



PORTS OF JERSEY
YOUR ISLAND GATEWAY

**Ports of Jersey's Response to CICRA's
Draft Strategic Objectives and 2019 Work
Programme**

November 2018

Ports of Jersey's Response to CICRA's Strategic Objectives and Draft 2019 Work Programme

Introduction

Ports of Jersey welcomes the opportunity to respond to CICRA's draft Strategic Objectives and 2019 Work Programme published in October 2018. We have several comments about the work programme and strategic objectives which we set out below. We hope that CICRA will take our comments into account in developing their workstreams and progressing their strategic objectives.

Overarching Aim of CICRA

We agree that the overarching aim of CICRA should be to ensure markets work well for consumers (end users including households, businesses and government) taking account of both short and long-term considerations.

We believe that by freezing POJL's prices over the last 3 years, CICRA has benefitted customers (such as airlines and ferry operators) rather than passengers. Customers have had their profits increased from the reductions in their input costs however this has materially restricted the funds available for infrastructure investment.. Passengers, for example, have faced prices that have generally gone up in line with inflation but have not had the advantage of the investments that infrastructure price rises would have financed (such as delivering better infrastructure at Elizabeth Harbour). We hope that in developing their new pricing framework during 2019, CICRA will take account of the nature of the markets for port services.

Overarching Objective of Economic Regulation of Port Operations

CICRA state that *"the overarching objective for the economic regulation of port operations in Jersey is to protect the users of air and sea port services and facilities through quality of service standards and the oversight of charges"*.

The description of the JCRA's (and the Minister's) primary duty¹ fails to give sufficient weight to such elements as ensuring that POJL has sufficient financial resources and protecting and furthering the interests of users of port operations. The objective of regulation must be to balance all the relevant factors and give equal weight to them.

The use of performance measures

CICRA's Final Notice on Quality of Service states that *"CICRA intends to use the information to monitor and provide oversight of the quality of service provided by POJL, giving transparency in this area to stakeholders through the publication of performance"*

¹ Air & Sea Ports (Incorporation)(Jersey) Law 2015 – Article 26

information in conjunction with POJL". The quality of service reporting measures were not designed to say anything about POJL performance and they do not provide information to monitor POJL's performance over time. For example, a change in the proportion of flights arriving within 15 minutes of the scheduled time (even ignoring those delayed due to weather), might be due to one or more of:

- the performance of the airport that the aircraft departed from,
- the performance of the airline operating the flight,
- the performance of air traffic controllers managing the flight along the route,
- actions of passengers (in arriving late or otherwise delaying the flight),
- the scheduling of flight times by airlines and the amount of 'slack' in the timetable,
- the performance of PoJL, and
- other factors, including those outside the control of all parties.

While it is useful information for a passenger to know what proportion of arriving and departing flights are delayed (irrespective of the cause of that delay) as a measure it tells you little about the performance of PoJL (even when viewed over time or compared to an external or historic benchmark).

The other quality of service measures have similar limitations in their use as measures of POJL's performance.

We do not believe it is possible to assess an output measure as a performance metric without considering the financial resources that are available to deliver it. When prices are frozen, the financial resources available to deliver outputs are reduced and (other things being equal), one would expect quality of service to decline. POJL's delivery of quality of service outputs therefore needs to be assessed against the backdrop of a real reduction in prices since Incorporation and the future path of prices.

We therefore disagree with the use of quality of service measures to monitor POJL performance – they were neither designed to achieve this nor do movements in the quality of service measures reflect improved or worsening performance by POJL as they are driven by multiple factors many of which are outside the control of POJL.

Using quality of service measures to compare PoJL performance against other operators

CICRA also suggest that the measures "*will be used to compare Ports of Jersey performance against other port operators*". Again this is inappropriate for the reasons set out above. In addition, the PoJL reporting measures are unlikely to be comparable with measures reported by other port operators.

During the consultation process on quality of service measures, we pointed out the difficulties of trying to compare measures of quality of service between different port operators – we said that "*if POJL report a different measure of an aspect of performance to*

*other port operators, then the measures will not be comparable and the information reported will be much less useful*². We highlighted in our response to the quality of service consultation the importance of considering measures and processes undertaken by other air and sea ports to measure and report on service performance, however we do not believe that this was fully considered by CICRA.

