



Case M1664G

Proposed acquisition of Carey Commercial Limited  
by Suntera Holdings (Guernsey) Limited

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Decision

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Date: 14 July 2023

Guernsey Competition and Regulatory Authority  
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## Summary

1. Suntera Holdings (Guernsey) Limited (the **Purchaser**) proposes to acquire the entire issued share capital of Carey Commercial Limited (the **Target**) from their shareholders (together the **Notifying Parties**).
2. The transaction has been notified to the Guernsey Competition and Regulatory Authority (**GCRA**) pursuant to Section 16(1) of the Competition (Guernsey) Ordinance 2012 (the **2012 Ordinance**).
3. The GCRA has determined that the proposed acquisition will not lead to a substantial lessening of competition in any relevant market and hereby approves the notified transaction.

## The Notified Transaction

4. On 27 June 2023, the GCRA received a joint application from the Purchaser and the Target for the proposed acquisition by the Purchaser of the entire share capital of the Target.
5. The GCRA registered the application on its website with a deadline for comments of 11 July 2023. No submissions were received.

## The Parties

6. The Purchaser is a Guernsey registered company and currently operates in Guernsey, with a core business of fiduciary services specialising in private wealth structures and corporate administration. The Purchaser is also active in fund administration services only in Jersey. The Purchaser's ultimate parent company is MatchCo Limited located in Isle of Man.
7. The Target is a Guernsey registered company and provides corporate, trust and fund administration services to its customers.

## Guernsey: Requirement for GCRA Approval

8. Pursuant to s.61(1)(b)(i) of the 2012 Ordinance, a merger or acquisition occurs for the purposes of that Ordinance when: *"an undertaking [...] directly or indirectly acquires or establishes control of another undertaking"*.
9. Accordingly, the acquisition by the Purchaser of the entire issued share capital of the Target amounts to an acquisition of control over the Target and its subsidiaries for the purposes of the 2012 Ordinance. The notified transaction is therefore an acquisition, as defined by the 2012 Ordinance.
10. Under Regulation 2(a) and (b) of the Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations 2012 (the **Regulations**), an undertaking is involved in a merger or acquisition if it is acquiring, or being acquired by, another undertaking.

11. On completion of the notified transaction, the Purchaser will acquire 100% of the shares in the Target. Both the Purchaser and the Target are therefore involved in a merger for the purposes of the Regulations.
12. Under s.13(1) of the 2012 Ordinance, certain mergers must be notified to, and approved by the GCRA before they can be put into effect. Regulation 1 of the Regulations provides that mergers must be notified to the GCRA for clearance if:
  - a. The combined Channel Islands turnover of the undertakings involved in the merger exceeds £5 million, and
  - b. Two or more of the undertakings involved in the merger have Guernsey turnover exceeding £2 million.
13. According to information provided by the Notifying Parties,
  - a. The Purchaser had turnover of £[<del>X</del>] million in Guernsey and £[<del>X</del>] million in the Channel Islands and
  - b. The Target had turnover of £[<del>X</del>] million in Guernsey and the Channel Islands

in the financial year ended 31 December 2022. Therefore, the combined and individual applicable turnover of the Parties in the Channel Islands and Guernsey exceeds these thresholds. On this basis, the GCRA's approval is required before the acquisition is executed.

### Market Definition

14. Under s.13 of the 2012 Ordinance, the GCRA must determine if the merger would substantially lessen competition within any market in Guernsey for goods or services.
15. As an initial step, the GCRA will identify the markets which are likely to be affected by the merger since market definition provides a framework within which the competitive effects of a merger can be assessed. However, the boundaries of the market do not necessarily determine the outcome of the analysis of the competitive effects of the merger. This is because there can be constraints on the merging parties from outside the relevant market, segmentation within the relevant market or other ways in which certain constraints are more significant than others. The GCRA will, where appropriate, take these factors into account in its assessment.
16. When defining a market, the GCRA may take note of its own previous decision-making practice and/or market definitions applied by other competition authorities. However, these previous decisions are not precedents and are not binding, either on the merging parties or on the GCRA. Competition

conditions may change over time, changing the market definition. Market definition will always depend on the prevailing facts<sup>1</sup>.

### Views of the Parties

17. The Notifying Parties state that both the Purchaser and the Target provide trust, corporate and fund administration services. However, the Purchaser has a negligible presence in fund administration services only in Jersey.
18. In terms of geographical aspect, the Notifying Parties indicate that their customers and the other service providers are based globally.

