



SandpiperCI Retail Limited – Undertaking

Case C1351J

Variation to the Decision to approve the acquisition of a number of the Jersey Stores of Spar (Channel Islands) Limited (CICRA 17/10 26 April 2017)

Decision to revoke the Interim Measure (C18/02 26 January 2018)

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Summary

1. On 26 April 2017, the JCRA approved the acquisition by SandpiperRetail CI Limited (**Sandpiper**), of a number of the Jersey stores of Spar (Channel Islands) Limited together with its subsidiaries operating the Costcutter convenience store franchise (**Costcutter**)¹. The acquisition was subject to a number of conditions. Sandpiper has requested the JCRA remove that part of the JCRA's conditional approval of the acquisition which requires it to close the Sandpiper First Tower Store (**First Tower Store**).
2. The JCRA has considered the submissions made to its consultation and decided to release Sandpiper from that part of the undertaking which requires it to close the First Tower Store. At the same time, the JCRA has decided to revoke the interim measure in relation to the First Tower Store which was put in place on 26 January 2018.

Sandpiper acquisition of Costcutter Convenience Stores

3. On 1 November 2016, Sandpiper and JMart notified the JCRA of the proposed acquisition of the holding companies that operated the Costcutter convenience store franchise in Jersey by Sandpiper.
4. From the outset, Sandpiper had identified that parts of the acquisition might give rise to a substantial lessening of competition and so proactively offered a remedy in respect of the affected stores. With regard to the area around the Costcutter store at Millbrook (**Millbrook Store**), Sandpiper noted in its application that it had identified certain potential competition concerns in the First Tower / Millbrook area.
5. Sandpiper therefore asked the JCRA to approve the acquisition of the Millbrook Store on the condition that the existing Sandpiper First Tower Store be leased or sold, which would approximately maintain the status quo in terms of market share in that area (the **Undertaking**).
6. On 26 April 2017, following a second amended application, the JCRA accepted the remedies offered and approved the acquisition by Sandpiper of thirteen Costcutter stores. The JCRA determined that, subject to meeting the commitment offered by Sandpiper in relation to the Sandpiper store at First Tower, the proposed acquisition would not lead to a substantial lessening of competition in any relevant market.

Sandpiper request to be released from the Undertaking

7. After the time limit on the Undertaking expired, Sandpiper requested that the JCRA remove the Undertaking, allowing it to continue to operate the First Tower Store as a grocery store. Sandpiper approached officers shortly before and immediately after the expiry of the six month period, stating that no offers had been received. On that basis, Sandpiper stated that it was obliged to close the First Tower Store. However, as there was significant local interest in keeping it open, Sandpiper would be prepared to continue to operate the store.

¹ M1290J <https://www.cicra.gg/cases/2017/m1290j-sandpiper-ci-retail-ltd-and-jmart-ltd/>

Interim Measure

8. In January 2018, an Interim Measure was issued to prevent Sandpiper from disposing of the store and ensuring that it was maintained as a general store until such time as it was varied or revoked by the JCRA whilst due diligence was carried out with other interested parties such as potential operators and local residents.

CICRA Consultation

9. Undertakings are put in place to address specific, identified competition concerns and are only accepted after there has been a consultation on whether they do, in fact, address the problem identified. In order to release Sandpiper from the undertaking, CICRA therefore needed to be satisfied that either:
 - (a) The competition concerns identified no longer exist; or
 - (b) The competition concerns identified were not well founded
10. On 29 June, the JCRA issued a consultation seeking views on the following options:
 - (a) To discharge the undertaking for one of the reasons above; or
 - (b) To retain the undertaking because the competition concerns identified still exist
11. The consultation attracted a great deal of interest from local residents of the area around the store. The responses were not generally to the consultation, rather to posters and flyers distributed by Sandpiper at the store. A more detailed response was received from the First Tower Community Association.
12. Residents of the First Tower area who responded to the consultation indicated that they rely on this store and are unhappy that it may be closed. It is apparent that there is local demand for the continued operation of a grocery store at this location. Sandpiper has indicated that it would be willing to keep the store open if the undertaking were released.
13. The responses to the consultation from local residents indicate that they consider that the competition concerns identified by Sandpiper in their original application were not well founded, and were based on a superficial analysis of sales in the area., specifically, these stores at Millbrook and First Tower are too far apart to be regarded by consumers as substitutes and so do not impose a meaningful competitive constraint on each other². There was also significant concern over the impact the closure of the store would have on local residents and the choices available to them.

JCRA Decision

14. The JCRA has considered the submissions made by local residents in support of the store remaining open under Sandpiper ownership. No evidence or submissions were received to

² See submission from First Tower Community Association pages 7 and 8

support retaining the undertaking because the competition concerns identified by Sandpiper were either well founded or still exist.

15. The JCRA therefore releases Sandpiper from that part of the Undertaking which requires it to close the First Tower Store, and revokes the Interim Measure of 26 January 2018.

13 September 2018

By Order of the JCRA