

JCRA Media Release

31 October 2005

The Competition (Jersey) Law 2005 Comes into Full Force

The Jersey Competition Regulatory Authority (JCRA) welcomes the coming into full force of the Competition (Jersey) Law 2005 (the Law) on 1 November. From that date, anti-competitive arrangements and abuses of dominance will be prohibited, and punishable by potentially large fines and other remedies.¹

Part 2 of the Law prohibits businesses from participating in arrangements that have the object or effect of appreciably hindering competition in any part of Jersey. This includes cartels, where competitors agree on prices or production in an attempt to increase their own profits at their customers' expense. Part 3 of the Law prohibits abuses of dominance, where a dominant business either exploits or maintains its commanding position through anti-competitive actions. Parts 2 and 3 of the Law come into force on 1 November. Part 4 of the Law, which empowers the JCRA to review mergers and acquisitions and prohibit those that threaten to substantially lessen competition in Jersey, has been in force since 1 May 2005.

Bill Brown, Executive Director of the JCRA, said:

'The coming into force of Parts 2 and 3 of the Law now means that the JCRA has a full set of powers to take action against a wide range of anti-competitive activity, whether in the form of cartels, abuses of dominance, or anti-competitive mergers. Jersey has thus joined many other countries across Europe and beyond in seeking to ensure a fair and level competitive playing field through the application of competition law. Experience abroad indicates that increased competition can contribute to lower prices, increased innovation, increased quality and greater choices for consumers.'

¹ Under the Law, the JCRA may order that infringing activities be stopped, and can impose fines of up to 10% of turnover for a maximum period of three years. In addition to remedies imposed by the JCRA, aggrieved parties in civil actions may seek damages, including punitive damages, against alleged Law infringements.

The Law's prohibitions apply to any entity or individual carrying on a business in the Island, and cover States authorities to the extent they carry on a business.

Focussing on price-fixing as a particularly serious issue, Mr. Brown said:

'Competition on price goes to the very heart of what the Competition Law seeks to protect. Thus, any arrangement among competitors that has the object or effect of inhibiting their ability to compete against each other on price raises the possibility of a serious breach of the Law, and potentially severe penalties. Stated simply, agreements to fix or raise prices are now illegal.'

Effective enforcement of the Law will depend, in large part, on the informed participation of consumers and businesses in Jersey. In preparation for the Law taking full effect, the JCRA has participated in numerous seminars and meetings with businesses, consumers, and States officials, in an attempt to explain the Law and the activities it prohibits. The JCRA also has published nine guidelines on the Law, all available on www.jcra.je, the most recent of which is on seeking guidance or exemptions under the Law from the JCRA. It also published last week its final cartel detection strategy, which offers either total immunity or a reduction in penalties to any business involved in a cartel that is prepared to disclose information about the cartel on a confidential basis to the JCRA.

Mr. Brown concluded:

'As a result of the JCRA's efforts to explain the Law and what it prohibits, we are hopeful that many businesses will comply voluntarily and end any actions that could be potential infringements. Businesses which are concerned that a proposed arrangement or practice may not be compliant can ask the JCRA for guidance, or in some cases an exemption. Also, our cartel detection programme creates strong incentives to report ongoing cartels to the JCRA. If your business is currently in a cartel and chooses to not report your activity to the JCRA, you run the risk of leaving your business exposed to potentially severe penalties for infringing the Law. For businesses that do not comply, the public has an important role to play in helping the JCRA detect anti-competitive activity. A complaint form to report anti-competitive activity is available on our website.'

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