Cartels will face big fines, expert warns

by Harry McRandle
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JERSEY companies could face fines of millions of pounds for price fixing and market rigging, a competition law expert has warned.

With cartel-busting now at the top of the agenda for the Channel Islands Competition Regulatory Authorities, former regulator Paul Hamilton said that it was only a matter of time before big fines were meted out to local companies for anti-competitive behaviour.

He has predicted that when the CICRA finds its first cartel, it will inflict a heavy punishment as a warning to others.

Mr Hamilton said that as well as facing a crippling financial penalty, it was also likely that individual directors would be disqualified from holding office if they were found to have been involved with price fixing and market rigging.

The regulatory expert issued the warning when he spoke to members of the Jersey Chamber of Commerce at a breakfast seminar last week, when he said that companies in other islands around the world had been fined tens of millions of euros for breaches of laws similar to those in place in Jersey.

'Just because it hasn't happened here yet does not mean that it won't,' Mr Hamilton said. 'In fact, it makes it more likely that the regulator will detect anti-competitive behaviour at some point and will respond in a manner similar to action taken in other places.'

Paul Hamilton speaking at the Jersey Chamber of Commerce seminar
Picture: DAVID FERGUSON (4942705)

A recent example of how tough penalties could be was the punishment handed out to the parent company of local builders' merchants Norman Ltd, the French conglomerate Saint Gobain. That business was fined 715 million euros for its part in a car glass price fixing cartel – the largest fine handed out to a single company by the European Commission.

Among the other examples he gave was a 32 million euro fine handed out in the Canary Islands to hire car companies involved in price fixing and a 90 million euro fine to shipping companies in the Balearic Islands for agreeing prices on sea routes from mainland Spain.

Mr Hamilton, who worked for the CICRA for 13 years before setting up his own consultancy firm in 2013, said that under local law, fines for breaches could be up to 30 per cent of annual turnover, with directors being disqualified from holding office.

'On top of this, they risk exposure to being sued by customers who have been wronged by their actions,' he added.

However, a lot of the time, Mr Hamilton said, the real damage was not financial but to a firm's reputation, especially in a small community like Jersey.

He warned that local firms appeared to be blasé in their approach towards compliance with competition law rules. 'The culture seems to be more relaxed in Jersey than one sees in other jurisdictions,' he said, adding that larger businesses in the UK and Europe tended to adopt a more focused and disciplined approach. And he said that competition law in small islands had an added significance because markets tended to be more concentrated. 'With only two or three companies controlling the major trading sectors, the risks of flouting the rules will be greater by virtue of their dominance. And the small size of the market makes it easier for competing companies to collude,' he said.

He added that local trading companies could avoid the risks by implementing compliance programmes in a similar manner to the way in which finance firms organise themselves to comply with laws that cover that sector.

Care hearing put off after Health releases sensitive abuse documents

A PRELIMINARY hearing ahead of a major independent inquiry into abuse at care homes in Jersey has been cancelled, after crucial documents were finally submitted to the panel in charge of the investigation.

An earlier hearing of the Independent Jersey Care Inquiry was told that the Health Department had not complied with a summons made in April to submit the documents, which relate to the Historic Abuse Redress Scheme.

Staff were given seven days to produce the documents and they have now done so.

As as result of the department's compliance, the preliminary hearing scheduled for today will not go ahead.

In a statement, the panel said: 'This is because the matters raised at the previous preliminary hearing have been resolved, so there is no outstanding business that needs to be dealt with.'

States roll call

THREE States Members were absent from the start of yesterday's sitting, which began with the much-anticipated debate over whether the States should help buy Plémont. Deputy John Le Fondré was out of the Island on States business, but returned to the Chamber later in the day. Deputy Steve Luce was excused attendance as he was accompanying a family member to a hospital appointment in the UK and Deputy Kristina Moore was ill. The Bailiff, William Bailhache, was presiding.

States gains £1.9m from Jersey Post

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JERSEY Post managed to limit a fall in pre-tax profits last year to just two per cent, despite a 22 per cent collapse in turnover, according to the States-owned company's annual report.

Despite the difficult trading conditions, the company paid the States £1.9 million in dividends, which was more than it made in profits.

Revenues at the business have fallen more than 50 per cent since the end of Low-Value Consignment Relief for exports to the UK in 2011, with mail volumes continuing to reduce with a further fall of three per cent last year.

According to the report, turnover in 2013 fell by £10 million, to £34 million. Revenues from logistics, the commercial moving of goods to customers, in 2013 were 54 per cent lower than in 2012 and 78 per cent lower than in 2011.

But despite the challenges, the company still managed to make £1.27 million profit, a fall of only two per cent on 2012.

Some of the revenue loss was clawed back as a result of a 16 per cent increase in parcel volumes that accounted for more than 40 per cent of total revenues.

The report also shows that chief executive Kevin Keen took home £137,000 during the year – £2,000 less than his package in 2012.

However, there were bonuses paid of £28,000 to finance director Liz Vince and £24,000 to business development director Gary Carroll. Ms Vince's package was worth £145,000 and Mr Carroll's £163,000.

But Mr Keen is likely to be rewarded for his efforts when he steps down from his position at the end of the summer. If the board agree, he is likely to get a farewell bonus equivalent to his annual salary. He is eligible to receive one-third of his salary for each of the three years he has been in post.

The report shows that efforts to improve customer service are paying off, with 96 per cent of customers now believing that Jersey Post's delivery service is getting better.

In comments included in the report, Mr Keen said that 2013 was Jersey Post's first full year of operating without the income generated from sending out items such as CDs and DVDs,

Jersey Post chief executive Kevin Keen

VAT-free to the UK if bought through online traders exploiting the LVCR tax loophole.

'The board is pleased that despite this, the company managed to generate a profit before tax of £1.27 million, just two per cent lower than in 2012, and in spite of a 22 per cent reduction in sales,' he said. 'The achievement is all the more credible given the board's decision not to implement any stamp price increase to our customers in 2013.'

The chairman of the board, Jurat Mike Liston, added: 'This year's results complete the picture that was emerging last year of an organisation which has adapted to dramatic and permanent change in its trading environment.'

Near to the end of the 2013 financial year, Jersey Post decided to close the free email service Jerseymail as it was costing too much to run and people were switching to internet based email services. Mr Liston said that the company would manage the gradual winding down of the service in a manner which aimed to minimise the impact on customers and staff.