

Guidance Note: Notification of Mergers & Acquisitions

Competition Law Guidance Note: Notification of Mergers and Acquisitions

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Following a number of similar requests, the Jersey Competition Regulatory Authority (**the Authority**) would like to draw attention to the guidance for those considering notification of a merger or acquisition for approval.

Please note, the Authority's formal guidance cannot be sought as to whether a course of action would breach the provisions of Article 20(1) of the Competition (Jersey) Law 2005 in relation to the notification of mergers and acquisitions¹.

Further information on the process and assessment of transactions can be found in our guidelines²:

- [Mergers and Acquisitions – procedure](#)
- [Mergers and Acquisitions - substantive assessment](#)
- [Mergers and Acquisitions - Merger Application Form](#)

Pre-Notification

Based on its experience of assessing notified mergers, the Authority's view is that the consultation and assessment that takes place at 'Phase 1' will generally progress much more efficiently where the merging parties and their advisers have engaged in pre-notification discussions with us and where a full draft Merger Application Form has been submitted.

Pre-notification has a number of specific benefits for the notifying parties, including:

- Allowing them to provide information on the markets involved in the merger;
- Enabling clarification on the information required for the Merger Application Form to be considered to be complete and so reducing the risk of 'stopping the clock' during Phase 1;
- Enabling the identification of areas where extensive information is not required from the parties, which reduces the administrative burden.

¹ Article 43, Competition (Jersey) Law 2005

² The Guidelines are those in place for the Channel Islands Competition and Regulatory Authorities (CICRA), as adopted by the Authority. These are under review and will be reissued during 2022.

For these reasons, notifying parties are encouraged to make contact as soon as there is a good faith intention to proceed with a notifiable merger.

Pre-Notification Discussions

Pre-notification discussions are available for all transactions, whether or not they are in the public domain, provided that there is a good faith intention to proceed with the transaction.

We encourage notifying parties to engage with us at an early stage, ideally before the submission of a draft Merger Application Form. Such early engagement enables both the parties and us to identify any particular areas of difficulty, to clarify any questions that the parties may have regarding our process and timescales and allows us to allocate (a) case officer(s) to the merger before the submission of the draft Merger Application Form.

Draft Merger Application Form

Notifying parties must provide us with a draft Merger Application Form which is available on the Authority website.

We will review the draft Merger Application Form and revert to the parties within a reasonable time frame; as a guide, this is generally expected to be within five working days of receipt of the draft Merger Application Form.

A Merger Application Form will only be accepted as complete when it contains all the information necessary for a first detailed review to be carried out and where that information is provided in a form that is sufficiently clear for us to be able to consult publicly on it. We may therefore ask the parties to provide further information and to resubmit the draft Merger Application Form if it is unclear or incomplete. If a pre-notification meeting to discuss the draft Merger Application Form is required, this will be arranged by us.

A Note on European Union (EU) Competition Law

Competition Laws in Jersey is modelled on the competition provisions in the Treaty on the Functioning of the EU. Jersey legislation places certain obligations on the Authority and the Royal Court in each island when applying the competition law. Article 60 provides that so far as possible questions arising in relation to competition must be dealt with in a manner that is consistent with the treatment of corresponding questions arising under EU competition law.

As noted above, the Authority must endeavour to ensure that, as far as possible, competition matters arising in Jersey are dealt with in a manner consistent with - or, at least, that takes account of - the treatment of corresponding questions under EU competition law. Relevant sources include judgments of the European Court of Justice or General Court, decisions taken and guidance published by the European Commission, and interpretations of EU competition law by courts and competition authorities in the EU Member States. Article 60, however, do not prevent the Authority from departing from EU precedents where this is appropriate in light of the particular circumstances of Jersey.