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Please quote the reference in all correspondence

22 April 2016

Liquor Licensing Consultation  
Education, Development, Tourism, Sport and Culture Department  
7<sup>th</sup> Floor – Cyril Le Marquand House  
St Helier  
Jersey

Dear Sir / Madam

**Consultation Response – A new liquor licensing law for Jersey**

This letter is submitted by the Channel Islands Competition and Regulatory Authorities (CICRA) in response to the consultation issued by the Education, Development, Tourism, Sport and Culture Department, 'A new liquor licensing law for Jersey'<sup>1</sup>. This response includes a confidential annex (attached) which is not for publication, however the main body of the response can be published in full and will be placed on CICRA's website, [www.cicra.je](http://www.cicra.je).

The States of Jersey introduced competition law in Jersey in 2005 in recognition of the fact that open and vigorous competition is good for consumers because it can result in lower prices, new products of a better quality and more choice. It is also good for fair-dealing businesses which flourish when markets are competitive.

CICRA is the body created by statute by the States of Jersey responsible for administering and enforcing competition law in Jersey. Its aim is to ensure that consumers receive the best value, choice and access to high quality services, in addition to promoting competition and consumers' interests. Its functions are set out in law and include representing those with an interest in any matter related to competition and advising Ministers on the effect a proposed enactment is likely to have on competition. Specifically Article 57 of the Competition (Jersey) Law 2005 sets out that:

*"The Authority may advise the relevant Minister on the effect an enactment is having or a proposed enactment is likely to have on competition in Jersey."*

This response is provided in support of that role in particular.

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<sup>1</sup><http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/C%20Draft%20Licensing%20Strategy%202016%2020160204NF.pdf>

**CICRA recognises however that it is entirely a matter for the States of Jersey as the elected assembly to weigh up competition considerations against other aspects in formulating its views in the area of alcohol policy, be they social, environmental, health or other factors.**

CICRA has taken into consideration the following publications:

- the report 'Alcohol and Licensing Strategy for Jersey'<sup>2</sup> presented to the States Assembly by the Council of Ministers in September 2014;
- the results of its own 'Review of the grocery market in Jersey and Guernsey'<sup>3</sup> published in January 2014;
- the report 'Comparison of consumer prices June 2014'<sup>4</sup> produced by the States of Jersey Statistics Unit;
- the report 'Jersey Alcohol Profile 2015'<sup>5</sup> issued by the Health Intelligence Unit in November 2015.

CICRA's response to specific sections of the consultation is set out below

### **The Licensing Objectives**

CICRA notes the intention of the five licensing objectives to be contained in the new law. From the consumer's perspective it is important that the market for alcoholic beverages works well for the majority of consumers who, the consultation accepts, 'for the most part [consume alcoholic beverages] sensibly and without causing harm of nuisance to others'.

CICRA does acknowledge the wider benefit to the community of delivering on the five licensing objectives but suggests that this needs to be considered alongside the interests of the vast majority of the population.

CICRA notes the intention to consider applications for licences under the new law against a published set of guidelines with clear criteria for approval or rejection. CICRA considers this to be positive for consumers and the industry, giving clarity over the regulatory structure and comfort that licences are granted (or not) on a consistent basis.

### **Alcohol price restriction**

The continuation of the current policy that '*a licence may be referred to the Licensing Assembly if it sells alcohol at a price more than 10% below that which is 'generally charged in other premises'*', in our view carries the significant risk of stifling competition and innovation in the market and creates

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<sup>2</sup><http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/P%20Alcohol%20and%20Licensing%20strategy%2020131224.pdf>

<sup>3</sup>[http://www.cicra.gg/\\_files/CICRA%2014-06%20groceries%20final%20report.pdf](http://www.cicra.gg/_files/CICRA%2014-06%20groceries%20final%20report.pdf)

<sup>4</sup><http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20Price%20comparisons%20June%202015%2009092015%20SU.pdf>

<sup>5</sup><http://www.gov.je/SiteCollectionDocuments/Health%20and%20wellbeing/R%20Alcohol%20Profile%202015%2020151112%20MC.pdf>

upwards pressure on pricing, potentially disadvantaging consumers. From a competition perspective the continuation of that specific restriction is not one CICRA supports in the current context. Its application from on-licence to off-licence premises would give rise to greater concerns rather than reduce them (See Annex 1).

Consumers are, in CICRA's view, best served by a regulatory structure that is applied consistently to all, regardless of whether they are currently considered to be 'on' or 'off' licence. Suppliers of alcoholic beverages should be able to freely and equitably compete with each other, whether this is on price, quality of service, value for money or on any other basis.

CICRA is concerned that, while it could be argued a level playing field would be created by extending the current policy 'to apply restrictions on promotion, pricing policy and other acts to all licenses, including off-licences', this would disadvantage the majority of responsible consumers who could end up paying more than necessary for the price of their alcoholic beverages.

The States of Jersey 'Comparison of consumer prices – June 2015' published by the Statistics Unit reports that

- Over the last ten years, the average price of alcoholic drinks has increased by 49% in Jersey (compared to 55% in Guernsey and 36% in the UK)
- The average retail prices of alcoholic drinks in Jersey were between 13% and 20% higher than those in the UK
- The average pre-tax prices of alcoholic drinks in Jersey were between 31% and 48% higher than those in the UK.

The Alcohol and Licensing Strategy for Jersey report that

- In 2014 an average of 12.1 litres of pure alcohol was consumed per capita, around 2 litres (14%) per capita less than in 2004. Jersey consumes more alcohol per capita than its near neighbours and in comparison with the average of OECD countries.

From the data provided above it can be derived that demand for alcohol is inelastic, i.e. that a rise in the price of alcohol does not lead to a significantly lower reduction in demand. On that basis, seeking to continue to increase the price of alcohol which is already high may not deliver the policy outcomes that the States of Jersey is seeking. From a competition perspective this disadvantages the majority of the population by impacting on the ability of the market to work effectively.

### **Consideration of fee structures**

CICRA suggests that fees set under a new fee structure should reflect two different types of cost

1. Costs associated with the administration of a licence – generally these would be common to all licensees
2. Costs associated with the wider enforcement of a licence – these could differ between different classes of licences as they currently stand.

## Conclusion

The aim to ensure a more even competitive playing field in the provision of alcoholic beverages is one CICRA fully supports. The impact of the new Liquor Licensing Law for Jersey may however not deliver a market for alcoholic beverages that operates in the best interests of the vast majority of responsible consumers, even if the playing field is made more even, if it also perpetuates or introduces features that result in a stifling of competition in the wider market. Such a consequence would not incentivise efficiency and innovation and is unlikely to deliver value for money to consumers. In this response CICRA has sought to highlight aspects where such risks appear more likely. While other policy considerations may be of greater importance, policy formulation that seeks to reduce the negative impact on the health of markets to the fullest extent possible is also an important priority.

CICRA is keen to work with the States of Jersey to support the development of this law and would welcome the opportunity to discuss its consultation response.

Yours sincerely

A handwritten signature in dark grey ink that reads "Louise Read". The signature is written in a cursive, slightly informal style.

**Louise Read**

Director