

JCRA Media Release

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Jersey's Largest Coal Distributors Agree to Follow JCRA Mandated Code of Practice

Jersey's two largest distributors of coal products, Jersey Coal Distributors Limited ('JCD') and Patch Distributors (Jersey) Limited ('Patch'), have signed up to a Coal Industry Code of Practice (the 'Code') issued by the Jersey Competition Regulatory Authority ('JCRA'). The Code is intended to increase competition for coal products.

The JCRA's Investigation and Findings

JCD and Patch are the two largest coal distributors in Jersey. Both companies sell coal products as retailers directly to consumers. In addition, both also sell coal products as wholesalers to other retailers (such as convenience stores and petrol stations) and to independent distributors in Jersey.

In October 2007, the JCRA started an investigation of JCD and Patch under the Competition (Jersey) Law 2005 (the 'Law'). This was based on complaints that, for the past several years, the two companies appeared to charge the same or very similar prices for most coal products at any given time of the year (so-called 'parallel pricing').

Parallel pricing raises serious concerns under the Law if it is the result of an explicit or implicit agreement between competitors on the prices they will charge. On the other hand, if parallel pricing is the result of one company deciding, in its own independent discretion, to follow the prices set by another company (so-called 'price following'), this is not itself necessarily illegal. The key element is whether or not there is an agreement, explicit or implicit, between the two companies on their prices or other terms and conditions of sale.

During its investigation, the JCRA was able to confirm that there was parallel retail pricing for coal products in Jersey – both between JCD and Patch and often too between these suppliers and other retailers that had purchased coal products from them on a wholesale level. The JCRA concluded therefore that coal distribution in Jersey was

subject to market failure and not working in the interests of consumers because there was hardly any price differentiation among different sources of supply. The JCRA, however, did not find sufficient evidence to conclude that the parallel pricing was the result of any explicit or implicit agreement between JCD and Patch on prices.

The Coal Industry Code of Practice attempts to correct the main factors contributing to this market failure. In this Code, both JCD and Patch recognise that a competitive marketplace is the most effective way to protect the interests of Jersey's consumers, and that in a competitive marketplace competitors compete against each other in terms of price, quality and service. To facilitate these goals in coal distribution, both JCD and Patch have committed to:

- *Cease Issuing Recommended Retail Prices* – The evidence indicates that recommended retail prices issued annually by both JCD and Patch have contributed significantly to parallel pricing.
- *Cease Disclosing Future Retail Prices* – The evidence also indicates that parallel pricing has been greatly facilitated by announcements of future retail prices. Under the Code, neither JCD nor Patch may disclose future retail prices, but are allowed to provide customers non-quantified indications of future price changes (i.e., prices will be going 'up' or 'down'), conduct that may benefit customers.

As a result of Patch and JCD signing the Code, the JCRA has decided to close its investigation. Should further evidence suggest anti-competitive conduct with respect to the sale of coal in Jersey, the JCRA retains the discretion to re-open its investigation and take further enforcement action if warranted.

Concerning the matter, the JCRA's Executive Director, Chuck Webb, states:

The Code of Practice represents an effort by the JCRA, in cooperation with JCD and Patch, to make the coal market work better for consumers. The conduct it mandates should provide JCD, Patch and their respective wholesale customers greater incentives to independently set their own retail prices for coal products. In this environment, we urge consumers to shop

around for the best deal available for coal products in Jersey, in terms of price, quality and service.

A copy of the Code is available on the JCRA's website, www.jcra.je. All enquiries to the JCRA should be directed to the Executive Director, Chuck Webb, on +44 (0)1534 514990.

About the JCRA

The JCRA is an independent authority established by the States of Jersey to enforce Jersey's competition law and regulate its telecommunication and postal sectors. In each of these areas, the JCRA's primary mission is to promote consumer welfare through efforts that encourage lower prices and greater choice and innovation in the goods and services available in Jersey. The JCRA is recognized internationally as a leading voice in the application of competition law and policy in small economies.

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