



Green Paper

Competition, Licensing and Regulation in the Car and Passenger Ferry Market

10 June 2010

Purpose

To review the car and passenger ferry market in the Channel Islands and obtain public opinion on service levels, fares and associated competition and regulatory options.

Type of Consultation - Green Paper

Closing date 2 September 2010

Summary

The paper reviews competition, licensing and regulation in the car and passenger ferry market.

Current position

Jersey has legislation which requires operator to apply for a licence to provide services and to get approval for changes in fare levels. Guernsey is considering the enactment of similar legislation and the paper is drafted on the basis that this will happen. In the meantime Guernsey has in place informal agreements.

The current joint Channel Island policy leaves the door open for new operators at any time. However, it expects operators to offer a robust, reliable service which is sustained year round.

The requirement to provided services over and above what might be justified on purely commercial grounds will inevitably be reflected in fare levels.

Customer views

Condor's customer satisfaction surveys show that Channel Island residents are mostly satisfied with the quality of service. Jersey social surveys show

Your submission Please note that consultation responses may be made public (sent to other interested parties on request, quoted in a published report, reported in the media, published on www.gov.gg www.gov.je listed on a consultation summary etc.)

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that the conventional service to the UK is seen as vital by almost all respondents and that fast ferries are also important. However, fares for private vehicles on the St Malo route were considered too high by many respondents.

Competition

External advice has concluded that winter competition does *not* appear to be financially viable and that summer competition may also not be viable, although it cannot be ruled out, particularly on the route to St Malo.

Regulation

Regulation is currently undertaken by the relevant States Departments in Jersey and Guernsey taking advice from expert regulators when necessary. This approach could be enhanced by introducing permit conditions which require publication of audited fare comparisons and performance data. This evidence would then be taken into account when permits were due for renewal. Volume targets and a commitment to sell a minimum proportion of 'offer' fares could also be considered.

Alternatively an independent regulator could be appointed to oversee ferry services in both islands and could assume responsibility for price regulation but this would require the introduction of new legislation and could cost £250,000 or more a year. If this were funded from operator licence fees, it could result in increased fares.

Conclusions

Overall, research shows that some Channel Island fares were high in direct comparison with services provided in other jurisdictions. However, many of the comparator services were not subject to a requirement to provide specified levels of service and/or they benefitted from a subsidy on fares.

Fare levels might be lowered in the long term by reducing the minimum level of services required from operators if this was acceptable to the community.

The existing regulatory arrangements, appropriately enhanced, may provide adequate tools to regulate fares at a low administrative cost. A greater degree of regulation in order to influence fares, either because there is a single operator or to manage competition, would incur greater costs and may or may not result in lower fares.

It will be important to look at differences in the consultation responses from Jersey and Guernsey. The current sea transport policies will be reviewed in light of the findings.

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Further information

The executive summary, the Green Paper and questionnaire can be downloaded from:

www.gov.gg/ccm/navigation/commerce---employment/published-reports and www.gov.je/Government/Consultations/Current .

If you have any questions, please contact:

Guernsey: (01481) 234567

Jersey (01534) 448138

Please send your comments, marked "Ferry Fare Regulation" to:

e-mail: sealinksconsultation@commerce.gov.gg or FerryConsultation@gov.je

or write to:

Guernsey

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GY1 6AF

Jersey

Director of Strategic Development
Economic Development Department
Jubilee Wharf
24 Esplanade
St Helier
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Closing Date

2 September 2010

This consultation paper has been sent to:

Chairman, Jersey Economic Affairs Scrutiny Panel
Condor Ferries
Chambers of Commerce
Confederation of Guernsey Industries
French Home Owners Association
Guernsey International Businesses Association
Guernsey Transport Users Committee
Institute of Directors
Jersey Competition Regulatory Authority
Jersey Commercial Port Users Association
Jersey Consumer Council
Jersey Harbours
Jersey Hospitality Association
Jersey Tourism
Office of Utility Regulation (Guernsey)
Parish Halls (Jersey)
States Members
States Departments / Chief Officers

