

# JCRA Media Release

5 February 2008

## **JCRA Issues Fine under Jersey's Competition Law**

### ***German multinational TUI AG fined £10,000.00 for failing to comply with Jersey's Competition Law concerning mergers & acquisitions***

The Jersey Competition Regulatory Authority ("JCRA") has fined TUI AG ("TUI"), a company headquartered in Hanover, Germany, £10,000.00 for failing to comply with the Competition (Jersey) Law 2005 (the "Law") concerning its acquisition of First Choice Holidays PLC ("First Choice"). This is the second time the JCRA has issued a fine under the Law.<sup>1</sup>

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

*"Once again, the JCRA has taken action to enforce the provisions of Jersey's Competition Law to a multinational company. This decision underlines that the Law applies to all companies, whether local or international, and that the JCRA will not hesitate to enforce the Law irrespective of the identity of the company involved."*

The fine concerns a procedural infringement of the Law. The acquisition of First Choice by TUI required formal notification to, and approval by, the JCRA prior to its completion, based on the pre-existing business activities in Jersey of TUI's airline, Thomsonfly. The facts available to the JCRA indicated that TUI acquired sole control of First Choice by, at least, 3 September 2007 but the acquisition was never notified to the JCRA. Because of this failure to notify, the JCRA had no opportunity to assess the potential competitive effects of this acquisition in Jersey.

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<sup>1</sup> On 13 December 2007, the JCRA fined Autogrill S.p.A. £10,000.00 for failing to comply with the Law concerning its acquisition of Alpha Airport Groups plc.

Mr. Webb states:

*“The JCRA considers that the requirements concerning mergers and acquisitions set out in Jersey’s Competition Law are themselves very important and that their violation undermines the effectiveness of the Law as enacted by the States of Jersey.”*

Under the Law, infringements are punishable by fines of up to 10% of a company’s turnover during the period of the infringement. In addition, the JCRA may order companies to unwind mergers and acquisitions completed in violation of the Law’s requirements. Because the facts of this case indicated that the violation was solely procedural, the JCRA concluded that the most appropriate and proportional remedy was an administrative fine. The amount of the fine was influenced by the circumstances of the case, and in particular, that at the time of the infringement the JCRA had not yet issued a decision imposing a financial penalty. Mr Webb concludes:

*“Similar to the JCRA’s recent decision concerning Autogrill S.p.A., the JCRA has concluded that a fine of £10,000.00 is justified and proportionate, given the particular circumstances of TUI’s failure to comply with the Competition Law’s requirements concerning its acquisition of First Choice. The amount of the fine is specific to this case, and does not control the JCRA’s discretion over future matters.”*

Pursuant to the JCRA’s decision, TUI must pay the penalty by 24 April 2008. As required by the Law, the JCRA will transfer the money it receives from this penalty to the States of Jersey.

A copy of the JCRA’s decision in this matter may be obtained from the JCRA’s website, [www.jcra.je](http://www.jcra.je). All enquiries should be directed to the JCRA’s 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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