

STATES OF JERSEY



RETAIL STRATEGY: IMPACT ASSESSMENT (P.84/2007) – COMMENTS

**Presented to the States on 25th September 2007
by the Minister for Economic Development**

STATES GREFFE

COMMENTS

The Economic Affairs Scrutiny Panel is calling for an economic impact assessment of the addition of a third operator on the retail sector. I can confirm that I have written to the Jersey Competition Regulatory Authority requesting advice under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001. The terms of reference are set out below.

Article 6(4) request for JCRA advice on economic impact of new entry in the retail sector

Advice is sought from the Jersey Competition Regulatory Authority (the 'JCRA') on the economic impact of new entry into the retail sector by a third supermarket competitor.

In providing this advice, the JCRA should take into account the likely impact on –

- consumer welfare (in terms of prices, quality, innovation and choice available to consumers);
- the productive efficiency of existing retailers (in terms of their costs and revenues); and
- the Jersey economy overall.

The JCRA should provide this advice on the basis of the most recent and relevant information available and should consider empirical evidence which may be relevant to circumstances in Jersey. In this regard, experience from other small economies may be particularly relevant.

The JCRA has advised that it would aim to complete this work by the end of January 2008.

Members may recall that the Chairman of the Economic Affairs Scrutiny Panel made a statement on 1st May on the Panel's Retail Strategy Interim Review. The response attached at the Appendix was circulated to all States Members on 4th May.

Whilst the Proposition itself is capable of being supported there is much in the accompanying Report with which I do not agree. Nevertheless the JCRA's advice is being sought and there is clearly no need for the States to debate P.84/2007. Deputy Southern is asked to withdraw the Proposition.

FURTHER Statement by the Minister for Economic Development in response to the Statements made by the Chairman of the Economic Affairs Scrutiny Panel on 1 May 2007

1. The Scrutiny Panel have recommended that “the Economic Development Minister should suspend any action based on his framework until he has fully re-examined the guidelines in the light of accurate data and reported his findings to the States”.
2. I would submit that the Panel have, so far, actually added nothing new to the debate and accordingly given no grounds for me to reconsider the policy.
3. Moreover, I would suggest they have demonstrated that they have both misunderstood and misrepresented the Framework. It appears to me that their review has been superficial, partial and focuses on the all too familiar arguments of a few retailers in the Island: while ignoring the interests of consumers and the wider community.
4. I would like to expand on these points:
5. Firstly, it appears the Panel have brought nothing new to the debate. There is an absence of any new or relevant information in their review. The Panel has, so far, simply drawn on that which has already been published elsewhere. I have had plenty of time to consider what the Panel have to say as they are only repeating information that we have been aware of for sometime.
6. Secondly, their misunderstanding of the policy is so significant that they published an advert in the JEP on three separate occasions stating that:

"The [Economic Development](#) Department has developed a retail strategy based on a report published by the consultants Experian, recommending the development of a new chain supermarket store near the airport. They say it could be Tesco, Asda or Sainsbury."
7. Anybody reading the Retail Framework could easily see that it is **not** based on the Experian Report, which did not recommend the development of a supermarket at the airport and does not say it could be Tesco, Asda or Sainsbury.
8. For the removal of doubt the Retail Framework has been developed through an extensive consultation process and by drawing on all the available information on the retail sector in Jersey. It draws as much from the reports by Professor Sparks and the JCRA as it does from those by Experian. In addition, it draws on information from over 30 meetings with retailers, suppliers and consumers.
9. The Panel by contrast have got nowhere near the depth and breadth of our consultation process and instead, I regret to say, it appears they have chosen to simply repeat the views of a few retailers.
10. They did take evidence from the Chairman of the Consumer Council but have not included his views in their report.
11. It would appear that they have failed to consult with other consumer bodies such as Age Concern, Jersey Island Federation of Women’s Institutes, Senior Citizen’s Association, Standing Conference of Women’s Organisations of Jersey and the Youth Council. All these bodies and those representing businesses were involved in the consultation process that informed the development of the Retail Framework.
12. The Panel also seem to have chosen not to mention the views of the many individual consumers which responded to the adverts they placed in the JEP (although maybe that is because they have now realised that they were asking for views on a complete misrepresentation of Economic Development’s policy).
13. Thirdly, the Chairman of the Panel claims that the framework is “*not based on sound information*” but this

only goes to show the extent of his misunderstanding of the framework. The approach is not dependent on the exact size of expenditure in the various retail sectors in Jersey. Rather the Framework takes an incremental approach which allows controlled entry and expansion of the retail sector, while at the same time limiting and managing the impact on existing retailers and the high street. The Framework states quite clearly that this means:

“New retailers being restricted to occupying space on a similar scale to that occupied by existing firms in the sector, unless there is a specific need for more space. This would guard against a new entrant being able to dominate the market by sheer size but at the same time not place greater restrictions on them than current incumbents.”

