JCRA
JERSEY COMPETITION REGULATORY AUTHORITY

Study by the Jersey Competition Regulatory Authority

on the

Economic Impact of New Entry in the Retail Sector by a Large Supermarket Competitor

Consultation Paper

12 November 2007

1. INTRODUCTION

Pursuant to MD-E-2007-0167, the Minister for Economic Development (the 'Minister') has requested that the Jersey Competition Regulatory Authority ('JCRA') provide its advice under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001 on the economic impact of new entry into the retail sector by a large supermarket competitor.[1]

In providing this advice, the Minister asked the JCRA to take into account the likely impact on:

- consumer welfare (in terms of prices, quality, innovation and choice available to consumers);
- the productive efficiency of existing retailers (in terms of their costs and revenues); and
- the Jersey economy overall.

The Minister also asked that the JCRA provide this advice on the basis of the most recent and relevant information available and should consider empirical evidence which may be relevant to circumstances in Jersey. In this regard, he mentioned that experience from other small economies may be particularly relevant.

The JCRA has agreed to provide this advice to the Minister, and currently is intending to do so by the end of January 2008.

Invitation for comments

To assist in the preparation of this advice, this Consultation Paper is now issued by the JCRA to seek comments from interested parties on the impact of a large supermarket competitor on the retailing sector in Jersey. To focus comments, the Paper provides a background and asks a number of questions relating to issues which the JCRA, at the moment, considers most relevant to the advice to the Minister.

Comments, in the form of written submissions, should reach the JCRA by **14 December 2007**. Submissions should be addressed to:

Ms Kerrie-Anne Bradley
Jersey Competition Regulatory Authority
2nd Floor Salisbury House
1-9 Union Street St Helier
Jersey JE2 3RF

[1] Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001 enables the Minister to request the advice of the JCRA on any matter concerning 'competition, monopolies, utilities or any matter connected with the provision of goods or services' to which the JCRA's functions relate.

Where possible, an electronic version of the submission would be appreciated. They should be e-mailed to k.bradley@jcra.je Submissions may also be faxed to the JCRA on +44 (0)1534 514 991. For phone enquiries, please call Kerrie-Anne on +44 (0)1534 514 995.

The JCRA reserves the right to publish on its website any submissions to this or other consultations. Any commercially sensitive information that a stakeholder may wish to submit as part of a response should therefore be clearly marked as such.

2. BACKGROUND

The JCRA and promotion of competition

The creation of a more competitive commercial environment on the Island is a key economic policy of the States of Jersey.[2] Integral to the policy was the establishment of the JCRA in 2001 as competition authority tasked to administer competition law and policy in the Island.[3] The purpose behind the States' promotion of competition in Jersey's economy is worth re-stating:

> *The potential benefits of competition can be summarised into 3 main areas. Firstly, competition forces undertakings to keep costs down, as a failure to maintain competitive prices will result in a loss of customers to their competitors. From the consumer's point of view, this results in the twin benefits of lower prices and increased choice. Secondly, competition forces undertakings to reduce their cost structure and allocate resources efficiently and productively into activities that consumers want. This will benefit Jersey's economy because resources, and the vital factor of labour resources, are focused on goods and services for which there is demand at a profitable price. Thirdly, competition forces undertakings to innovate, to develop new products and use new technology to gain a competitive advantage.*
>
> *All of these factors combine to produce tangible benefits, such as the ability to keep the Retail Price Index down, to achieve a level playing field for those who want to trade in Jersey, and to change people's attitudes to the manner in which businesses will compete in the future. If undertakings have been involved in prohibited practices to stifle competition, then opportunities will arise for individuals and entrepreneurs wishing to enter a market. An opportunity for one business presents a threat to another faced with increased competition. In this environment, there is a better chance of prices to the consumer being reduced.*[4]

As the statement of purpose indicates, competition is not an end in itself. It is ultimately for the benefit of consumers in terms of encouraging lower prices, higher quality, more innovative services and greater choice – otherwise called 'consumer welfare', the first impact on which the JCRA must advise.

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[2] *A Competition Law for Jersey*, report presented to the States of Jersey on 8 January 2002, para 1.
[3] ibid., para 2.
[4] *Draft Competition (Jersey) Law 200-*, report of Economic Development Committee lodged with the States of Jersey on 9 March 2004, page 1.

Consumers benefit because competition forces firms to work harder, reduce costs, and provide the types of products necessary to win and keep customers. In economic parlance, it is called raising productive efficiency – the second impact on which the JCRA is required to provide advice.

Competition also makes the economy as a whole work more efficiently as resources in a supply-constrained economy are efficiently allocated to those profitable activities where there is consumer demand. As a consequence, the Jersey economy overall benefits – the third impact on which the JCRA is required to advise.

