



## **Case M1364J**

# **Acquisition of certain subsidiary companies of The Boat House Group Limited by Randalls Limited**

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## **Decision – Phase 1 Review**

**Document No: CICRA 18/19**

**Date: 24 April 2018**

*Jersey Competition Regulatory Authority  
2nd Floor, Salisbury House  
1-9 Union Street, St Helier,  
Jersey, JE2 3RF  
Tel: +44 (0)1534 514 990  
Web: [www.cicra.je](http://www.cicra.je)*

## Summary

1. Randalls Limited (**Randalls**) proposes to acquire all the issued shares in three wholly owned subsidiary companies (Alcora (Jersey) Limited; Mill Holdings (St Brelade) Limited; Auberge du Nord Limited – collectively the **Target Companies**) of The Boat House Group Limited.
2. The transaction has been notified to the Jersey Competition Regulatory Authority (**JCRA**) for approval pursuant to Article 21 of the Competition (Jersey) Law 2005 (the **2005 Law**).
3. The JCRA considers that issues that may lead to the refusal of approval or an approval with conditions have arisen and, accordingly and in line with its Guidelines, the JCRA has decided to refer the proposed transaction to a second detailed review.

## The Notified Transaction

4. On 1 March 2018, the JCRA received a joint application from Randalls and The Boat House Group Limited for approval of the acquisition by Randalls of the entire share capital of the Target Companies from The Boat House Group Limited.
5. The JCRA registered the application on its website with a deadline for comments of Thursday 15 March 2018. No comments were received.

## The Parties

6. Randalls (the **Purchaser**) is a private company, incorporated in Jersey and registered with company number 269. It is active in the wholesaling of drinks and in the sale of food and drinks in a public house environment.
7. The Boat House Group Limited (the **Seller**) is a company incorporated in Jersey and registered with company number 104945.
8. The Target Companies are, either directly or indirectly, wholly owned subsidiaries of the Seller:
  - a. Alcora (Jersey) Limited, incorporated in Jersey and registered with company number 88203. Alcora (Jersey) Limited entered into a 99 year lease with the States of Jersey on 21<sup>st</sup> April 2004 for the premises known and operated as The Boat House (**The Boat House**), which is a restaurant and bar over two floors situated in St Aubin, Jersey;
  - b. Mill Holdings (St Brelade) Limited, incorporated in Jersey and registered with company number 87141, is a wholly owned subsidiary of Alcora (Jersey) Limited. The company operates The Boat House;
  - c. Auberge Du Nord Limited, incorporated in Jersey and registered with company number 2620, operates The Farm House, which is situated in St. John, Jersey. The Farm House is

sub-let to Auberge Du Nord by Randalls, which in turn leases it from Landmark Retail Limited. Until 2005, The Farm House was run as a managed house by Randalls.

### **Jersey: requirement for JCRA approval**

9. Under Article 2(1)(b) of the 2005 Law, a merger<sup>1</sup> occurs where a person who controls an undertaking acquires direct or indirect control of the whole or part of another undertaking. On completion of the notified transaction, Randalls will acquire 100% of the shares in the Target Companies. The transaction therefore constitutes a merger or acquisition as defined in the Law.
10. According to Article 20 of the Law, a person must not execute certain mergers or acquisitions except with and in accordance with the approval of the JCRA. Article 3 of the Competition (Mergers and Acquisitions) Jersey Order 2010 (the **Order**) provides that if one or more of the undertakings involved in the proposed merger has an existing share of over 25% of the supply of goods or services of any description supplied to or purchased from persons in Jersey, and another undertaking involved in the proposed merger is active upstream or downstream of those goods or services, then that merger must be notified to the JCRA.
11. The Purchaser considers that it has a 25% or more share of supply of certain alcoholic beverages in Jersey. The Target Companies (other than Alcora (Jersey) Limited) are active in the supply of alcoholic beverages from bars/restaurants and this activity is downstream of the wholesale supply of alcoholic beverages by the Purchaser. On that basis, the notified transaction requires the approval of the JCRA prior to its execution.
12. In line with CICRA<sup>2</sup> Guideline 6b, the first detailed review period for consultation started on 1 March 2018. A notice of application was placed on the CICRA website.
13. Following a “state of play” meeting held between CICRA officers and the parties on 23 March 2018, and at the request of the parties, the clock was stopped. This was to enable the parties to consider how they wished to proceed in the light of specific issues raised by the proposed market definition they had put forward, namely that the notified transaction would, on the basis of that definition lead to a reduction from three to two competitors in two relevant markets.
14. On 11 April 2018, the Purchaser’s legal representatives wrote to CICRA and provided certain further information. They asked CICRA to confirm whether on the basis of that information CICRA would in principle be able to conclude at the end of its first detailed review that the transaction did not give rise to competition concerns.
15. CICRA reviewed the information provided, but for the following reasons concluded that it would not be sufficient to enable CICRA to conclude at the end of its first detailed review that the transaction did not give rise to competition concerns:

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<sup>1</sup> For brevity, mergers and acquisitions are referred to as ‘mergers’ in this document.

<sup>2</sup> CICRA comprises the Jersey Competition Regulatory Authority and Guernsey Competition and Regulatory Authority.

- a. It was not possible to determine at this stage and without undertaking further analysis whether the customer loyalty card data provided was reliable as a data set. It followed that no firm conclusions as to market definition could be drawn from that data at this stage;
- b. It was not possible to test the parties' arguments in relation to the correct product market definition as there was no external evidence to support these arguments at this stage;
- c. Even on the assumption that it would be appropriate to do so, the exclusion of the Trafalgar (which holds a first category licence only) from the set of competitors in St Aubin would not affect the position put forward by the parties in the merger application form that the notified transaction would lead to a reduction in the number of operators in St Aubin holding both first and third category licences from three to two.

### **Decision**

16. As set out above, on the basis of the market definition put forward by the parties in the merger application form, the transaction would give rise to a high degree of concentration in two relevant markets, with the number of operators in each reducing from three to two.
17. For the reasons set out in this decision, on the basis of the information provided in the merger application form and the supplementary information provided by the parties, at the end of its first stage review the JCRA is not able to conclude on the balance of probabilities that there is no reasonable likelihood that the transaction might give rise to a substantial lessening of competition.
18. As set out in CICRA Guideline 6b, if at the end of its first detailed review the JCRA concludes that issues have arisen that may lead to the refusal of approval or an approval with conditions it will submit the application to a second detailed review. The JCRA considers that such issues have arisen and, accordingly, the JCRA has decided to refer the proposed transaction to a second detailed review.

**24 April 2018**

**By order of the JCRA board**