

Jersey Competition Regulatory Authority

Annual Report 2005



Contents

- 2. Foreword
 - 3. Chairman's Statement
 - 4. Executive Director's Statement
 - 5. About the JCRA
 - 6. Board Members
 - 7. Our Values
 - 8. Our Performance in 2005
 - 14. JCRA Financial Statements 2005
 - 15. Report and Financial Statements
 - 16. Members' Report
 - 17. Independent Auditors' Report
 - 22. Corporate Governance Guidelines
-

Foreword

This is the fifth 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, who has assumed the functions of the Economic Development Committee, 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 2005 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, which requires 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 services in Jersey.

Jersey Competition Regulatory Authority
6th Floor, Union House, Union Street,
St Helier, Jersey, Channel Islands, JE2 3RF
Tel: +44 (0)1534 514990 Fax: +44 (0)1534 514991
Email: enquiries@jcra.je Website: www.jcra.je

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Chairman's Statement



In our Annual Report last year we outlined a number of challenges that faced the new management team in its first full year of operation.

I am delighted to say that this team, under the expert direction of our Executive Director Bill Brown, has more than met those challenges, and that we look forward to the new year with confidence in our ability to provide the people of Jersey with the choice that they deserve in a wide range of goods and services.

As Bill Brown mentions in his Statement, our work has been eased by the fact that several sectors have agreed voluntarily to open up their services to competition in compliance with the new Competition (Jersey) Law.

While maintaining our statutory independence, our effectiveness as a regulatory body has been greatly enhanced by our excellent working relationship with the Economic Development Committee, under the chairmanship of Gerald Voisin. Now we are looking forward to establishing a similar working relationship with the new Economic Development Minister and his colleagues.

The past year has seen the departure of Les Bowbrick as a Member of the Board of the JCRA, and the arrival of Richard Povey to replace him.

I should like to pay tribute to the work done by Les. His local knowledge was of incalculable value to the new Board in our first eighteen months of operation, and his wise counsel and broad experience has been enormously appreciated by the whole team. We are extremely fortunate that Richard Povey agreed to take on the role of one of our three Non-Executive Directors in the spring of 2005. With his management experience in industry and finance, both at home and abroad, he is making a vital contribution to the smooth running of the JCRA.

We look forward with enthusiasm to continuing our work in encouraging competition within the regulatory framework enshrined in the new law.

A handwritten signature in dark ink that reads "Christopher Kingsland". The signature is written in a cursive, flowing style.

The Right Hon Lord Kingsland, QC
Chairman

Executive Director's Statement



2005 saw the introduction of the Competition (Jersey) Law, an important legal reform designed to help boost Jersey's economy by making markets more competitive. Enforcing the Law is a key part of the JCRA's role, and much of our activity last year was devoted to preparing for the Law, and helping businesses to understand its implications.

After public consultation, we issued guidelines on various aspects of the Law to assist compliance. To raise awareness and understanding of the Law, we also held seminars and briefing sessions with members of the Chamber of Commerce, the Institute of Directors, the Consumer Council, States Committees, senior civil servants, individual businesses, and trade and professional associations.

We were pleased that many businesses took up our invitation to meet and discuss specific compliance issues on a confidential basis. Following these discussions, a significant number of those businesses took voluntary steps to bring their practices into line with the new law. Some of these cases are confidential, but those which have been published include the decisions by members of the dental and legal professions to abandon uniform recommended and fixed fees, and Jersey Dairy's steps to allow greater competition at the retail level on milk prices. Proportionality is one of our core values, and as such we firmly believe that compliance through voluntary means is preferable to formal enforcement action. It is less costly and more efficient for businesses, the JCRA and ultimately the Jersey taxpayer.

We will continue actively to encourage compliance with the Law, and to assist businesses in this process. That said, we will not hesitate to use our formal enforcement powers in appropriate cases, where voluntary compliance is not forthcoming.

In our other statutory functions as regulator of the telecommunications sector, and prospective regulator of the postal services sector, there were also a number of major developments. We worked closely with Ofcom to ensure spectrum availability for advanced and competitive mobile services on the Island - a process which resulted in spectrum offers being made to Jersey Telecom (JT) and three potential new entrants (Cable & Wireless, Bharti Global and Colt Telecommunications). This means that Jersey consumers and businesses can look forward to the prospect of advanced mobile services and a choice of mobile service providers. In this, and in other areas of the telecoms sector, we intervened to ensure that new entrants can compete with JT on a level playing field. Finally, in the postal services sector we completed the framework for the regulation of Jersey Post, to take effect whenever the States decides to corporatise its operations under the Postal Services (Jersey) Law.

