International Competition Network
Unilateral Conduct Working Group
Questionnaire

Agency Name: Jersey Competition Regulatory Authority ("JCRA")
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Refusal to Deal

This questionnaire seeks information on ICN members' analysis and treatment under their antitrust laws of a firm's refusal to deal with a rival. The information provided will serve as the basis for a report that is intended to give an overview of law and practice in the responding jurisdictions regarding refusals to deal and the circumstances in which they may be considered anticompetitive.

For the purposes of this questionnaire, a "refusal to deal" is defined as the unconditional refusal by a dominant firm (or a firm with substantial market power) to deal with a rival. This typically occurs when a firm refuses to sell an input to a company with which it competes (or potentially competes) in a downstream market. For the purposes of this questionnaire, a refusal to deal also covers actual and outright refusal on the part of the dominant firm to license intellectual property (IP) rights, or to grant access to an essential facility.

The questionnaire also covers a "constructive" refusal to deal, which is characterized, for the purposes of this questionnaire by the dominant firm's offering to supply its rival on unreasonable terms (e.g., extremely high prices, degraded service, or reduced technical interoperability). Another method of constructive refusal to deal may be accomplished through a so-called "margin-squeeze," which occurs when a dominant firm charges a price for an input in an upstream market, which, compared to the price it charges for the final good using the input in the downstream market, does not allow a rival on the downstream market to compete.

This questionnaire, as well as the planned report, does not encompass conditional refusals to deal with rivals. In the case of a conditional refusal, the supply of the relevant product is conditioned on the rival's accepting limitations on its conduct, such as certain tying, bundling, or exclusivity arrangements (see the recent reports of this Working Group, in particular the *Report on Tying and Bundled Discounting* (June 2009) and the *Report on Exclusive Dealing* (April 2008)).

You should feel free not to answer questions concerning aspects of your law or policy that are not well developed. Answers should be based on agency practice, legal guidelines, relevant case law, etc. Responses will be posted on the ICN website.

General Legal Framework

1. Does your jurisdiction recognize a refusal to deal as a possible violation of your antitrust law? If so, is the term refusal to deal used in a manner different from the definition in the introductory paragraphs above? Please explain.

   A refusal to deal can be an abuse of dominance under Article 16 of the Competition (Jersey) Law 2005 (the "Law"). In particular, Article 16(3) of the Law states that *"an abuse of a dominant position may consist of a failure or refusal to do something."*

Article 60 of the Law requires that, so far as possible, matters arising under competition law in Jersey are treated in a manner that is consistent with the treatment of corresponding questions arising under competition law in the European Union. Therefore, in interpreting questions concerning refusals to deal under Article 16, the JCRA would look for guidance in judgments by the European Court of Justice and European Court of First Instance, as well as decisions by the European Commission and, potentially, decisions by competition enforcement agencies in EC Member States, especially concerning circumstances in small economies.

2. Please state the statutory provisions or legal basis (including any relevant guidelines or formal guidance) for your agency to address a refusal to deal. Are there separate provisions for specific forms of refusal (e.g., IP licensing, essential facilities, margin squeeze)?

   See response to Question 1. There are no separate provisions for specific forms of refusals to deal.

3. Do the relevant provisions apply only to dominant firms or also to other firms?

   Only dominant firms.

4. Is a refusal to deal a civil/administrative and/or a criminal violation? If it is a criminal violation, does this apply to all forms of refusal to deal?

   Civil only

Experience

5. How many in-depth investigations (i.e., beyond a preliminary review) of a refusal to deal has your agency conducted during the past ten years (or use a different time frame if your records do not go back ten years)?

   One since the Law came into effect on 1 November 2005.

6. In how many refusal to deal cases did your agency find unlawful conduct during the past ten years? Please provide the number of cases concerning IP-licensing, essential facilities, margin squeeze, and all other types separately. For any case, in which your agency found unlawful behavior, please describe the anticompetitive effect and the circumstances that led to the finding.

   For administrative systems -- i.e., the agency issues its own decision (subject to judicial review) on the legality of the conduct -- please state the number of agency decisions finding a violation, or settlements that were challenged in court and, of those, the number upheld and overturned. For judicial systems -- i.e., the agency challenges the conduct in court -- state the number of cases your agency has brought that resulted in a final court decision that the conduct violates the competition law or a settlement that includes relief.

   As stated in response to Question 5, since Jersey's Competition Law came into effect in 2005 the JCRA has issued one abuse of dominance decision based on a refusal to deal. This was the *JCRA's Decision C038/06 and Order Imposing Financial Penalties Under Articles 35, 37, and 39 of the Competition (Jersey) Law 2005 Concerning an Infringement of Article 16(1) of the Competition (Jersey) Law 2005 by Transport and Technical Services* (as used hereinafter, the "TTS Decision").

This Decision arose from the refusal of a Government undertaking, Transport and Technical Services ("TTS") to provide access to Jersey's only sewage treatment facility at Bellozanne to private waste disposal companies for the disposal of waste collected from tight and septic tanks in Jersey. TTS affected this foreclosure through a series of restrictive licences issued to private waste disposal companies in the 1990s and in 2005, prior to Jersey's Competition Law coming into effect. These licences specifically prohibited the private companies from disposing of waste from tight and septic tanks at the Bellozane facility, which is the only location in Jersey where such waste can be disposed of properly. TTS both operates the Bellozanne facility and collects and disposes of waste from tight and septic tanks.

