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**EXEMPTION APPLICATION FORM**

Under Article 9 of the Competition (Jersey) Law 2005

Effective from 10 August 2010

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## **Introduction**

The Law provides that any parties involved in an arrangement that is captured by Article 8(1) (a “**restrictive agreement**”) of the Competition (Jersey) Law 2005 (the “**Law**”) can apply to the JCRA to request an exemption under Article 9(1) of the Law. This Exemption Application Form provides a framework for supplying the JCRA with the information it would normally require to consider an Application.

Prior to submitting an Application to the JCRA, parties should read the instructions below and Guideline 9 Applications for Guidance and Exemption, which is available on our website at [www.jcra.je](http://www.jcra.je).

## **The Need to Submit Accurate and Complete Information**

The Application must be submitted by one or all parties to such arrangements (the “Applicant(s)”). The Applicant(s) must, however, be capable of certifying the accuracy of the information contained therein. If only one Applicant signs the application form it must state whether or not it has the consent of the other party or parties to the arrangement and if not, why not.

The Law makes it a criminal offence to knowingly or recklessly provide the JCRA with information that is materially false or misleading. The JCRA also may delay its investigation, or refuse to approve an exemption for an arrangement, if the Applicant(s) do not provide all the required information. Any estimates provided in an Application should be identified as such and be the best estimates of the underlying facts. Any opinions expressed in the Application must be held sincerely.

The Exemption Application Form is intended to assist Applicant(s) to provide information to the JCRA in a structured form, and to provide some level of comfort that the information requested in the Exemption Application Form will generally be sufficient to assess an Application for Exemption. Applicant(s) may consider that any particular information requested in the Application may not be necessary for the JCRA’s examination of the arrangement

## **Confidentiality**

The Law requires the JCRA to keep confidential non-public information it receives during the assessment of a request for an exemption. This restriction does not apply to information for which the JCRA receives consent for disclosure. The Applicant(s) must

clearly indicate the information contained in or submitted with the Application they believe is confidential and not subject to disclosure by the JCRA to third parties. You also must give reasons why this information should not be disclosed. After receipt of a completed Application, the JCRA will contact you to confirm the scope of confidentiality. The JCRA shall deem both the Applicant and, if different, the person to whom the information relates, to have consented to the disclosure of information contained in or submitted with the Application that has not been indicated as confidential.

### **Other Instructions & Definitions**

Unless otherwise identified, definitions of terms used in the Application are the same as in the Competition (Jersey) Law 2005.

‘Contact details’ means, for an individual, the person’s name, title, company, business address, telephone number, fax number, and email address; and for an undertaking, means a contact person, his or her name and title, and the organization’s address, telephone number, fax number, email address, and Internet website.

‘Parties’ means all and any parties to the arrangement, including all undertakings which are affected by the arrangement.

All references to the word ‘year’ in the Application mean calendar year. Unless otherwise stated, all information required in the Application must relate to the year preceding the entry into force of the arrangement.

All financial data must state the appropriate currency.

Applicants should refer to the Guidelines and the criteria in Article 9(3) of the Law in responding to the Application.

### **Submission**

Submit two complete copies of the Application, along with any attachments, to the JCRA at the following address:

Competition Law Department  
Jersey Competition Regulatory Authority  
2<sup>nd</sup> Floor, Salisbury House, 1-9 Union Street  
St. Helier, Jersey JE2 3RF

Responses must be submitted in accordance with the Requirements listed in this Application, attaching any required documentation. For clarity, responses to Requirements may be presented in one or more annexes. One copy of the Application must contain a completed declaration, signed on behalf of the Applicant. Copies of colour documents included with an Application must be submitted in colour. The Application must be completed in English, and English-language translations must be provided of any foreign language documents included with the Application.

**Questions**

Questions concerning the Application or the information required may be directed to the JCRA at the address provided above or by calling +44-(0)1534-514-990 or emailing [enquiries@jcra.je](mailto:enquiries@jcra.je).

## **1 Preliminary Information**

- 1.1 Provide the contact details of the parties to the arrangement including the name, title, address, telephone number and email of the contact person.
- 1.2 Provide the contact details for the parties' authorised legal representative(s).
- 1.3 Indicate whether the parties are making a joint application.

## **2 Description of the Arrangement**

- 2.1 Provide a summary of the agreement between the parties setting out the arrangement and all ancillary agreements that the parties have signed or intend to sign. If the arrangement is in writing please provide a copy of the final version or the latest draft.
- 2.2 Explain with express reference to clauses in the agreement why you consider the arrangement to be anti-competitive. Please refer to the types of arrangement detailed in Article 8(2) of the Law if applicable.
- 2.3 Confirm whether the arrangement is a unique arrangement or part of a category of practices, either involving at least one of the parties to the arrangement or involving other undertakings than the parties active in the same sector.
- 2.4 Provide details of how long the arrangement has been in place.

## **3 Effects on Competition**

- 3.1 Provide a description of the competitive situation in the market/ industry affected. Please give details of to market shares, competitors, suppliers and consumers and detail what substitutable products exist to those covered by your arrangements.
- 3.2 Explain in full, with express reference to each of the following four criteria detailed in Article 9(3) of the Law, why you consider the arrangement satisfies the criteria for exemption:
  - 3.2.1 Is likely to improve the production or distribution of goods or services, or to promote technical or economic progress in the production of goods or services;

- 3.2.2 Will allow consumers of those goods or services a fair share of any resulting benefit;
  - 3.2.3 Does not impose on the undertakings concerned terms that are not indispensable to the attainment of the objectives mentioned in 3.2.1 and 3.2.2; and
  - 3.2.4 Does not afford the undertakings concerned the ability to eliminate competition in respect of a substantial part of the goods or services in question.
- 3.3 Provide details as to the duration of the exemption sought. Explain when you would like to exemption to be effective from, giving reasons if you are requesting any retroactive effect.
- 3.4 Provide details, including dates, in respect of other exemptions sought by the any of the applicants in the past.
- 3.5 Provide a brief assessment of any other features that the JCRA should take into account in considering the effect of the arrangement.

## Declaration

I declare that:

- The information given herein and in any appendices and attachments hereto is, to the best of my knowledge and belief, accurate and complete, that all estimates are identified as such and are the best estimates of the underlying facts, and that any opinions expressed herein are sincere.
- Photocopies of any documents submitted with this Exemption Application Form are exact duplicates of the original documents.
- I have read and am aware of the provisions of Articles 8, 9 and 55 of the Competition (Jersey) Law 2005.
- I have the authority to sign this declaration on behalf of [one party/all parties] (*please delete as appropriate*) to the arrangement.<sup>1</sup>

**First:**

**Second (if necessary):**

Signed:

Signed:

Name: (block letters)

Name: (block letters)

Company:

Company:

Position: (block letters)

Position: (block letters)

Date:

Date:

For and on behalf of:

For and on behalf of:

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<sup>1</sup> If necessary, attach signed Power(s) of Attorney or similar written authorization showing authorization to sign on behalf of the notifying parties.