2005 has been a very busy and challenging year for the JCRA. We look forward to using our statutory responsibilities to bring further benefits to Jersey consumers and businesses in 2006.

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

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 a few years ago in respect of the telecommunications business Jersey Telecom, and a decision is likely to be taken in 2006 in respect of the postal services business Jersey Post. 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 licence granted to Jersey Telecom, and to be granted upon incorporation to Jersey Post, which the JCRA has a statutory responsibility to enforce.

Competition

As well as its role as regulator of the telecommunications and postal sectors, 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 advise the Economic Development Minister and other Ministers on matters of economic regulation and competition. For example, in 2005 we were asked to advise the Economic Development Committee (which previously performed the functions of the Economic Development Minister) on the adoption of implementing legislation for the Competition (Jersey) Law 2005. This Law will also enable the JCRA to advise Ministers on whether any aspect of Jersey legislation sponsored by the relevant department is producing anti-competitive effects which are more harmful to consumers than the benefits the legislation is aimed to achieve.

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 manager, and a personal assistant.

Board Members

1 The Rt. Hon. Lord Kingsland, QC Chairman

The Rt. Hon. 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 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 Applied Optical Technologies plc.

4 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.

5 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 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.



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 Economic Development Committee, now 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 2005



In 2005, we had four main aims. The first three relate to our statutory responsibilities: preparing for and enforcing the Competition (Jersey) Law 2005, implementing telecommunications policy, and implementing postal services policy. The fourth relates to our core values, referred to in the previous section.

Aim 1

To prepare for, and implement, the Competition (Jersey) Law.

The Competition (Jersey) Law came fully into force on 1 November 2005, and is one of the biggest changes in commercial law Jersey has ever experienced. Our role is to administer and enforce the Law. The Law is based on similar laws in the EU and its Member States, and the JCRA has a statutory duty to apply the Law consistently, as far as possible, with EU competition law. This means that Jersey will not need to 're-invent the wheel' and can rely on international precedents for guidance. Jersey has now joined the 80 or so jurisdictions in the world which already have competition laws including the USA, Canada, UK, Australia, New Zealand, Japan and many other large and small countries such as Malta and Jamaica.

A major part of our work in 2005 consisted of preparing for the Law. In the brief period between 1 November and the end of the year, a number of significant positive outcomes were already achieved in the implementation of the Law.

Objective

Prepare the groundwork for the introduction of the Competition (Jersey) Law in 2005.

Performance

Following public consultation, we issued a set of 9 guidelines on various aspects of the Law, to help businesses comply with it, and to enable businesses and consumers to understand the remedies open to them where the Law is infringed. (These guidelines are available on the JCRA's website www.jcra.je). We also published (again after public consultation) our Leniency Policy, designed to help us detect and take action to stop cartel activities.

We advised the Economic Development Committee (EDC) on subordinate legislation under the Law, including the order specifying the types of mergers and acquisitions which should be subject to the JCRA's prior approval; whether the EDC should issue block exemptions for certain types of commercial agreement; and whether the EDC should exempt small businesses from the Law.



Our Performance in 2005

Objective

Prepare the groundwork for the introduction of the Competition (Jersey) Law in 2005.

Performance

To raise awareness and understanding of the Law, we held seminars and briefing sessions with members of the Chamber of Commerce, Institute of Directors, Consumer Council and States Committees, as well as senior civil servants, individual businesses and trade and professional associations.

Objective

Implement the Law.

Performance

We investigated and approved a proposed acquisition which was notified to us under the Law, and as at the end of the year were investigating a second proposed acquisition which had been notified to us.

We advised the EDC on Jersey Dairy's application to the EDC for a public policy exemption under Article 12 of the Law for an aspect of its milk marketing arrangements.

In line with our preference for voluntary compliance rather than formal enforcement action (where possible), we discussed and resolved specific compliance concerns with a number of businesses and associations. Outcomes included Jersey Dairy's announcement of steps to facilitate greater price competition in milk at the retail level, and the decisions by members of the Jersey Dental Association and The Law Society of Jersey to abolish uniform recommended and fixed fees.

Our Performance in 2005



Aim 2

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

We continued in 2005 to take active steps to achieve this aim. These efforts have created, for example, the possibility of up to three new operators entering the mobile sector in 2006, in competition with Jersey Telecom.

