

10<sup>th</sup> June 2019

Dear Mr Vane,

I write in response to your request for comments on the JOIC Revenue Model No.1/2019.

This is as a co-ordinated response on behalf of the members of the Jersey Retail Association which represents 50 retail businesses in Jersey from small owner manager business to the largest retail employer on the island with 757 staff. Our members are located in 10 of the 12 parishes on the island and include traditional retail as well as food and the motor trade, but not wholesale business.

I have set out our response under the headings of particular interest as stated in the document.

*“Whether you consider the proposed fee model to be fair”*

To consider if the proposed fee model is fair, I have referred to the fee model of the UK ICO where the registration fee is £40 for a small retail business or £60 for a medium one. If the 930 retail businesses currently trading in Jersey were registered in the UK only 3% would pay above £60.

As part of our consultation we looked at actual sales and workforce numbers to assess the proposed cost increase for them. The proposal to remove extra charging for sensitive data specifically for staff records, and the separate AML charges (no retail businesses reported a AML compliance requirements) will certainly reduce the burden on smaller firms.

The suggested bandings for staff numbers do keep the process simple, but they do mean 80 small businesses would pay a significant registration fee. In addition, a £500k turnover may sound large to a consumer or layperson, but turnover is not profit, and when evaluating fairly if a business can pay a fee, it is profit that dictates available funds, not turnover.

However, the increases in registration cost are still steep rises in a one-year period, and significantly higher than the UK example model.

Three small businesses with under 10 staff and all trading under £500k a year with no special category data or AML will rise from £50 to £70 a 40% cost increase in one year, and 75% more than the UK model.

Four small businesses with over 10 staff all trading over £500k a year would have a rise from £50 to £550 a 1000% rise in one year, and 817% higher than the UK. Of those four businesses one employs 11 staff one 12 one 15, still very small businesses.

A further question is whether the structure of Jersey’s ICO and income requirements are appropriate. The draft model clearly has a fee structured based on raising a desired income of approximately 1.8million<sup>1</sup>

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<sup>1</sup> Approximation from the comment that all registered business would have to pay £400 in a flat fee format, and that 4501 business were registered by the Jersey ICO Dec 2018

In the UK the ICO processed 500,000 registrations during 2018 with a staffing of 49<sup>2</sup>. The Jersey ICO has an approved organisation chart showing 16 roles<sup>3</sup> and processed 4501 registrations by December 2018.

Does the Island need this disproportionately large number of staff to regulate data protection in Jersey because of the complex needs of our finance and professional services industries? Has the proportion of time spent per industry by ICO Jersey staff been reflected in this modelling or are our other industries unfairly being asked to subsidise complex needs that they do not have?

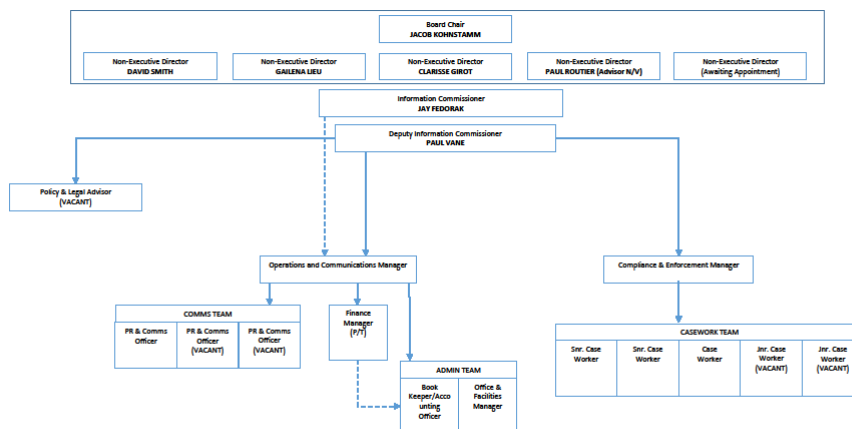
*“Any potential adverse impact of the application of the fees on the economic interests of the island”*

The costs to trade in Jersey have increased significantly over the last two years, any increases in cost effect retail businesses ability to maintain a profit and continue trading. This is especially challenging as retail businesses are shrinking each year as spending moves online. Investment is the only way for retailers to maintain their trading levels and this investment is being stifled by rising costs. The industry’s response showed a unified dissatisfaction in the number of costs being levied directly on business from a flurry of changes in Government Policy and legislation. While we understand the need and, in most cases, support change. The “user will pay” model is being used far too often as the solution to Government’s budget deficit and is ill timed for retail. Ultimately, the accumulation of these charges will cause the reduction of the industry that were experiencing to accelerate.

*“Comment on the ease of use of the registration process”*

The draft model is very well devised in relation to the process of registration. We welcome the simple approach of drop-down categories relating to what fee should be paid, rather than the current registration process that is overly complicated and confusing for many businesses.

## Appendix 1



Organisation Chart for Data Protection Authority/JOIC

June 2019

<sup>2</sup> UK ICO staffing model <https://ico.org.uk/media/about-the-ico/documents/2614564/ico-organogram.pdf>

<sup>3</sup> Appendix 1

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