to the systems and arrangements by and under which the Authority is directed and controlled". The following are the Corporate Governance Guidelines as agreed between the Economic Development Minister and the Authority.

## 2. What is Corporate Governance?

2.1 "Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance." - OECD April 1999.

## 3. Constitution of the Authority

3.1 The Authority is a statutory body corporate established under Article 2 of the CRA Law. The governing body is a Board of Directors which directs regulatory, licensing, financial and operational and strategic policies of the Authority.

## 4. Functions of the Authority

4.1 The functions of the Authority are set out in Article 6 of the CRA Law which states:-

- 1) "The Authority shall have such functions as are conferred on it by or under this or any other Law or any other enactment.

- 2) The Authority may recognise or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods and services to which the Authority's functions relate.
- 3) The functions of those bodies shall include one or more of the following –
  - (i) the provision to the Authority of advice, information and proposals in relation to any one or more of those matters;
  - (ii) the representation of the views of any one or more of those persons.
- 4) The Authority may, on request by the Minister, provide the Minister with reports, advice, assistance and information in relation to any matter referred to in paragraph (2).
- 5) The Authority shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions."

## 5. Constitution of the Board

- 5.1 Article 3 of the CRA Law requires the Board to consist of a Chairman and at least two other members.
- 5.2 Currently the Members of the Board comprise of a Non-Executive Chairman, an Executive Director, and three Non-Executive Members. Two of the Members live in Jersey and three in the United Kingdom.
- 5.3 The appointment of Board Members is undertaken by the Minister. Vacancies which arise on the Board are filled through the use of an open and transparent process. The Minister follows the procedures recommended by the Jersey Appointments Commission – a body set up by the States of Jersey to overview all public sector appointments. A vacancy is usually advertised and once a suitable candidate is identified, a recommendation is made to the Minister. Under the provisions of the CRA Law, the appointment of the Chairman is a matter reserved for decision by the States of Jersey on the recommendation of the Minister. The other Board Members are appointed by the Minister after it has consulted with the Chairman. The Minister shall notify the States of the appointments.

5.4 Under the provisions of the CRA Law, Members are appointed for terms not exceeding five years and upon expiry of such period are eligible for reappointment.

## 6. Operations of the Board

- 6.1 The Board sets strategic policy and the implementation of these policies is undertaken by the Executive.
- 6.2 The Board usually meets at least monthly or bi-monthly and will hold additional meetings when circumstances require it. In advance of each meeting, Members are provided with comprehensive briefing papers on the items under consideration. The Board is supported by the Board Secretary who attends and minutes all meetings of the Board.
- 6.3 The quorate number of Members to hold a Board meeting is 3, two of which must be Non-Executives with one acting as Chairman.
- 6.4 Article 9 of the CRA Law empowers the Board to delegate any of its powers to the Chairman, one or more of its Members, an officer or employee of the Authority or a committee whose member or members are drawn only from the Members, officers and employees of the Authority. However, the Board is not authorised to delegate this power of delegation or the function of reviewing any of its decisions.
- 6.5 The Board holds an annual away day. This event, which may also be attended by senior staff, is an opportunity for the Board to conduct an evaluation of its performance during the year and discuss strategic issues for the year ahead and possible changes to the *modus operandi*.
- 6.6 The Board maintains an annual budget and publishes its aims and objectives for the following year. In the last quarter of each year, the Executive Director prepares a draft aims and objectives document and budget incorporating amongst other things any strategic issues raised by the Board at its annual away day. The budget is considered by the Board by December of each year.

6.7 The Board monitors the performance of the Authority against the aims and objectives document through reports at its regular Board meetings. Performance against budget is monitored by the presentation of quarterly management accounts to the Board and ad-hoc financial presentations as and when appropriate.

6.8 The Authority has agreed with the Economic Development Department a policy on travel.

6.9 The Executive Director makes recommendations to the Minister in respect of fees paid to the Non-Executive Board members.

## 7. Committees of the Board

- 7.1 Article 7(1) of the CRA Law enables the Authority to establish committees.
- 7.2 The Board established two committees; an Audit Committee and a Remuneration Committee. The members of these committees are appointed from within.
- 7.3 The key duties of the Audit Committee are –
  - To review annually the Authority's application of corporate governance best practice, including the appointment of internal auditors, and setting the scope and reviewing the output of their work;
  - To review the mechanisms for ensuring the effectiveness of the Authority's internal controls;
  - To consider certain matters relating to the external audit of the Authority's annual financial statements (including reviewing those financial statements prior to their consideration by the Board).
- 7.4 Whilst the Audit Committee's terms of reference include the consideration of the annual appointment of the external auditor, the actual appointment of the auditor is a matter reserved to the Finance and Economics Minister under Article 17 of the CRA Law.
- 7.5 The members of the Audit Committee are Robert Foster (Chairman), Richard Povey and Christopher Bright. The Executive Director is expected to attend the meetings of the Audit Committee in an advisory capacity.

# Corporate Governance Guidelines

7.6 The key duties of the Remuneration Committee are –

- To consider the remuneration of the Executive Board Member and advise the Minister;
- To agree the budgetary level of the annual pay review for staff based upon market remuneration analysis;
- To consider and agree any variations to the structure of the remuneration package that may be proposed from time to time.

7.7 The members of the Remuneration Committee are Christopher Bright (Chairman), Richard Povey and Robert Foster.

## 8. Openness, Integrity and Accountability

8.1 The Authority abides by the principles of openness, integrity and accountability – and those standards which are widely recognised as being applicable to public service, and to the conduct of all involved in public life.

8.2 In the discharge of its duties, the Authority will ensure:

- That subject to the appropriate level of confidentiality, it maintains an openness in its public affairs, in order that the public can have confidence in the decision-making processes and actions of public service bodies, in the management of the Authority's activities, and in the Board Members and staff of the Authority itself;
- That it maintains at all times an appropriate degree of integrity in the conduct of its affairs. Integrity comprises both straightforward dealing and completeness. The Authority bases its integrity upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of its funds and management of its affairs;
- That it is fully accountable in the application of the public funds and that these are properly safeguarded, and are used economically, efficiently and effectively.

8.3 The three fundamental principles, defined above in terms of public sector bodies, have been refined to include the findings and recommendations of the Nolan Committee on Standards in Public Life. The Authority will make its best efforts to abide by Nolan's seven general principles that underpin public life as follows:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

## 9. Audit & Accounts

9.1 While the Authority is an independent body, it is accountable for its overall performance to the States of Jersey through the Minister.

9.2 Article 17 of the CRA Law requires that the Authority shall keep proper accounts and proper records in the accounts and prepare a report and accounts in respect of each financial year and provide these to the Minister no later than four months after the year end. The Minister shall lay a copy of the accounts provided before the States as soon as practicable after he receives the report.

9.3 It is also a requirement of the CRA Law that the accounts are audited by auditors appointed by the Finance and Economics Minister and be prepared in accordance with generally accepted accounting principles.

## 10. Other Matters

10.1 Under powers granted by Article 10 of the CRA Law, the Minister may, after first consulting with the Authority and where it considers that it is necessary in the public interest to do so, give to the Authority written guidance, or general written directions, on matters relating to corporate governance which may include matters relating to accountability, efficiency and economy of operation of the Authority.

10.2 The Board has a Service Level Agreement with the Minister in respect of the Competition Law grant made from the States of Jersey.