Objective

Ensure that Jersey Telecom (JT) allows other operators to interconnect with its network, thereby allowing them to offer additional fixed line services in competition with JT.

Performance

We engaged in extensive discussions with JT on their terms and conditions of interconnection, leading to the publication of its Reference Interconnect Offer in early 2005. We also monitored the progress of negotiations between JT and new entrants, with a view to stepping in where appropriate to help resolve any issues arising.

Objective

Investigate the availability of additional radio spectrum for mobile services, with a view to introducing advanced mobile services and competition for mobile users in Jersey.

Performance

We worked closely with Ofcom (the UK communications regulator) to ensure the availability of spectrum for advanced services and competition in the mobile sector. This process resulted in spectrum licences being offered to four operators, namely Jersey Telecom, Cable & Wireless, Bharti Global and Colt Telecommunications. To assist future new entrants, and consistent with practice in other jurisdictions, we inserted (following statutory consultation) a new condition in JT's licence allowing customers of a new entrant to roam to JT's network pending roll-out of the new entrant's network.



Our Performance in 2005

Objective

Investigate practices by operators which restrict competition and take effective remedial action.

Performance

We engaged in discussions with JT which resulted in JT reducing its wholesale prices for leased lines (thereby allowing competitors a greater margin to compete for retail customers); altering the structure of JT's discounts to corporate customers to remove its anti-competitive effects; and extending JT's roaming arrangements with Cable & Wireless to cover mobile data.

Objective

Ensure that JT publishes separated accounts for each of its businesses, to help us monitor JT's profit levels, and ensure that other operators are able to compete on a level playing field.

Performance

We issued a Direction to JT setting out the basis on which, and dates by which, JT should compile separated accounts. This should result in JT producing its first set of separated accounts by the third quarter of 2006.

Objective

Promote innovation and competition in broadband services.

Performance

We issued a Consultation Paper on Future Broadband Strategy.

Our Performance in 2005



Aim 3

To prepare for the transfer of Jersey Post to a commercial environment.

As with Jersey Telecom a few years ago, the States decided to provide for the transfer of Jersey Post's business to a separate company (with the States as ultimate shareholder), rather than being run by the States. At the same time (again like Jersey Telecom) its statutory monopoly in the provision of postal services would be removed, thereby creating the possibility of competition. To safeguard the interests of users and competitors, Jersey Post (like Jersey Telecom) would require a licence, granted and enforced by the JCRA.

The Postal Services (Jersey) Law was adopted in October 2004, and a great deal of our work in 2005 was devoted to putting in place the framework for the regulation of Jersey Post upon its incorporation.

Objective

Prepare the necessary regulatory framework for the corporatisation of Jersey Post.

Performance

We conducted a statutory consultation on the licence we proposed to issue to Jersey Post upon its incorporation. Having taken account of the responses to the consultation, and satisfied ourselves that the terms of the licence were consistent with our statutory duties, we published the licence in final form.



Our Performance in 2005

Aim 4

Implementing our core values.

We continued in 2005 to put our core values into practice, through a number of measures.

Objective

Implement transparency in our operations.

Performance

In early 2005, we published a Statement outlining our Aims and Objectives for the remainder of 2005.

We published a draft of our 2006 Aims and Objectives for consultation, which were issued in final form (having taken account of responses) in January 2006.

Where possible, we aim generally to consult publicly before finalising our positions. For example, our competition law guidelines and Leniency Policy were published in draft form for comment before being finalised, and we consulted on our future broadband strategy.

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 the members of the dental and legal professions (reported above) followed such discussions.

JCRA Financial Statements 2005

During 2005, the JCRA was able to match costs with income for the year, with one exceptional item which is explained in more detail below.

A Service Level Agreement in respect of the Competition Law was signed between the JCRA and the Economic Development Committee (EDC) in late December 2004. This remains in place, the EDC's role having been assumed by the Economic Development Minister, with funding being received quarterly in advance. During the last two years a number of projects, mainly related to the Competition Law which came into full effect on 1 November 2005, were requested by the EDC and additional funds to cover this work were transferred to the JCRA. Costs in relation to the Competition Law and related projects are closely monitored and strictly allocated against the relevant funding received. Due to the fact that grant income is received quarterly and a working balance is required, there was deferred income carried forward at the year end in the sum of £91,837. This will be used to fund Competition Law and related costs at the start of 2006, before the next tranche of grant income is received.

