

JCRA Media Release

1 June 2009

JCRA Announces Reforms to Merger Approval Process in Jersey

The Jersey Competition Regulatory Authority (“**JCRA**”) today announced both a change in its fee structure and a public consultation regarding the merger and acquisition (“**M&A**”) thresholds. The first change, which will be effective from Friday, 5 June 2009, introduces a new fee structure for applications for JCRA approval of mergers and acquisitions under the Competition (Jersey) Law 2005 (the “**Law**”). This new fee structure significantly reduces the required fee payable for lower-value mergers and acquisitions, and specifically benefits mergers between and acquisitions of small and medium sized enterprises (“**SMEs**”). The minimum applicable fee has been reduced by 80% compared to the current fee. The second change, which is subject to public consultation, concerns proposed amendments to Jersey’s merger and acquisition notification thresholds. Specifically, the JCRA recommends reducing the number of mergers and acquisitions requiring approval under the Law, thus lowering compliance burdens.

Background concerning the Law’s Regulation of Mergers & Acquisitions

The Law states that certain mergers and acquisitions must not be executed until they are notified to, and approved by, the JCRA. The purpose of this requirement is for the JCRA to detect and prevent those mergers and acquisitions that would substantially lessen competition in Jersey or any part of Jersey. The type of mergers and acquisitions that require notification to, and approval by, the JCRA are specified in the thresholds set out in the Competition (Mergers and Acquisitions) (Jersey) Order 2005 (the “**Order**”).

Changes to the Filing Fee

The Law allows the JCRA to charge merging parties a fee to cover the costs of reviewing their proposed merger or acquisition under the Law. Since May 2005, the JCRA’s fee for a preliminary merger assessment has been £5,000. From 5 June 2009, the JCRA is replacing this flat fee by a scale of fees that increase with the merger or acquisition’s fair

market value. For mergers and acquisitions with a fair market value of below £100,000, the required fee is being reduced to £1,000. For mergers and acquisitions valued in between £100,000 to up to £1 million, the required fee is being reduced to £2,000. The current £5,000 fee will remain applicable to mergers and acquisitions valued between £1 million and £5 million. For very high valued mergers or acquisitions, the required fee is being increased to either £7,500 (for transactions valued from £5 million to £10 million) or £10,000 (for transactions valued £10 million or more). Because the new system provides the greatest reduction in fees to the mergers and acquisitions with the smallest fair market value, the JCRA's expectation and intention is for the new system to benefit, in particular, SMEs.

Consultation regarding M&A Thresholds

In addition, the JCRA is launching today a consultation on proposed changes to the thresholds that determine which mergers and acquisitions must be notified to, and approve by, the JCRA. The JCRA proposes to create two new exemptions to these thresholds, which would reduce the number of mergers and acquisitions requiring notification and approval. The proposed changes are intended to reduce compliance burdens in Jersey, as well as reducing the JCRA's own internal workload with respect to mergers and acquisitions, without compromising the Law's goal of preventing anticompetitive mergers and acquisitions.

Because the Order's content is within the discretion of Jersey's Minister for Economic Development (the "**Minister**"), the consultation the JCRA is launching today will inform its advice to the Minister on proposed changes to the Order. The ultimate decision on whether or not to amend the Order and, if so, in what form, remains with the Minister. The Consultation Paper is available on the JCRA's website, www.jcra.je, and the deadline for submissions is 1 July 2009.

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

"The changes the JCRA is announcing today implement one of the key goals stated in our 2009 Aims & Objectives, and are consistent with the JCRA's core values of fairness, proportionality and efficiency. We are pleased to

introduce new filings fees that should benefit SMEs immediately, and look forward to advising the Minister on narrowing the scope for merger review in Jersey, subject to the outcome of the current consultation.”

All enquiries to the JCRA should be directed to the Executive Director, Chuck Webb, on +44 (0)1534 514990.

Notes:

- Since May 2005, the JCRA has reviewed thirty-five mergers and acquisitions under the Law. In three of these cases, the JCRA has had to impose remedies to prevent the merger or acquisition in question from substantially lessening competition in Jersey or any part of Jersey. Other potentially problematic transactions have been amended by the parties upon the JCRA’s advice, without the need for a formal enforcement decision. This system in Jersey is analogous to other countries that have mandatory merger review and approval requirements under their competition laws. These countries include, but are not limited to, Barbados, Canada, Cyprus, the Faroe Islands, Ireland, Israel, Malta, the Netherlands, Poland, and the United States.
- 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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