### GCRA Consideration

19. The relevant product market is defined primarily by reference to the likely response of consumers and competitors<sup>2</sup>. It will comprise products and/or services which are regarded as interchangeable or substitutable by the consumer, because of the product's characteristics, prices and intended use. An undertaking cannot have a significant impact on the prevailing conditions of a market if customers can easily switch to other service providers.
20. The geographic market is the area over which substitution takes place. Geographic markets are defined using the same process as that used to define the product market. Some issues, especially from a Guernsey perspective, which are particularly relevant to geographic market definition, are: (i) demand-side, (ii) supply-side and (iii) imports<sup>3</sup>.
21. According to the information provided by the Notifying Parties, their activities, in broad terms, overlap in trust and company administration services.
22. For the purposes of the present decision, it is not necessary to determine whether there is a broad product market for company, trust and fund administration services or whether further subdivision of that segment would be appropriate. This is because, for the reasons set out below, the transaction would not lead to a substantial lessening of competition based on any plausible market definition.
23. The Notifying Parties state that their customers are located globally, and they face competition from globally located players mostly from offshore jurisdictions. The relevant geographic market is likely to be wider than Guernsey, possibly as wide as global, whether the product market is defined widely (trust and company administration services as well as fund administration services) or narrowly (as some subset of these services). This conclusion is consistent with the previous decision-making practice of the GCRA and other competition authorities<sup>4</sup>. Nevertheless, the precise geographic market

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<sup>1</sup> GCRA Guideline 7 – Market Definition, page 26.

<sup>2</sup> GCRA Guideline 7 – Market Definition, page 14.

<sup>3</sup> GCRA Guideline 7 – Market Definition, page 20.

<sup>4</sup> GCRA's Praxis/Olympic Decision (Case 1657G), Trust Corporation/Ocorian Decision (Case M1586G) and JCRA's Capita Fiduciary/Eagle Management Decision (Case M145/07).

definition can be left open in this case since the transaction would not lead to a substantial lessening of competition on any plausible basis.

### Effect on Competition

24. As set out above, there is a horizontal overlap between the activities of the Notifying Parties in the area of trust and company administration services.

### Horizontal effects

25. After defining the relevant market, GCRA estimates the respective market shares of the competitors in that market, both before and after the proposed transaction. These shares can be used as an indication of the overall level of market concentration that will be brought about as a result of the merger.

26. As established in previous GCRA decisions<sup>5</sup>, it is difficult to estimate market share as most competing service providers' financial statements are not public records. Much of the statistical data is from the Guernsey Financial Services Commission (**GFSC**) which collects and categorises certain data for its specific legal and regulatory mandate. According to the GFSC data, 144 entities were holding fiduciary lead licences on 30 June 2022 in Guernsey<sup>6</sup>. Additionally, according to We Are Guernsey (Guernsey Finance) data, there are more than 50 corporate finance services providers<sup>7</sup>.

27. Based on the GFSC data, the Notifying Parties have estimated their share of the Guernsey general fiduciary services segment (which includes trust and administration services) as 0-5% for 2022<sup>8</sup>. As explained above, the actual geographic market is very likely to be broader than Guernsey, and possibly as wide as global.

28. Given that the scope of the geographic market is likely to be broad, the presence of many providers and the specialisation of the Notifying Parties, the merger will not give rise to horizontal anti-competitive effects in Guernsey on any plausible basis.

### Decision

29. Based on the preceding analysis, the GCRA concludes that the acquisition will not substantially lessen competition within any market in Guernsey for goods or services.

30. The GCRA is also satisfied that the merger would not be to the prejudice of:

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<sup>5</sup> GCRA's Praxis/Olympic Decision (Case 1657G) and Trust Corporation/Ocorian Decision (Case M1586G).

<sup>6</sup> Guernsey Financial Services Commission: Annual Report and Financial Statements for the year ended 31 December 2022, page 63, Figure 5.

<sup>7</sup> weareguernsey.com

<sup>8</sup> Guernsey Financial Services Commission: Annual Report and Financial Statements for the year ended 31 December 2022, page 64, Figure 8.

- (a) consumers or any class or description thereof;
- (b) the economic development and well-being of the Bailiwick; or
- (c) the public interest.

53. The merger is therefore approved under s.13 of the 2012 Ordinance.

**14 July 2023**

**By Order of the Board of the GCRA**