

Jersey Competition Regulatory Authority
By Email Only

15 01 2021

Sirs

‘C- 014 Jersey Post, Woodside Logistics’

I am writing on behalf of OceanAir Express Logistics Ltd, Hub Europe Ltd and Hi Speed Freight Ltd, concerning the proposed merger between Jersey Post and Woodside Logistics, which I consider highly concerning and detrimental to competition for the supply of Bulk mail services and freight/logistics services in Jersey.

In effect, Jersey Post is the monopoly supplier of Bulk Mail/Fulfilment services in Jersey with a share of over 90% (92% *re CICRA document dated 2012*). The competition they face on the Island is still nascent, and a customer wishing to deliver large letters and parcels at scale, to customers in Jersey, has no choice but to rely on Jersey Post. Jersey Post obtains freight and logistics services from various providers to provide bulk mail to persons and businesses in Jersey.

Woodside Logistics is not currently one of Jersey Post's suppliers. However, Jersey Post has been explicit, in its press release about the proposed transaction, that it intends to use Woodside Logistics in Jersey for such services after the transaction so that it can provide an "end-to-end service".

The transaction allows Jersey Post to leverage its position in the market for Bulk Mail/Fulfilment services by using Woodside Logistics to either directly block actual or potential competitors of Jersey Post from accessing the market or to undercut such operators through cross-subsidising the services of Woodside Logistics (which could amount to predatory pricing). This would lead to a substantial lessening of competition in the Bulk Mail/Fulfilment market in Jersey. The likely outcome will be higher prices to customers and/or lower quality of service. Jersey Post would have both the incentive and the ability to foreclose competitors in this way as the monopoly supplier looking to protect its primary market.

Equally, Jersey Post will have the incentive and ability to foreclose road freight operators and sea freight operators who compete with Woodside Logistics in the provision of freight services between the Channel Islands and the UK, by favouring Woodside Logistics to the exclusion of the other operators that rely on Jersey Post's custom, such that Woodside Logistics' competitors are excluded from the respective road freight and sea freight markets. Again, this would lead to customer detriment through higher prices and/or lower quality of service. It should be considered that Jersey Post have the material benefit of handling ‘a baseload’ of freight that falls under the Universal Service Obligation (USO), which by definition is not open to commercial competition. Further, this raises the question of the

cost and subsidy of final mile delivery. Suppose Jersey Post are able to deliver commercial traffic on any of their 90 (approx.) daily USO postal rounds. In that case, they are again acting at a financial advantage, bringing into question their commercial pricing and the ability to provide predatory pricing to any commercial contracts that are open to competition (i.e. Amazon, Yodel et al.)

Jersey Post also has a wholly-owned subsidiary, Fraser Freight, which provides warehousing and storage services to, among others, competitors of Woodside Logistics in the Bulk Mail / Fulfilment market in Jersey. Again, Jersey Post will now have the incentive and the ability to foreclose competitors of Woodside Logistics by charging higher prices for warehousing and storage services or denying such competitors access to these essential warehousing facilities altogether.

In March 2014, we note that CICRA decided not to renew price controls for Jersey Post in favour of a much lighter regulatory touch because the threat of substitution by services other than postal services was thought to impose adequate constraint on the incumbent postal operators to justify removing price controls. However, what we see in the market is Jersey Post engaging in predatory pricing practices to secure its market, resulting in financial losses in 2018 (-£267,000) and 2019 (-£933,000). This is in stark contrast to their closest modelled similar administration (Guernsey Post), which has not concentrated on diversification and has continued to return regular profits to its shareholders. Given Jersey Post's high market shares and market position, such practices could well amount to an abuse of a dominant position for the purposes of competition law. This reinforces our concerns that with the greater scope of opportunity provided by Woodside Logistics' acquisition, Jersey Post's abusive behaviours will only increase in size and impact.

There are obvious parallels between Jersey Post's position and that of the UK's Royal Mail. Despite similar circumstances, including the structural decline in letters and increasingly competitive parcels sector, Ofcom reviewed its regulation of the Royal Mail in 2017 and concluded that it was still appropriate to regulate the Royal Mail, including with the use of certain price controls. Ofcom recognised that giving Royal Mail pricing flexibility may give rise to many risks, including the incentive and ability to increase prices and make competition more difficult. Ofcom also regulates the Royal Mail's quality of service to ensure that consumers' reasonable needs and expectations are met. We would respectfully suggest that, after the passage of 7 years, the JCRA re-consider whether CICRA's decision to lift price controls on Jersey Post was premature and should consider the re-introduction of price controls on Jersey Post to ensure that customers are not overpaying for postal services, especially considering the recent years operational losses. At a minimum it must enforce competition law vigorously.

Again, this is what Ofcom has needed to do with respect to Royal Mail in the UK, fining it £50m for discriminatory pricing practices designed to block out competition from Whistl: <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/royal-mail-whistl-competition-law>

In these circumstances we would urge CICRA to block this transaction in the interests of promoting competition for the supply of Bulk mail services and freight/logistics services in Jersey and preventing customer harm through higher prices and reduced quality of service.

Yours sincerely



Christopher Bee

On behalf of:-
OceanAir Express Logistics Ltd
HubEurope Ltd
Hi-Speed Freight Ltd