JCRA Media Release

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Jersey Revises Merger Thresholds and Merger Guidelines

The Jersey Competition Regulatory Authority ("JCRA") is pleased to inform that changes to Jersey's merger notification thresholds, as adopted by the Minister for Economic Development (the "Minister"), have come into effect. These changes will reduce the number of mergers and acquisitions requiring notification to and approval by the JCRA, and thus reduce compliance obligations. The changes were recommended by the JCRA in late August 2009, following a public consultation last summer.

Concurrent with the revised thresholds, the JCRA is publishing today revised Guidelines on Mergers and Acquisitions. The JCRA has updated these Guidelines to reflect the changes to Jersey's merger notification thresholds, as well as incorporate Recommended Practices for Merger Analysis published by the International Competition Network ("ICN").

<u>Background</u>

The Competition (Jersey) Law 2005 (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 harm Jersey's economy and consumers by substantially lessening competition. The type of mergers and acquisitions subject to these requirements are specified in the thresholds set out in the Competition (Mergers and Acquisitions) (Jersey) Order (the "Order"), which was originally implemented in May 2005.

The Order contains three thresholds – the satisfaction of any one of which results in a proposed merger or acquisition requiring notification to, and approval by, the JCRA. One such threshold concerns so-called "conglomerate mergers" – when a party to a merger or acquisition has an existing share of 40% or more in the supply or purchase of any good or service in Jersey, but the merging parties otherwise do not compete in the same market or have a supplier/purchaser relationship. The changes to the Order adopted by the Minister create two exceptions to this 40% threshold:

- The first is when the undertaking being acquired has no sales or assets in Jersey; and
- The second is when the 40% share of supply or purchase is not subject to the proposed merger or acquisition.

These exceptions were recommended by the JCRA, and received broad support during the public consultation. These changes will reduce compliance obligations in Jersey, as well as reduce the JCRA's own internal workload with respect to mergers and acquisitions, without compromising the Law's goal of preventing anticompetitive mergers and acquisitions. Note that the Order's other two thresholds (concerning horizontal mergers of undertakings in the same market and vertical mergers involving undertakings in a purchaser/supplier relationship) remain unchanged.

At the same time, the JCRA is publishing revised Guidelines on Mergers and Acquisitions. These Guidelines detail how the JCRA analyses proposed mergers and acquisitions under the Law to determine if they would harm Jersey's economy and consumers by substantially lessening of competition, and thus warrant further JCRA intervention. In addition to being updated to take account of changes to the Order, the JCRA has also updated these Guidelines to reflect updated international best practice as set out in the ICN's Recommended Practices for Merger Analysis. The JCRA is an active participant in the ICN and ensures that recommended practices take due account for conditions in small economies like Jersey.

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

> *"Two of the goals set out in the JCRA's 2010 Strategic Plan were to further reduce compliance burdens and increase transparency. The changes implemented today further these goals and are consistent with the JCRA's core values of fairness, proportionality and efficiency."*

Copies of the revised Order and JCRA Merger Guidelines are available from the JCRA, and can be downloaded from 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.

<u>Note</u>:

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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