



# Decision

## Proposed acquisition of Capital Properties Ltd (Wildfire) by Randalls Ltd (C-044)

Document No: JCRA 22/53

Date: 08 August 2022

Jersey Competition Regulatory Authority  
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## 1. Summary

- 1.1 Randalls Limited (the **Purchaser** or **Randalls**) proposes to acquire the entire share capital of Capital Properties Limited (the **Target** or **Wildfire**), which operates a restaurant known as Wildfire. The proposed transaction has been notified to the Jersey Competition Regulatory Authority (the **Authority**) for approval pursuant to Article 21 of the Competition (Jersey) Law 2005 (the **2005 Law**).
- 1.2 The Authority has determined that the Notified Transaction will not lead to a substantial lessening of competition in any relevant market and hereby approves the Notified Transaction.

## 2. The Notified Transaction

- 2.1 On 19 July 2022, the Authority received an application from the Purchaser and the Target (together, the **Parties**) for the proposed acquisition of the Target by the Purchaser. On completion, the Purchaser will acquire the entire issued share capital of, and therefore control of, the Target.
- 2.2 The Authority registered the application on its website with a deadline for comments of 1 August 2022. No submissions were received.

## 3. The Parties

- 3.1 The Purchaser, Randalls, is a privately owned company, incorporated in Jersey in 1823 (company number 269). Randalls' core business is the wholesale supply of beverages and food to public houses, bars and restaurants in Jersey. Randalls also operates one retail off-licence and ancillary to the business lease, residential and commercial property. Randalls owns a number of public houses and restaurants, as well as lodging houses and accommodation (for staff and public rental). Randalls is also a wholesale supplier to bars and restaurants in Jersey.
- 3.2 The Seller is M.D.B Holdings Ltd (company 32102). The Target operates the bar and restaurant known as Wildfire, located in the Weighbridge area of St Helier. The company being sold is Capital Properties Ltd (company number 62315), which owns the freehold of the premises.

## 4. Requirement for Authority Approval

- 4.1 Under Article 2(1)(b) of the 2005 Law, a merger or acquisition<sup>1</sup> (**merger**) 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, the Purchaser will acquire all the share capital and as a result direct control of the Target. The Notified Transaction therefore constitutes a merger as defined in the 2005 Law.
- 4.2 Article 20(1) of the 2005 Law provides that a person must not execute certain mergers or acquisitions except and in accordance with the approval of the Authority. Article 2 of the Competition (Mergers and Acquisitions) (Jersey) Order 2010 (the **Order**) provides that where the merger or acquisition would create an undertaking with a share of 25% or more of the supply or purchase of goods or services of any description supplied to or purchased from persons in Jersey, then the merger must be notified to the Authority for approval under Article 20(1) of the 2005 Law.

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

4.3 According to information provided by the Notifying Parties, both Parties hold 1<sup>st</sup> category liquor licences in Jersey, with a combined share of 27% of those issued. The notified transaction therefore requires the approval of the Authority prior to its execution.

## 5. Market Definition

5.1 Under Article 22(4) of the 2005 Law, the Authority must determine if the merger would substantially lessen competition in Jersey or in any part of Jersey. As an initial step, the Authority will identify the markets which are likely to be affected by the merger since market definition provides a framework within which the competitive effects of a merger can be assessed.

5.2 The boundaries of the market do not necessarily determine the competitive effect of the merger as there can be constraints on the merger from outside the relevant market, segmentation within the relevant market or other ways in which certain constraints are more significant than others. The Authority will, where appropriate, take these factors into account in its assessment.

5.3 When defining a market, the Authority may take note of its own previous decision-making practice and/or market definitions applied by other competition authorities. However, these previous decisions are not precedents and are not binding, either on the merging parties or on the Authority. Competition conditions may change over time, changing the market definition. Market definition will always depend on the prevailing facts<sup>2</sup>.

### Views of the Parties

5.4 The Parties propose that the relevant markets for the purposes of assessing the competition effects of the Notified Transaction should be **restaurants and bars in Jersey** and that these can be categorised by the type of liquor licence held. There are seven categories of licences which can be held in Jersey, and outlets can hold more than one type of licence for the same premises<sup>3</sup>.

5.5 The 1<sup>st</sup> category licence allows for the sale of alcoholic beverages standing at a bar, without the requirement to purchase food, until 23:00. The 3<sup>rd</sup> category licence allows for the serving of alcoholic beverages with food, until 01:00. Randalls holds various licences on different premises throughout Jersey. Wildfire holds both a 1<sup>st</sup> and 3<sup>rd</sup> category licence.

