

2.5 The Connétable of St. Helier of the Minister for Economic Development regarding powers in relation to purchase of C.I. Traders and implications of sale for retail strategy:

Does the Minister have any powers in relation to the purchase of C.I. Traders by a private equity company and what implications, if any, does the purchase have for the retail strategy?

Senator P.F.C. Ozouf (The Minister for Economic Development):

I can confirm that CI Traders does not have a beneficial ownership clause as the company was created prior to the implementation of RUDL (Regulation of Undertakings Development Law) controls including beneficial ownership clauses. Any powers I have in relation to the purchase of CI Traders by a private equity company are limited to a request under Article 6.4 of the Competition Regulatory Authority (Jersey) Law for that body to examine any acquisition. While I am framing an Article 6.4 request on the retail strategy in the context a number of operators, I do not propose to do so in the context of the proposed scheme of arrangement. At the scheme of arrangement that is published on the CI Traders website states that the acquisition is conditional upon, among other approval, receiving JCRA (Jersey Competition Regulatory Authority) approval under the Competition (Jersey) Law. The JCRA has authority to refuse its approval if it concludes that the acquisition would substantially lessen competition in Jersey. As far as the retail strategy is concerned, implications for the retail strategy depend on what the new owners would do. These are not yet known. The retail strategy is a framework document that establishes guidelines for the retail development of the retail sector in Jersey. I remain of the view that consumers would benefit from a third operator and I will continue to keep the retail strategy under review and I restate my commitment to keep St. Helier as the heart of retailing in Jersey.

2.5.1 The Connétable of St. Helier:

I thank the Minister for his answers, but would he comment on the proposed development of a large retail operation both at the Waterfront, which of course is against guidance of the Supplementary Planning Guidance and also the alternative location in the area of the Town Park?

Senator P.F.C. Ozouf:

Well, those would be, I suppose, reasonable questions for my colleague to my right as the Planning Minister. It is he that decides location on planning matters. But the Constable will have also been part of a briefing of the St. Helier taskforce and he will be aware of the nature of the proposals that are developing on the Waterfront. Also he will be aware that the retail strategy does state very clearly that there is not going to be any other new supermarket which is going to dominate over the size of the existing operators in the Island. There is an issue with the number of operators, there is an issue of the actual quantum of retail space, they are not necessarily the same.

2.5.2 Deputy G.P. Southern:

Two points of clarification if I may? Could the Minister briefly outline to Members what he meant by the beneficial ownership clause under RUDL I believe it was? Secondly, since he mentioned the JCRA potential study of retail on the Island, can he assure Members that the terms of reference given to the JCRA will be at least as rigorous and wide-ranging as those laid out in the report accompanying the request that he do so?

Senator P.F.C. Ozouf:

Well, in respect of the first question the beneficial ownership clause is something that was introduced as a result of the Regulation of Undertakings (Jersey) Law that was brought to this Assembly in the early 1970s. Obviously CI Traders as a company predates the Regulation of Undertakings. It is the case that some RUDL licences do have beneficial ownership clauses in them, in other words, the owners of a business are required to seek approval by the Minister for Economic Development for changes in beneficial ownership under various different criteria. That exists for some companies, it does not exist in relation to CI Traders. In relation to the Article 6.4

request, I am in discussion with the Economic Advisor and my own officials in respect of an Article 6.4 request and it will be on the subject of whether or not the market would benefit from additional operators as opposed to additional floor space. The competition conclusions of competition authorities across the world - Australia, New Zealand, the United Kingdom and elsewhere - say that a market needs 3 operators to have proper competitive dynamism. That is what I am going to ask the JCRA to advise me further on.

2.5.3 Deputy J.A. Martin:

Just a clarification what the Minister said on the Retail Strategy framework. Is he putting it on hold until we discover what is happening to CI Traders because it could be sold off? We may have 3 operators, we may have more than 3 operators, we do not know. The question basically is, is it on hold until we absolutely find out what CI Traders are going to do with the 2 big supermarkets that they have under their remit at the moment?

Senator P.F.C. Ozouf:

The Retail Strategy is not on hold and the Deputy, as a member of the Economic Affairs Scrutiny Panel that has apparently scrutinised this, will be aware that it is a framework document and it was designed in order to prepare myself and the Minister for Planning for applications that would come to us. The Deputy is aware that there have been applications from other supermarket chains, both from the United Kingdom and France, and I have made that public that there were applications for potential new operators in the marketplace. I cannot prevent those applications coming to me. What I do need to ensure is that I am properly equipped with the proper data, with the proper information in order to determine those applications under Regulation of Undertakings. and also that the Planning Minister may be properly informed to make informed decisions concerning planning matters.

2.5.4 Deputy G.P. Southern:

The Minister in one of his answers last session suggested that he was already aware that the JCRA were already in favour of 3 operators at least. In doing so has he not pre-empted the search for evidence that the JCRA might undertake to investigate this matter?

Senator P.F.C. Ozouf:

We will come later to a statement by the Chairman of the Economic Affairs Scrutiny Panel as to whether or not matters are predetermined. I am asking - I cannot tell the JCRA what to do. The JCRA are a properly independent body who will come to their own conclusions. I just draw the Deputy's attention to the conclusions of other competition authorities across the developed world in terms of competitive dynamism. I would expect that the Competition Authority would carefully analyse the Jersey market and make their conclusions known to us independently. I cannot tell them what to do but I simply restate the issues of the conclusions of other competition authorities across the world.