

STATES OF DELIBERATION

25th February, 2009

Billet d'État No. VII Article 1

AMENDMENT

Proposed by: Deputy C. S. McNulty Bauer
Seconded by: Deputy R. W. Sillars

Policy Council – Projets de Loi awaiting Royal Sanction

In the Competition (Enabling Provisions) (Guernsey) Law, 2009 -

- (a) in clause 5(m) (printed on page 42 of the Brochure) for ", fines" substitute "(including, without limitation, financial penalties, whether calculated by reference to an undertaking's turnover or otherwise)", and
- (b) after paragraph (w) (printed on page 44 of the Brochure) insert the following paragraph -
 - "(x) without prejudice to paragraph (w), the conferring on the Director General of power to require undertakings-
 - (i) to transfer, dispose of or enter into any other transaction or arrangement in respect of -
 - (A) any business or part thereof, or
 - (B) the control of any undertaking or business or any part thereof,
 - (ii) to carry on any business or part thereof or any joint venture subject to such conditions, restrictions and limitations as may be specified,
 - (iii) to refrain from carrying on any business or part thereof or any joint venture or from entering into any transaction or arrangement or any class or description thereof,

- (iv) to transfer, dispose of or enter into any other transaction or arrangement in respect of any property or assets or the control, ownership, possession or use thereof,"

and reletter the following paragraphs (x) to (dd) as, respectively, paragraphs (y) to (ee).

EXPLANATORY NOTE

The effect of this amendment is to ensure that the ordinance making powers set out in clause 5 of the Competition (Enabling Provisions) (Guernsey) Law, 2009 are wide enough to enable any ordinance made under the Law relating to mergers and acquisitions to empower the Director General of Competition to impose financial penalties based on an undertaking's turnover and to order in extreme circumstances the break-up of an unlawful merger or acquisition (and to exercise other relevant powers).

It is intended that mergers and acquisitions will be the subject of a policy report from the Commerce and Employment Department in the near future, and it must be emphasised that the object of the Law and of this amendment is merely to provide the necessary enabling powers to permit the States to legislate in the manner they think fit following a full report and debate.