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States of Jersey Economic Development Department &
States of Guernsey Commerce and Employment Department

GREEN PAPER - Channel Island Ferry Services

Competition, Licensing and Regulation in the Car and Passenger Ferry Market

Executive Summary

Exec 1. Introduction

This paper reviews Competition, Licensing and Regulation in the Car and Passenger Ferry Market and in particular:

- The current level, quality and prices of services being provided;
- The levels and quality of services required in today’s circumstances and whether or not it would be acceptable to reduce these in order to achieve lower prices;
- The security of services desired and how this may best be achieved through competition and/or licensing;
- The possible benefits and costs of increasing the degree of regulation of services involving the Jersey Competition Regulatory Authority (JCRA), the Guernsey Office of Utility Regulation (OUR) or other similar body.

Sea transport links are strategically important for the islands. We need reliable and reasonably-priced services of sufficient quality and frequency to meet the needs of residents, the business community and tourists.

It is also vital to have year-round and robust sea links. We recognise this is less profitable for operators and that the extra cost has an impact on the low fares passengers would like.

Recent experience of competition on the St Malo route, together with the findings of a new report by OXERA, make it timely to review the current arrangements and whether they are sustainable.

We hope many Islanders will respond to this Green Paper. It is not a statement of a firm government view but a review of options. This means your participation really does count and will influence the outcome.

Senator Alan Maclean



Minister for Economic Development in Jersey

Deputy Carla McNulty Bauer



Minister for Commerce and Employment in Guernsey

Exec 2. Current Regulation and Service Provision

2.1 Policy and Regulation

The current joint Channel Island policy leaves the door open for applications from new operators at any time. However, it does expect operators to offer a robust, reliable service which is sustained year round. This is seen as quite a high barrier to entry to the market.

2.2 Current Carryings

The majority (55%) of ferry users are *non*-resident. As unit costs are significantly influenced by *total* demand, this means that any change in policy must recognise and safeguard the tourism (i.e. non-resident) business as much as it tries to assist the resident population.

Jersey has far greater passenger travel to and from France than Guernsey so it can be expected that there will be a difference in the way the two islands see the route network as a whole.

2.3 Condor Fare Statistics

Condor provided some excellent information on fares. Points to be noted are:

- Price Rises - When maximum and minimum fares on each route are looked at in isolation then *over time* there appears to be little or no evidence of unfair price *rises*. In comparison with the Jersey retail price index the trend appears very reasonable.
- Turn up and Go - Residents who make the decision to go away only a day or two before travelling are more likely to pay near or at the maximum fares, whereas others may benefit from special deals. If a higher proportion of residents do this than non-residents then the average price of a fare will be higher for them than for the non-resident.
- Winter services and back-up vessels - Peak prices are high but the operator is required to provide a year-round service and runs both a conventional ship and fast ferries on the northern route. This commitment raises operating costs and skews the comparison with other markets because it might not be a factor elsewhere. In addition, the ferries serving Jersey are relatively small compared to, say, other cross-channel routes and unit costs tend to fall with vessel size.
- Frequent Traveller Club – This offers discounts to regular users. 89% of members are Channel Island residents. Whilst these people have to pay to join the Club, they clearly benefit in a way that will not be shown in peak fare data.
- Local research – Independent local research shows that the average prices paid by local residents can differ from that paid by non-resident travellers. The difference is in some cases to the benefit of the local resident but in others it is the non-resident traveller who benefited. So, at least from this research there is no clear indication that local people pay more than non-locals.

Up-to-date, externally verified statistics could provide comparisons on peak fares, average fares by origin of booking, the rate of return on investment and the proportion of local residents who pay peak fares compared with non-residents.

2.4 Reliability

Condor measures its reliability. Typically over 95% of scheduled services do actually run and for the conventional ferry this is close to 100%. Punctuality is good too and between 72% and 85% of sailings are on time or within 15 minutes of schedule. The current arrangements give reliable and robust services, which are frequent and year-round.

