



Competition (Jersey) Law 2005 Guidelines

8. How to Make a Complaint

Draft

1. Introduction

The Competition (Jersey) Law 2005 ('the Law') prohibits anti-competitive arrangements and abuses of dominant position within Jersey, (or part of Jersey). The Law also prohibits parties to certain merger and acquisitions from executing such transactions without the prior approval of the JCRA. The JCRA is entitled to conduct an investigation under the Law if it has 'reasonable cause to suspect' that a person is in breach of one or more of these requirements.

The JCRA may have 'reasonable cause to suspect' an infringement from what its staff read in the newspapers, from market intelligence, or from anecdotal evidence. However, since the facts giving rise to a potential infringement are not usually in the public domain, the JCRA will rely greatly on information it receives directly from businesses or customers who are victims of anti-competitive behaviour. It therefore encourages businesses and customers with evidence of such behaviour to provide such evidence to the JCRA in the form of complaints. The JCRA will then examine the complaint to see if it has grounds to commence an investigation under the Law, and if so, will commence an investigation if appropriate.

The purpose of this Guideline is to help consumers, businesses and their advisers on how best to present a complaint to the JCRA under the Law, so that the JCRA can deal with it in an efficient and timely manner.

Complaints should be in writing

The JCRA cannot investigate complaints which are spurious, or are unsupported by factual evidence. For this reason, complaints should be made in writing, using the Complaint Form attached in the Annex to the Guideline. The Complaint Form requires the complainant to certify that the information is correct to the best of the complainant's knowledge and belief. In the case of a company, the form must be signed by a Director or the Company Secretary. The following paragraphs are an explanatory guide to the contents of the Complaint Form.

Which part of the Law do you believe to be infringed?

The Law prohibits anti-competitive arrangements between two or more businesses, abuse of a dominant position, and the execution of certain mergers and acquisitions without JCRA approval. Guidance on each of these prohibitions is contained in the JCRA Guidelines **Anti-Competitive Arrangements**, **Abuse of Dominant Position** and **Mergers**. It is important to identify which of these prohibitions you believe has been infringed and why: the JCRA cannot investigate complaints which do not fall within the

scope of the Law and are more appropriately addressed to other bodies such as Citizens Advice Bureau, Consumer Council or Jersey Financial Services Commission.

Which business or businesses do you believe have infringed or are infringing the Law?

You should give details of the businesses you believe are party to the arrangements or conduct in question. The concept of 'anti-competitive arrangements' includes decisions and recommendations by trade associations and professional bodies (see Guideline on **Trade Associations and Professions**). If you are complaining about such a decision or recommendation, please specify the relevant organisation.

Facts

It is important to provide the JCRA with the full facts of the case and as much supporting evidence as possible, to enable the JCRA to process the complaint in an efficient and timely manner. The facts should clearly specify the products or services in question, the chronology of events (if applicable) and any contacts with the businesses concerned regarding the subject matter of the complaint. In the case of abuse of dominant position you should explain what is the relevant market and why you believe the company is dominant.

Urgency

Please indicate whether the matter is urgent, and if so, explain why. (The JCRA must prioritise cases rigorously according to the Jersey public interest and therefore – while requests for urgent actions will be carefully considered – no assurance can be given in advance as to whether and if so when the complaint will be processed).

Confidentiality

Please specify clearly whether any of the contents of the complaint form are confidential or contain commercially sensitive information. Please also confirm whether we may disclose your identity to the business or organisation you are complaining about.

We will consider any requests for your identity to be kept confidential provided full reasons are given for the request. However, in our experience such disclosure normally enables investigations to be conducted more effectively.

In some cases your identity may be apparent to the business or organisation complained about when we inform it we have received a complaint. Please note that we will publish on our website the fact that an investigation has been opened, a brief description of the

subject matter, and the business or organisation you are complaining about. We will not publish your identity on our website (unless you confirm you are happy for us to do so) although we will state whether the investigation has arisen from a complaint.

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Annex

Competition (Jersey) Law 2005 ('the Law')

Complaint Form

1. Please indicate which provision of the Law you believe has been or is being infringed.

Empty response box for question 1, containing a large diagonal 'DRAFT' watermark.

2. Please indicate which business or businesses you believe has committed or is committing the infringement, and give a brief explanation of why you believe this is the case.

Empty response box for question 2, containing a large diagonal 'DRAFT' watermark.

3. Please give a full description of the facts which give rise to the infringement, i.e. details of the alleged anti-competitive arrangement, abuse of dominant position or merger including a chronological list of key dates and events, if appropriate. In the case of abuse of dominant position, please specify the relevant economic market and why you believe the business in question is dominant in that market. Please provide as much supporting evidence as possible (e.g. correspondence, notes of telephone conversations, contracts, terms and conditions, etc).

Empty response box for question 3.

4. Please explain (if applicable) how you believe competition has been or will be adversely affected by the arrangement, conduct, or merger in question.

Empty response box for question 4.

5. Please indicate whether the matter is urgent, and if so explain why.

Empty response box for question 5.

6. Please indicate whether any of the contents of this complaint are confidential and if so explain why. Please confirm whether we can disclose your identity to the businesses who are the subject of your complaint. If you wish your identity as complainant to be kept confidential please explain clearly why this is the case (for reasons mention in the Guideline, **‘How to make a complaint to the JCRA’**, the JCRA will endeavour to keep your identity confidential where there are strong reasons for doing so, but depending on the circumstances there can be no guarantee that your identity will not become known to the businesses in question).

Empty response box for question 6.

I certify that the information contained in this form is correct to the best of my knowledge and belief.¹

Signed.....

Name.....

Position in Company
(if applicable)

Date.....

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¹ Under Article 55 of the Law, it is an offence to provide the Authority, knowingly or recklessly, with information which is false or misleading in a material respect.