

JCRA Media Release

1 October 2007

JCRA Issues Draft Guideline on Distribution Agreements

The Jersey Competition Regulatory Authority (JCRA) has today issued for consultation a draft guideline explaining how the Competition (Jersey) Law 2005 (the Law) applies to distribution and other so-called 'vertical' agreements. The Guideline aims to help local businesses ensure that they comply with the Law, that their contracts are fully enforceable, and that they understand how the Law can protect them. The Guideline is part of the JCRA's programme to raise awareness and understanding of the Law.

Distribution and other vertical agreements can have many efficiency benefits, helping suppliers to penetrate new markets more effectively and increasing competition. But they can also have significant anti-competitive effects which adversely affect consumers, such as where a supplier prevents a distributor from selling below a certain price, or prevents a purchaser from sourcing alternative products without proper justification.

The Guideline aims to help businesses realise their commercial objectives in a way which complies with the Law. Failure to comply can lead to contracts being void and unenforceable, and liability to penalties and damages claims.

Even where vertical agreements contain provisions which could restrict competition, they may qualify for exemption where they have overriding benefits in terms of economic efficiency. For example, in the case of Esso's fuel supply agreement with Roberts Garages, the JCRA recently exempted the agreement from the Law, on condition that Roberts was given greater flexibility to source fuel from competing suppliers.

After consultation with the JCRA, the Economic Development Minister has not thus far decided to grant a categorical (or 'block') exemption to vertical agreements, pending further evidence as to the prevalence and effects of these agreements in Jersey. However,

the JCRA aims to keep this matter under review and to advise the Minister accordingly in due course.

Bill Brown, JCRA Executive Director, said:-

“The Law presents new challenges for businesses in terms of compliance and the JCRA wishes to help them in that process. We are publishing a draft Guideline for consultation to obtain feedback from businesses on whether it succeeds in this objective, or whether its helpfulness can be enhanced through further clarification or explanation.”

A copy of the draft Guideline for consultation is attached to this Media Release. Comments on the draft Guideline should be submitted to the JCRA by 31 October 2007.

ENDS.....

All enquiries to Chuck Webb on 01534 514990