Exec 3. Customer Views

Condor's customer satisfaction surveys show that Channel Island residents who took part are mostly satisfied with the quality of service.

The 2008 Jersey Annual Social Survey (JASS) looked at the UK routes. It showed that the conventional service is seen as vital by 99% of respondents and the fast ferries as important for 61%. Winter services and reliability were also seen as very important but cost remained a prime consideration.

The 2009 JASS looked at the St Malo route. It showed winter services and reliability to be important. 66% thought foot passenger fares were good value but private vehicle fares were felt to be too high by 61% of respondents.

Exec 4. Fare comparisons with other routes

Research compared peak and off-peak fares against 34 routes worldwide. This shows that some Channel Island fares were high in comparison with other similar services. However, such comparison does not take account of the fact that the islands get expensive back-up and winter services from a commercial non-subsidised operator.

The United Kingdom's Office of Fair Trading warns that fare comparisons are extremely difficult, with a large number of factors to consider. Per-mile costs may be misleading, since on short crossings the cost of port facilities and the time taken to load and unload are significant parts of the overall cost.

Nevertheless, this research shows whilst some Channel Island fares were high in comparison with other similar services, there is also evidence of good value for money.

Exec 5. Operator Efficiency and Profitability

These are key factors that are directly linked to the current fare levels and structure.

An in-depth efficiency and profitability review would be necessary to understand the true situation. Such a review would also provide insights into the possible scope of future regulation of the profitability and pricing structure of the services. However, such a review could be costly and intrusive and would be easier to conduct with the full cooperation of the operator. Otherwise the review would need to be conducted with mandatory information gathering powers such as those available to the JCRA and due to be made available in Guernsey. An efficiency review may therefore be a disproportionate measure at this stage.

Exec 6. Experience in other Jurisdictions

6.1 Isle of Wight Study

The UK's Office of Fair Trading (OFT) looked at whether there were grounds to mount a formal investigation into Isle of Wight ferry services. They concluded there was *no* need for further investigation. They warn against imposed competition solutions (such as tendering of routes) that could be very intrusive and against regulatory solutions (fare regulation) that could have an adverse impact on future levels of investment by the ferry operators. One positive outcome is that the ferry operators have agreed to publish more information that will help passengers hold them to account.

The comparison with the Channel Islands is instructive but a number of aspects are quite different. It is therefore possible that more competition or further regulation could assist.

6.2 Isle of Man Experience

The Manx government regulates the single operator in a similar way to how things are done here in the Channel Islands. An additional element is the requirement for 'offer' fares and the company offers some 80% of fares at considerably less than their agreed maximum levels in order to increase the volume of traffic.

Fare control for standard or maximum fares may thus be less important than this volume based approach. Further work might be worthwhile to see if what is achieved there could work here.

Exec 7. Future Competition, Licensing and Regulation in the Channel Islands

7.1 The Supply of Ferry Services – OXERA Research and Policy Options

OXERA was commissioned to give advice on options in the best overall interest of the Islands. Some key conclusions are:

- Winter competition does *not* appear to be financially viable in the long term.
- Summer competition also appears not to be viable because operators have to provide extra capacity to remain competitive but then have to offer discounted fares to attract enough passengers. However, competition cannot be ruled out, particularly on the southern route.
- There are important interactions between the freight and passenger markets: Fast passenger vessels carry some light freight, while the conventional ferry carrying freight on the northern route provides back-up capacity for passenger services.

There are a number of policy options. In practical terms these offer the following choice:

- **Option 1: non-exclusive licences, subject to obligations.** There would be an obligation to operate a winter service backed by a performance bond, or a summer only service but paying towards the cost of winter services. An independent regulator would advise in setting the cost of the winter service and overseeing the associated agreements.
- **Option 2: licensed monopoly, with obligations.** As this would involve an exclusive agreement, it is felt that this would have to be implemented through a tender process as described in Option 4.