5.6 The Parties propose that the geographic market is the whole of Jersey, given that Jersey is a relatively small area (9 miles by 5 miles) with a total of 718 licences issued, 362 of which are in the town area. However, the Parties also provided information on the geographic areas of St Helier, and on a narrow basis of the Weighbridge Area.

5.7 Randalls also supplies **wholesale products** to managed houses, tenancies and free trade bars and restaurants in Jersey, including Wildfire.

### Authority Consideration

5.8 The relevant product market is defined primarily by reference to the likely response of consumers and competitors. It will comprise products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the products characteristics, prices and intended

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<sup>2</sup> This approach is consistent with that taken under EU law – see, for example, Joined Cases T-125/97 and T-127/97 [2000] ECR II-01733, paragraphs 81-82. Article 60 of the 2005 Law requires the Authority to attempt to ensure that so far as possible questions arising in relation to competition are dealt with in a manner that is consistent with the treatment of corresponding questions arising under European Union law in relation to competition within the European Union.

<sup>3</sup> [Liquor licences \(gov.je\)](http://www.gov.je/LiquorLicences)

use. An undertaking cannot have a significant impact on the prevailing conditions of a market if customers can easily switch to other service providers.

- 5.9 The Authority has previously considered transactions in similar markets, including the acquisition by Randalls of The Boat House Group in 2018<sup>4</sup>. In this case (M1364J), the Authority concluded that a suitable starting point for the product market definition should be the provision of pubs, with further segmentation given the differentiated nature of the product. It considered the geographic market to be the provision of pubs within a 20 minute drive time for St Aubin, or a 30 minute drive time for St John. This is helpful but not instructive in this case, given the location of the Target.
- 5.10 The Authority has also previously considered the wholesale supply of beverages to businesses, and considered the market to be the whole of Jersey. This is in line with European Commission decisions<sup>5</sup>.
- 5.11 For the purpose of this transaction, it has not been necessary to reach a conclusion on the precise market since there are no competition concerns on any plausible basis, given the location of the Target business on this occasion. The Notified Transaction has been assessed on the basis of the provision of pubs and restaurants, and the wholesale supply to such businesses.

## 6. Effect on Competition

- 6.1 The analysis of a notifiable transaction will consider whether the merger creates or enhances the ability or incentive to exercise market power, either unilaterally or in co-ordination with competitors, and whether other market forces (such as the entry of new competitors or countervailing power of customers will eliminate this risk. The assessment will also consider any pro-competitive effects or efficiencies that may result from the merger.
- 6.2 When considering the effect on competition, the Authority has regard to the guidelines produced by the European Commission<sup>6</sup> (**European Guidelines**). It may also consider the substantive merger guidelines applied by the Competition and Markets Authority in the UK, as well as those of other competition authorities.
- 6.3 After determining the appropriate frame of reference within which to assess the transaction, the Authority estimates the respective positions of competitors within that frame of reference, both before and after the proposed transaction. This can be used as an indication of the overall level of market concentration, as a result of the merger.

### Retail Market

- 6.4 Market shares and concentration levels provide useful indications of the market structure and the competitive position of both the merging parties and their competitors. The following table shows the total number of licences issued to Randalls, both before and after the proposed acquisition on an Island-wide basis:

#### Randalls Managed Houses and Tenancies

Parish	Licences					Premises
	1 <sup>st</sup>	3 <sup>rd</sup>	6 <sup>th</sup>	7 <sup>th</sup>	Total	
Grouville	1	1			2	

<sup>4</sup> [M1364J - Randalls Ltd / The Boat House Group Ltd | JCRA](#)

<sup>5</sup> Case No COMP/M.5035 – RADEBERGER/ GETRÄNKE ESSMANN/ PHOENIX

<sup>6</sup> <https://op.europa.eu/en/publication-detail/-/publication/19597169-c020-4a72-816a-0b15416119f7>