As mentioned above, there was an exceptional item during the year which was a charge of £103,000. During the course of 2005, the JCRA reviewed the costs incurred and fees received in relation to

telecommunications since licensing commenced in November 2002. In particular, the review included an analysis of the cash balance held and retained surplus, which at 31 December 2004 was £228,444. The review indicated that there was an overall surplus to the JCRA's actual and foreseen requirements of £103,000. The Board therefore decided that a refund should be made in accordance with the requirement to ensure that licence fees reflect costs incurred and foreseen. This decision was made in the knowledge that this would impact upon the financial results for 2005, but that it was a corrective action to bring licence fees into line with costs, on an overall basis. A credit note was duly issued.

Further to the above, the total of deferred telecoms licence fees carried forward to 2006 is £290,107 (2004: £290,288). This would make the net rate of telecoms licence fees, based on regulated turnover, 0.70% for the year, compared to the rate of 0.85% for the year 2004. Based on budgeted costs, which includes work on mobile telephone competition issues, the percentage for 2006 has been set at 0.75%.

The projected target date for the granting of a licence to Jersey Post is currently 1 April 2006, from which time licence fee income should be available to fund further work on postal matters.

Report and Financial Statements

For the year ended 31 December 2005

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

Members

Lord Kingsland
Chairman

William Brown
Executive Director

Christopher Bright
Non-Executive Director

Robert Foster
Non-Executive Director

Richard Povey (appointed 16 May 2005)
Non-Executive Director

Secretary

Paul O'Toole (appointed 28 November 2005)

Auditors

RSM Robson Rhodes (Jersey) Limited
PO Box 179, 40 Esplanade,
St Helier, Jersey JE4 9RJ

Bankers

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

Registered Office

Jersey Competition Regulatory Authority
6th Floor, Union House,
Union Street, St Helier,
Jersey JE2 3RF

Members' Report

The Members of the Authority present their report and financial statements for the year ended 31 December 2005.

Activities

The principal activities of the Authority during the year were the regulation of the telecommunications industry and the implementation of the Competition (Jersey) Law 2005.

Results

There was a deficit for the year of £103,000 (2004: surplus £1).

Members

The Members in office when these financial statements were approved are shown on page 15.

Auditors

Ernst & Young LLP resigned as auditors on 29 March 2005 and RSM Robson Rhodes were appointed in their place. 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 2005, on pages 18 to 21. 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 2005 and of its deficit for the year then ended.

RSM Robson Rhodes (Jersey) Limited
Jersey, Channel Islands
27 February 2006

Balance Sheet

As at 31 December 2005

	Notes	2005 £	2004 £
Fixed Assets			
Tangible fixed assets	3	31,714	40,827
Current Assets			
Debtors and prepayments	4	26,331	30,721
Cash at bank		488,733	684,581
		<u>515,064</u>	<u>715,302</u>
Current Liabilities			
Creditors: amounts falling due within one year	5	421,334	527,685
Net Current Assets		<u>93,730</u>	<u>187,617</u>
Total Assets Less Current Liabilities		<u>125,444</u>	<u>228,444</u>
Retained Surplus	6	<u>125,444</u>	<u>228,444</u>



For and on behalf of the Members: William Brown, 27 February 2006

Income and Expenditure Account

For the year ended 31 December 2005

	Notes	2005 £	2004 £
Income			
Licence fees	7	347,195	498,610
Economic Development Committee grant		394,123	249,147
Bank interest		17,835	10,010
Mergers and acquisition fees		10,846	—
Application fees		1,475	2,500
Sundry income		86	—
		<u>771,560</u>	<u>760,267</u>
Expenditure			
Salaries and staff costs		569,567	464,081
Consultancy fees		141,915	83,897
Operating lease rentals		40,393	41,453
Travel and entertainment		11,433	23,001
Conference and course fees		9,638	11,749
Depreciation		19,058	24,774
Administration expenses		20,005	12,361
Legal and professional fees		—	16,247
General expenses		17,034	12,338
Audit and accounting fee		6,300	7,095
Advertising and publicity		3,835	6,446
Repairs and maintenance		8,595	9,125
Heat, light and water		1,629	1,795
Recruitment		24,671	45,049
(Profit)/loss on disposal of fixed assets		(605)	129
Internet web page design		1,092	726
		<u>874,560</u>	<u>760,266</u>
(Deficit)/surplus for the year	6	<u>(103,000)</u>	<u>1</u>

Recognised gains and losses

There are no recognised gains and losses other than the deficit of the Authority of £103,000 in the year ended 31 December 2005 and the surplus of £1 in the year ended 31 December 2004.