- **Option 3: maintain status quo.** Permits would be non-exclusive and continue to be awarded on the basis of financial and operational capability to operate a year-round service.
- **Option 4: licensed tendered monopoly.** A contract to run the CI-UK and CI-France routes would be awarded to a single operator through a competitive tender for a specified duration (e.g. 10–15 years). The successful bidder would agree minimum standards including quality, back-up capacity, fares policy and financial resources.
- **Option 5: separate licensed monopolies for the northern and southern routes.** Two *separate* permits, one each for the northern and southern routes, to be held by different companies. This could only be considered if the routes were separately sustainable and if by separating the routes we might enhance the prospects for competition. The OXERA evidence is that this is *not* currently the case.

Adopting one of the new options and enhancing fare regulation would require greater input from an independent regulator and would probably require new legislation.

7.2 Channel Island Options

A Sector-specific regulatory regime

If there is a real case for it, a regulator appointed to oversee the ferry services in both islands could assume responsibility for price regulation. Even with the minimum 'light touch', the JCRA advise that there would be a need for robust information gathering powers, the power to impose price controls and the ability to impose fines for regulatory infringements.

The JCRA estimates that this type of regulation would cost, in current terms, around £250,000 a year and that this could be funded by operator licence fees. There is a risk that the operator might seek to cover this extra expense by increasing fares.

Increased regulation by the States of Guernsey and Jersey

The existing joint Channel Island Policy Statement could be revised to include formal agreement between the Islands to manage the oversight of permits together. Permit conditions could include an absolute requirement to publish externally audited fare comparisons and performance data. This evidence would then be taken into account when permits were due for renewal. Volume targets and a commitment to sell a minimum proportion of 'offer' fares, as has been developed in the Isle of Man, could also be considered.

The involvement of the regulators would continue as now and regular fare reviews could be carried out on behalf of the relevant Minister(s). Comparisons would be published as a way of indicating the possible existence of any unfair pricing. Occasional reassessments of whether a dominant market position existed and how that affected consumers could take place. This would be done within the existing legal frameworks¹. If reviews then showed that fares were not commercially justifiable the operator could be asked to introduce lower average and maximum fares.

The presence of a summer only operator or more formal price regulation would not be suited to this form of regulation. These matters could be kept under review as options to be developed if there is evidence of significant detriment to travellers in the future.

¹ In Jersey this would mean using article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001 and, where relevant, Part 5 of the Competition (Jersey) Law 2005.

Exec 8. Conclusions

Research has shown that unrestrained competition is unlikely to work. Hard-won stability and reliability could be undermined. There are a number of other options to consider but they vary in complexity and cost.

Overall, fares may not be unreasonable but more comparative statistical research, published on a regular basis along with greater price transparency could help to establish whether they are too high or genuinely competitive.

The existing arrangements, appropriately enhanced, may provide adequate tools to regulate fares and at a low administrative cost. However, as long as there is only one car ferry operator, legislation and independent oversight might appear to be a better option. If there are other interested operators, then a mechanism under which operators either deliver a winter service, or pay towards the costs of the winter service provider, is essential. This will require independent regulatory support.

It will be important to look at differences in the consultation responses from Jersey and Guernsey. If appropriate, the current sea transport policies will be reviewed.

Consultation

Please do take part in this consultation: The Ministers invite views from interested parties given, among other matters, the high level of public interest and engagement in this case among residents of the Islands. In particular views are invited regarding

- The current level, quality and prices of services being provided;
- Whether or not it would be acceptable to reduce the level or quality of services in order to achieve lower fares;
- The security of services desired and how this may best be achieved through competition or licensing or a combination of both;
- The option to make a formal request to the JCRA to carry out an operator efficiency review using existing powers.
- The possible benefits and costs of increasing the degree of regulation of services involving the Jersey Competition Regulatory Authority (JCRA), the Guernsey Office of Utility Regulation (OUR) or other similar body;

A **questionnaire** can be downloaded directly from <https://www.surveymonkey.com/s/ChannellIslandFerries>

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