The final reporting measures were copied from Tables 1, 2 and 3 of our response to the IN. In this we were clear that: *“The tables below [Tables 1, 2 and 3] summarise our suggestions regarding the proposed performance measures. Our response does not take account of information about performance measures reported by other similar port operators, which the consultation period has not provided sufficient time to research. Such research may suggest other, more appropriate performance measures and we will help CICRA to carry out further research and develop a more robust evidence base before any decision is made on reporting requirements.* However, it would appear that CICRA has decided not to take up our offer to develop measures that might be comparable with other operators.

We therefore would question a comparison with other port operators using the quality of service measures to assess PoJL’s performance, since the measures are not comparable and do not reflect PoJL’s performance.

2019 Work Programme

CICRA state that *“Previous market research and consultation identified that port users value the services provided by Ports of Jersey but have concerns that some aspects of service could be delivered to a higher standard (for example, the quality of infrastructure and services offered at marinas and the harbour terminal)”*. It is true that CICRA’s market research highlighted concerns over the quality of the marine and harbour infrastructure, however CICRA fails to mention the major improvements in customer satisfaction that were also highlighted in the responses including:

- Ports of Jersey had won 8 major awards between 2010 and 2016.
- Overall airport customer satisfaction had increased significantly between 2015 and 2017 to an average score of 90%.
- Customer satisfaction with airport security was 97% and with the check-in was 96%.

It is misleading to only quote the results of one element of the market research, when the much larger and more reliable PoJL customer satisfaction survey provides a more positive picture of customer satisfaction. CICRA should provide a more balanced picture of the results of its consultation exercises.

In addition, regarding the concern that CICRA’s market research identified, PoJL also identified this concern and put in place plans to significantly improve the infrastructure at

² Ports of Jersey’s Response to Initial Notice of Direction to Report Information to the JCRA, January 2018

Elizabeth Harbour which we recognised needed upgrading. We included these plans as a key part of our 2018 price submission, however CICRA failed to allow us a price increase to fund such investment and as a result we have been unable to complete all the intended upgrades to the harbour terminal to meet customer concerns.

2018 price determination

CICRA state that they have *“made a price determination during 2018 in response to a request from Ports of Jersey”*.

The 2018 pricing process was as follows:

- Ports of Jersey made a submission in December 2017 for a 5.2% price increase (to cover a two year period);
- CICRA issued an Initial Notice (IN) in which they misunderstood the costs in our submission and proposed a 1.3% increase, whereas their methodology using the correct costing information would have supported a 14% increase;
- CICRA also proposed price caps for subsequent years of 0% based on no information;
- PoJL pointed out these errors in our response to the IN;
- CICRA issued a Final Notice summarising the responses to the IN, containing no further evidence or analysis, withdrawing the Initial Notice and proposing to *“review the new information provided together with the comments made by customers and by POJL before deciding next steps”*;
- No further progress has been made by CICRA on the 2018 pricing process and PoJL has not been able to make any price increase in 2018.

Therefore it would be fairer to say that *CICRA have not made a price determination during 2018 in response to a request from Ports of Jersey.*

Work Programme – Performance Measures

As discussed above, we do not believe that the quality of service measures will allow CICRA to monitor PoJL’s performance during 2019 or to compare its performance with that of other port operators.

Even were it the case that the quality of service measures reflected some aspect of PoJL performance, with only 2 data points being published in 2018 and 4 in 2019 and each of the measures being subject to random fluctuation, seasonality etc, it would be far too early to conclude anything about PoJL performance from such a limited data set.

We would therefore suggest that CICRA monitor the usefulness of the published data to consumers, develop the understanding of the results and the factors that influence them and work with POJL to investigate alternative measures used in the industry as necessary.

Work Programme – Price Control

We look forward to the development of a medium- to longer-term price control. However we believe that the pricing framework should be based on a balanced interpretation of CICRA's duties. We are concerned that CICRA's formulation takes insufficient account of its duty to protect and further the interests of users of port operations, in the short and long term so as best to ensure:

- That provision is made to satisfy all reasonable demands, both current and prospective for port operations,
- that port operations are provided efficiently and effectively, and
- that PoJL has sufficient resources to discharge its liabilities that lifeline services are provided efficiently, effectively and without interruption.

Next Steps

We hope that CICRA will take account of our comments in finalising their draft work programme and strategic plan. We welcome CICRA's intention to make consultation responses available on its website and believe that in line with best regulatory practice this should be done in a timely manner within two weeks of the response deadline.

Ports of Jersey
November 2018