14. The Scrutiny Panel’s review states that the Checkers supermarket at Rue des Pres will be 44,000sq ft when its new extension is completed. So a new supermarket if treated on an equal basis should not be restricted to smaller space and hence why the guidelines in the framework would allow a supermarket of 40-50,000 sq ft.
15. However, the guidelines will only accommodate one supermarket on such a scale allowing it to compete on a level playing field. If the space were to be taken by a new entrant then they would not be able to dominate the market from one store of such size and the Framework would also therefore limit the impact on the existing retail base.
16. Fourthly, the Panel have not given due consideration to the dynamics and benefits of competition. Economic Development’s Retail Framework draws from the report by the JCRA on food prices in Jersey. They conclude with reference to higher food prices in Jersey than in the UK that:

“Another likely contributing factor is the high market concentration levels in Jersey compared to the UK in markets for food production, distribution and retail sale. High levels of market concentrations can result in less competition and higher prices, based on actions by competitors that may or may not violate competition law.”

17. The JCRA cite that the *“UK’s Competition Commission concluded that consumer choice in food retailing is adequately safeguarded when three or more supermarkets compete in a particular locality”*. Also that the Australian Competition and Consumer Commission has stated even more strongly that a *“reduction from three large firms to two makes the emergence of cooperative behaviour almost inevitable even if the firms do not consciously seek to cooperate”*.
18. The Scrutiny Panel try to refute this evidence from such well respected organisations by showing what has happened to food prices in the Isle of Man relative to Jersey in recent years. Such a superficial examination of the situation and use of selective data cannot be used to assert as the Chairman does that ‘more competition equals lower prices remains a premise of the Economic Development Minister and not a proven fact’.
19. The data does show that food prices in the Isle of Man have increased at a sharper rate than in Jersey over the period 2000-2006. However, to make the case that this shows there are no benefits from competition is overly simplistic. In the detail of their Review the Panel does mention that the food price rises in the Isle of Man could be due to ‘external factors’. This is clearly an understatement – the faster rise in prices could be due to numerous other factors not related to the degree of competition – such as changes in the retail market structure, faster rises in costs and general inflationary pressure in the economy.
20. The real question is to what extent prices would have risen if there had been a lesser degree of competition? Not to mention they are comparing the outcomes in an economy that is half the size of that in Jersey.
21. The Panel also briefly mention that ‘food prices in the Isle of Man generally start from a lower baseline’. This deserves much more detailed consideration when the JCRA in their report actually concluded that:

“Again comparison to the Isle of Man may be instructive. The retail food sector in the Isle of Man is less concentrated than in Jersey, traditionally having four supermarket operators (Manx Co-operative, Safeway, Tesco and Shoprite) and today having three, as a result of Shoprite’s recent acquisition of the local Safeway. In contrast, Jersey traditionally has had three supermarket operators, and now only has two. The Isle of Man’s reduced level of retail concentration may be a contributing factor to it having lower food prices generally than Jersey.”

22. More detailed consideration is also needed as to what may have helped to keep food price increases in Jersey down over the period shown. This could actually be a result of increased competition brought about by a number of factors in Jersey.
23. Firstly that there were originally three players competing in the market (Safeway, Checkers and Co-Op) then the acquisition of Safeway by Morrisons added another element of competition. The public reaction to CI Traders acquisition of Safeway also served to heighten competition initially when the market went from three operators to two. In addition, the development and publication of the Retail Framework has made the potential threat of a new entrant much greater and therefore may have brought some of the benefits of competition in advance. Rather than being evidence that competition does not bring lower prices the Jersey/Isle of Man comparison in its proper context actually supports the case for additional competition in Jersey.
24. Finally, the Panel suggest that I should suspend the retail framework. But they have not thought through what this would mean for local businesses.
25. Neither have they thought through what message it would send to businesses outside the Island particularly the potential new entrants from the UK and France that believe they can compete successfully in Jersey offering quality, choice and lower prices.
26. If we were to close the door on any additional retail space this would impact negatively on those local retailers that are currently seeking to expand their presence in the Island. It would also send out the message that Jersey is closed for business and most importantly of all would insulate the Island from the benefits of additional competition.
27. This goes against our economic objectives agreed in the Strategic Plan which are economic growth, job opportunities for local people and lower inflation.
28. There is no evidence to suggest that Scrutiny’s closed door approach would help us achieve these economic objectives and many reasons to think it would actually hinder us.
29. I urge the Panel to re-consider their position and in the second part of this important study to take a more evidenced based approach, moreover, consider the matter from a consumer perspective too.
30. It is unfortunate that I have not been able to meet the Panel in person in (recent weeks for personal reasons), I am however anxious to meet with the Panel in early course to try again and explain the policy to them.
31. In addition, I would be pleased to meet, explain and discuss this important area with any member should they wish.