Small size of Jersey economy

Jersey is a small island economy with a population approaching 90,000. A critical feature of small island economies is the concentrated nature of many of their markets arising from economies of scale.[5]

Economies of scale occur when costs of production fall with increasing output. When scale economies and relatively small demand co-exist, it may well become more efficient for markets to be supplied by a limited number of suppliers (or only one) so that they can reap the economies of scale and achieve lower production costs (ie, increase their productive efficiency). If new entry occurs, suppliers (both new and existing) may have to operate at inefficient production levels, ultimately leading to consolidation or exit from the market.

The scope for competition (particularly in terms of the numbers of competitors) may be limited when economies of scale prevail, with flow-on effects on the consumer and economic benefits that it can deliver. In such circumstances, other means may have to be considered in the interests of maintaining and promoting consumer welfare and economic growth – and ultimately, Jersey's living standards and prosperity.

3. STRUCTURE OF RETAILING SECTOR IN JERSEY

The retailing sector in Jersey is broadly comprised of supermarket and convenience store sectors. For the purposes of its advice, the JCRA sees no need to break it further down into store sizes, range of goods offered, operating hours, etc.

Supermarkets

There are two supermarket chains currently operating in Jersey: Checkers and Co-op Grande Marché.

Checkers operates three supermarkets: one in Rue de Pres, one in St Brelade and the third in St Helier. They are owned by Sandpiper Bidco Limited ('Sandpiper').

[5] *Competition Policy for Small Market Economies*, Michal S. Gal, Harvard University Press, 2003.

Co-op Grande Marché operates two supermarkets: one in St Helier and one in St Peter. They are owned by The Channel Islands' Co-operative Society Limited (the 'Co-op').

Convenience stores

Convenience stores in Jersey fell into three broad categories:

- the large convenience stores operated by Sandpiper (12 stores) and the Co-op (6 stores)

- the smaller Spar (11 stores) and rStore (13 stores) chains;[6] and

- small independent stores (about 30 stores) commonly operated by individual owners although there are two independent owners who operate two stores each.

Spar and rStores are ultimately wholly-owned by the Lodestar Group which operates convenience store outlets in a number of European countries. Lodestar also wholly-owns the Channel Island Wholesale Company which is a major wholesaler of foods and beverages in Jersey.

In addition, there exist in Jersey many numerous local retailers or specialists shops, which either, in whole or in part, engage in food retailing. These include farm shops and merchants at the Central Market in St Helier.

3. QUESTIONS

Against this background and structure of the industry, the JCRA asks the following question for consultation and comment. Submissions do not have to address each question. Where appropriate, responses to questions should provide some sort of evidence (empirical, comparative, anecdotal, etc) or support for that response. Comments may also be submitted on issues not covered by the questions.

i. Should the States, as a matter or principle, allow for free entry into the supermarket sector?

ii. In considering the impact of a third supermarket competitor on incumbent supermarkets and other retailers, how do you measure this impact in advance of entry with a certain level of confidence?

[6] Recently these two chains merged. See *Proposed Acquisition by Spar (Channel Islands) Limited of several stores from C.I. Newsagents Limited*, Decision M 114/07, JCRA, 19 September 2007.

iii. Should the impact, as a matter of principle, be determined after the event by the forces of competition?

iv. Would the entry of a third supermarket competitor have a beneficial or adverse impact on **consumer welfare** (prices, quality, etc) in the long term?

v. Would the entry of a third supermarket competitor have a beneficial or adverse impact on **productive efficiency** of the **two incumbent supermarkets** in the long term and the overall Jersey economy?

vi. Would the entry of a third supermarket competitor have a beneficial or adverse impact on **productive efficiency** of **convenience stores or other retailers** in the long term and the overall Jersey economy?

vii. Would the entry of a third supermarket competitor have a beneficial or adverse impact on the **Jersey economy** overall in the long term and the overall Jersey economy?

viii. The JCRA in its comparison of food prices in Jersey and the UK in 2005 found that prices in Jersey were more expensive than in the UK (with some products being significantly higher priced). Do you agree and what factors do you contribute to this general price difference:

- limited competition
- diseconomies of scale
- higher labour costs
- higher transport costs
- different patterns of consumer demand
- other matters (please elaborate)?

ix. If you do not agree, what factors do you consider lie behind your view that UK prices are generally not higher than in Jersey?

x. The JCRA in its comparison of food prices in Jersey and the UK in 2005 also found that prices in the Isle of Man were generally less expensive than in Jersey. Do you agree and what factors do you attribute to this general price difference, particularly given that the Isle of Man and Jersey are comparable in size of economy (indeed, the population of Isle of Man is smaller than Jersey: about 76,000 v. 90,000):

- greater competition (three supermarkets)
- other matters (please elaborate)?

xi. Do you consider Isle of Man an appropriate benchmark for considering the impact of a third supermarket operator in Jersey?

xii. If not, do you consider that there are other suitable jurisdictions for comparison purposes?