St Brelade	5	5	1		11	
St Clement	1				1	
St Helier	20	7	2	3	32	
St John	2	2		1	5	
St Lawrence	1	1			2	
St Martin	2	1			3	
St Mary	1	1		1	3	
St Ouen	1	1		1	3	
St Peter	2	1			3	
St Saviour	1				1	
Trinity						
<b>Total Randalls</b>	<b>37</b>	<b>20</b>	<b>3</b>	<b>6</b>	<b>66</b>	<b>45</b>
% Jersey	26.4%	8.1%	1.4%	20.7%	9.2%	7.7%
Target (St Helier)	1	1			2	1
<b>Post Acquisition</b>	<b>38</b>	<b>21</b>	<b>3</b>	<b>6</b>	<b>68</b>	<b>46</b>
% Jersey	27.1%	8.5%	1.4%	20.7%	9.5%	7.8%

#### Summary 1st and 3rd Category Licences Only: Island-wide

	1 <sup>st</sup>	3 <sup>rd</sup>	Total	Premises
Island Wide	140	247	387	307
Randalls Post Acquisition	38	21	59	43
%	27.14%	8.5%	15.25%	14%

#### Summary 1<sup>st</sup> and 3<sup>rd</sup> Category Licences: St Helier Only

	1 <sup>st</sup>	3 <sup>rd</sup>	Total	Premises
St Helier Only	80	127	207	175
Randalls Post Acquisition	21	8	29	23
%	26.25%	6.3%	14.01%	13%

#### Summary 1<sup>st</sup> and 3<sup>rd</sup> Category Licences: Weighbridge Area Only

	1 <sup>st</sup>		3 <sup>rd</sup>		Total		Premises	
Liberation Group	4	23.5%	1	5.9%	5	14.7%	4	19%
Independents	9	52%	12	70.6%	21	61.8%	13	62%
Randalls Post Acquisition	4	23.5%	4	23.5%	8	23.5%	4	19%
<b>Total</b>	<b>17</b>		<b>17</b>		<b>34</b>		<b>21</b>	

#### Horizontal Effects

6.5 For horizontal mergers, the Authority can assess two potential types of anti-competitive effects – unilateral effects (i.e. the ability of the merged entity to raise prices unilaterally) and co-ordinated

effects (i.e. the ability of the merged entity to raise prices with either implicit or explicit co-operation of other competitors).

- 6.6 The restaurant and bar market in Jersey is competitive in terms of price, quality and range. In particular, geographically there is a high density of restaurants and bars in the area around Wildfire (Weighbridge) with similar offerings. Some of which are owned and operated by the Liberation Group, but a larger proportion of entities - in the same geographic area - are independent.
- 6.7 On the narrowest geographic area (Weighbridge), the Notified Transaction will increase the number of Randalls premises from 3 to 4, there are, however, a further 17 premises in the same geographic area. . The combined total of licenses and individual premises held post-transaction will be below the 25% safe harbour indicated in the European Guidelines.

## Wholesale supply of beverages

2021 £'000

Category	Total Jersey	Randalls	% Total
Spirits	9,312	[500 – 1000]	[5 – 10%]
Wine	9,640	[500 – 1000]	[5 – 10%]
Cider and Beer	6,922	[1500 – 2000]	[20-25%]
<b>Total</b>	<b>25,874</b>	<b>[3000 – 3500]</b>	<b>[10-15%]</b>

Source: States of Jersey Accounts

- 6.8 Vertical mergers involve companies operating at different levels of the supply chain. For example, when a manufacturer of certain products (the 'upstream firm') merges with one of its distributors (the 'downstream firm'), this is called a vertical merger.
- 6.9 As noted above, Wildfire currently operates in a market vertical to that of Randalls' wholesale supply of products to pubs and restaurants in Jersey. There are a number of wholesale suppliers in Jersey who compete on supply chain, service, delivery and price, including, for example, the Liberation Group, JJ Fox and Dunells. On an Island-wide basis, Randalls estimates its share of the wholesale supply of spirits, wine, cider and beer is approximately [10-15%].
- 6.10 For vertical or conglomerate mergers, the Authority's focus will be on assessing whether the merged would have the ability and incentive to foreclose the market to competitors, either by denying access to important inputs upstream, or by denying access to 'routes to market' downstream. However, as outlined in the European Guidelines, it is unlikely that non-horizontal mergers will cause concern where the market share post-merger of the new entity in each of the markets concerned is below 30%, as is the case with the Notified Transaction<sup>7</sup>.

## 7. Decision

- 7.1 Based on the previous analysis, the Authority concludes that the acquisition will not substantially lessen competition in Jersey or any part of Jersey; and the Notified Transaction is therefore approved under Article 22(1) of the 2005 Law.

8 August 2022

By Order of the Jersey Competition Regulatory Authority

<sup>7</sup> Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2008/C 265/07), para 25