



Guernsey Competition Law

GCRA Guideline 8 – How to make a complaint

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What this Guideline is about

This Guideline is one in a series of publications designed to inform businesses and consumers about how we, the Guernsey Competition and Regulatory Authority (**GCRA**), apply competition laws in Guernsey.

The purpose of this Guideline is to explain to consumers, businesses and their advisers the provisions in Guernsey competition law in respect of anti-competitive agreements. Specifically, this Guideline has been prepared to explain Part II of *The Competition (Guernsey) Ordinance, 2012* (the **2012 Ordinance**).

This Guideline should not be relied on as a substitute for the law itself. If you have any doubts about your position under the law, you should seek legal advice.

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1 Introduction

Why is competition important?

Open and vigorous competition is good for consumers because it can result in lower prices, new products of a better quality and more choice. It is also good for fair-dealing businesses, which flourish when markets are competitive.

Competition law in Guernsey

In Guernsey, the 2012 Ordinance prohibits anti-competitive behaviour, including anti-competitive agreements between businesses and the abuse of a dominant position in a market. It also requires certain mergers and acquisitions to be notified to the GCRA for approval.

What powers does the GCRA have?

The GCRA has a wide range of powers to investigate businesses suspected of breaching the law. We can order that offending agreements or conduct be stopped and levy financial penalties on businesses and individuals for the breach.

What types of organisation are considered a 'business'?

Throughout this Guideline, we refer to a 'business'. This term (also referred to as an 'undertaking' in Guernsey competition law) means any entity engaged in economic activity, irrespective of its legal status, including companies, partners, cooperatives, States' departments and individuals operating as sole traders.

A Note on European Union (EU) Competition Law

Guernsey competition law is modelled on the competition provisions in the Treaty on the Functioning of the EU (TFEU). Section 54 of the 2012 Ordinance provides that the GCRA and the Royal Court may take into account the principles laid down by, and any relevant decisions of, the European courts in respect of corresponding questions arising under EU competition law¹.

Relevant sources of EU competition law include judgments of the European Court of Justice or General Court, decisions taken and guidance published by the European Commission, and interpretations of EU competition law by courts and competition authorities in the EU Member States. Section 54, however, does not prevent us from departing from EU precedents where this is appropriate in light of the particular circumstances of Guernsey.

¹ The provisions of section 54 were amended with effect from 23 February 2021 by the European Union (Competition) (Brexit) (Guernsey) Regulations, 2021, regulation 1, which replaced the word “must” with the word “may”.

2 Why should I complain?

The GRA cannot 'spot check' businesses to ensure that they are complying with the competition laws. We may only conduct an investigation if we have 'reasonable grounds to suspect' that a business has breached the law.

We may assess that there is 'reasonable grounds to suspect' that an infringement has occurred, or is occurring, from media reports, from market intelligence, or from anecdotal evidence. Often, however, the matters are not in the public domain, and we therefore encourage businesses and consumers who suspect that a business is infringing the law to contact us to make a complaint. We will then assess the complaint to see if there are grounds to commence an investigation under the laws.

3 What if I am not sure whether a business is breaching the law?

If, after reading the publications, you are unsure whether or not to make a complaint, please contact us to discuss the matter in more detail.

4 What information will I have to provide?

Once you have contacted us to discuss a complaint, we may ask you to provide us with more information.

It is important to provide us with the full facts of the case and as much supporting evidence as possible, to enable us to process the complaint in an efficient and timely manner.

We prefer that, whenever possible, information is provided in writing. This enables us to carry out an initial assessment of your complaint as quickly as possible.

Examples of the information we may request include:

- the name(s) of the business(es) you believe are infringing or have infringed the law;
- a description of the behaviour that has resulted in the complaint and the effect that the behaviour has had on you;
- details of the products and/or services in question;
- any relevant hard copy documentation - this may be emails, contracts, letters and/or notes of telephone conversations;
- whether the matter is urgent, and if so why; and
- whether any of the details of the complaint (including your identify) are confidential.

The Need to Provide True and Accurate Information

It is a criminal offence to knowingly or recklessly provide us with information that is false or misleading. The information contained in a complaint therefore must be true and accurate to the best of your knowledge and belief.

5 What happens to my complaint?

We will first check that the complaint can be dealt with under the competition laws, and will let you know if it relates to different legislation, or should be handled by another body such as Trading Standards, the Citizens' Advice Bureau or the Guernsey Financial Services Commission.

We will try to advise you within 30 days as to whether your complaint raises issues which justify further work.

We may, but do not have to, launch a formal investigation if we have reasonable grounds for suspecting that the law has been breached. In deciding whether to launch a formal investigation, we will consider whether an investigation would be appropriate, taking into account our resources and other priorities.

In all cases, we will let you know how we are dealing with your complaint, give you a contact name, and will keep you informed of any progress. You may contact us for an update at any time.

For more information on how we conduct investigations see GCRA Guideline 10 – Investigation Procedures.

6 Confidentiality

The laws require us to keep confidential non-public information we receive under the laws. This requirement does not apply to information where parties give their consent for disclosure.

To investigate a complaint fully, we often need to reveal the information we have obtained, and the source of that information, to the business being investigated. However we will protect your identity as far as possible, and we will get your consent before we disclose your identity to any third party. In some cases your identity may be apparent to the business when we inform it that we have received a complaint.

When submitting a complaint, if you consider that the information you provide might seriously damage your commercial interests if it is disclosed, you should clearly mark it as confidential, and explain to us why it should be treated as such. We do not accept blanket requests for confidentiality.

How can I find out more?

Please contact us if you have a question about competition law in Guernsey, or if you suspect that a business is breaching the law and wish to complain or discuss your concerns.

Suite 4
1st Floor La Plaiderie Chambers
St Peter Port
Guernsey GY1 1WG

T: +44 (0) 1481 711120

E: info@gcra.gg

Publications

All our publications, including the detailed Guidelines we publish covering specific areas of the laws, can be downloaded from our website:

www.gcra.gg.