Cash Flow Statement

For the year ended 31 December 2005

	Notes	2005 £	2004 £
Net cash (outflow)/inflow from operating activities	9	(186,508)	271,286
Capital expenditure and financial investment			
Payments to acquire tangible fixed assets		(11,415)	(13,446)
Proceeds from sale of fixed assets		2,075	151
		(9,340)	(13,295)
(Decrease)/increase in cash		(195,848)	257,991

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 instalments. The depreciation rates used are as follows:

Computer equipment	– 33% per annum
Furniture 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 Committee (EDC), henceforward the Economic Development Minister (EDM), are recognised on receipt of the funds. Any unused funds at the financial year end are either deferred or repaid to the EDC/EDM. Deferred grant income as at 31 December 2005 amounted to £91,837 (2004: £188,978).

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 2005 was 1% (2004: 1.3%).

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 2005 amounted to £290,107 (2004: £290,288).

Notes

3. Tangible fixed assets

	Equipment £	Fixtures and fittings £	Computer equipment £	Total assets £
Cost				
At 1 January 2005	18,235	14,853	56,330	89,418
Additions	—	563	10,852	11,415
Disposals	(3,838)	—	(14,923)	(18,761)
At 31 December 2005	14,397	15,416	52,259	82,072
Depreciation				
At 1 January 2005	10,809	3,935	33,847	48,591
Charge in the year	3,519	1,510	14,029	19,058
Disposals	(2,993)	—	(14,298)	(17,291)
At 31 December 2005	11,335	5,445	33,578	50,358
Net book value				
At 1 January 2005	7,426	10,918	22,483	40,827
At 31 December 2005	3,062	9,971	18,681	31,714

4. Debtors and prepayments

	2005 £	2004 £
Prepayments	22,860	19,584
Trade debtors	3,400	8,584
Sundry debtors	71	2,553
	26,331	30,721

5. Creditors: amounts falling due within one year

	2005 £	2004 £
Accruals	20,321	40,419
Deferred grant income	91,837	188,978
Deferred licence fee income	290,107	290,288
Other deferred income	4,154	—
Trade creditors	7,547	3,320
Social security	7,368	4,680
	421,334	527,685

6. Movement on retained surplus

	Income and Expenditure Account £
At 1 January 2005	228,444
Deficit for the year	(103,000)
At 31 December 2005	125,444

7. Licence fees

A refund of licence fees was made during the year in the sum of £103,000, representing a surplus of fees over costs in respect of earlier accounting periods.

8. 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

9. Note to the cash flow statement

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

	2005 £	2004 £
Operating (deficit)/surplus	(103,000)	1
Depreciation	19,058	24,774
(Profit)/loss on disposal of fixed assets	(605)	129
Decrease/(increase) in debtors	4,390	(10,049)
(Decrease)/increase in creditors	(106,351)	256,431
Net cash (outflow)/inflow from operating activities	<u>(186,508)</u>	<u>271,286</u>

10. Related parties

The transacting parties are:

- Economic Development Committee (EDC) now the Economic Development Minister
- Jersey Competition Regulatory Authority (JCRA)

Transactions

In 2005 the EDC provided funds to the JCRA in order that work on the Competition Law could be carried out.

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.

Amounts involved

- £188,978 brought forward as deferred grant income, as agreed from 2004.
- £280,000 received during the year under the Competition (Jersey) Law 2005 grant.
- £7,500 received in respect of advice given to the EDC on competition matters.

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

	2005 £	2004 £
Deferred grant income (included in creditors)	<u>91,837</u>	<u>188,978</u>

11. Financial commitments

At 31 December 2005 the Authority had annual commitments under non-cancelable operating leases as set out below:

	Land and buildings	
	2005 £	2004 £
Operating leases which expire: In more than two years but less than five years	<u>34,545</u>	<u>34,545</u>

12. 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 £47,489 were charged in the year of which £4,985 remain outstanding 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 Committee, now the 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 Committee, and which continue to apply, 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 Committee, provide the Committee 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 Committee (now 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 Committee (now 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 Committee (now the Minister) in respect of the Competition Law grant made from the States of Jersey.