To analyse the alleged abuse in this matter, the JCRA followed a 3-step analysis: (1) defining the relevant product and geographic markets, (2) determining whether the undertaking in question is dominant in the relevant markets, and (3) determining if the undertaking's conduct constitutes an abuse. In addition, the JCRA examined if the there existed an objective justification for the conduct in question, or if it was efficient (see response to Question 17, below).

Here, the JCRA found that TTS is dominant in a relevant market defined as the provision of sewerage services – defined as the emptying of waste from septic and tight tanks, the transportation of the waste to the disposal facilities at Bellozanne, and the discharge of the waste at those facilities – in Jersey. The JCRA also determined that the issuance of the restrictive licences, as described above, constituted an abuse of dominance. Specifically, the JCRA found that the issuance of the restrictive licences had an actual anticompetitive foreclosure effect, by prohibiting new entry into the relevant market. Several potential competitors had told the JCRA of their willingness and ability to enter the relevant market, but for the licences issued by TTS. The restrictive licences therefore created and maintained a monopoly for TTS in the provision of sewerage services in Jersey, placing it in a position to profitably increase prices to the detriment of consumers. The JCRA had received complaints from consumers of high prices for certain sewerage services and a lack of choice of providers in this market.

The Decision imposed a £15,000.00 financial penalty on TTS. As a result of the JCRA's investigation into this matter, TTS voluntary ended the abusive practice by revoking the restrictive licences. TTS did not appeal the Decision.

Please state whether any of these cases were brought using criminal antitrust authority.

As stated in response to Question 4, competition law infringements in Jersey are civil law infringements only.

Please provide a short English summary of the leading refusal to deal cases (including IP licensing, essential facility, and margin squeeze) in your jurisdiction, and, if available, a link to the English translation, an executive summary, or press release.

A copy of the JCRA's TTS Decision described in Question 6 may be obtained via the following link:
http://www.jcra.je/pdf/090520%20TTS%20Decision%20public%20version.pdf

A copy of the JCRA's Press Release concerning this Decision may be obtained via the following link: http://www.jcra.je/pdf/090519%20TTS%20Press%20Release.pdf

7. Does your jurisdiction allow private parties to challenge a refusal to deal in court? If yes, please provide a short description of representative examples of these cases. If known, indicate the number (or an estimate) of private cases.

   Under Article 51 of the Law an aggrieved person can bring a civil action in Jersey's Royal Court for alleged competition law infringements, including alleged refusals to deal under Article 16. To date, to the JCRA's knowledge, no such actions have been filed.

Evaluation of an actual refusal to deal

8. What are your jurisdiction's criteria for evaluating the legality of refusals to deal? You may wish to address the following points in your response.

   The criteria the JCRA used to assess the refusal to deal in the TTS Decision are summarized in response to Question 6.

   a. What are the competitive concerns regarding a refusal to deal? Must the practice exclude or threaten to exclude a rival (or rivals) from the market, or all rivals? If only threatened exclusion is required, how is it determined? If neither actual nor threatened exclusion is required, what other harms are considered?

      The JCRA's only decision to date concerning a refusal to deal, the TTS Decision, concerned an actual exclusionary practice that foreclosed all potential rivals from the relevant market.

      Concerning the questions raised on threatened and partial exclusions, the JCRA has not yet dealt with such issues under the Law in Jersey. If such questions were to arise, Article 60 of the Law would suggest an interpretation consistent, so far as possible, with EC competition law.

   b. Must consumer harm be demonstrated? Must the harm be actual or may it be just likely, potential, or some other degree of proof?

      In the TTS Decision, the JCRA stated that *"under EC competition law an abuse of dominance does not necessarily depend on direct evidence of consumer harm in the form of higher prices. It also can be based on behaviour by a monopolist designed to, or which might have the effect of, preventing* ***the development of competition.****"* (JCRA TTS Decision, Para 44 (citing Whish, R., (2003), *Competition Law*, 5th Edition, p 194) (emphasis in original)). In the TTS Decision the JCRA also cited the recent case, C202/07 France Telecom SA v Commission, to the effect that an abuse of dominance may arise from *"practices which may cause damage to consumers directly, but also to those which are detrimental to them through their impact on an effective competition structure."* (JCRA TTS Decision, FN 12 (quoting C202/07 France Telecom SA v Commission at para 105)).

      Notwithstanding this, in the TTS Decision the JCRA did have evidence of actual consumer harm arising from the anticompetitive foreclosure. This arose primarily from the lack of consumer choice in the provision of sewerage services that resulted from TTS's exclusionary licenses. In addition, the JCRA had evidence of high prices for the provision of certain sewerage services.

c. Does intent play a role, and if so what role and how is it demonstrated?

Intent is not a required element for abuse of dominance. However, in the TTS Decision the JCRA concluded that the restrictive licences issued by TTS, that restricted access to the Bellozanne facility, constituted direct evidence of an actual foreclosure strategy. Upon investigation the JCRA concluded that TTS had no legal grounds to prohibit private companies from disposing of waste from tight and septic tanks at this facility. Indeed, in response to a mandatory information request, TTS responded that the original licences *"were not issued under any legislation, merely a formal agreement between the contractor and the Department at the time."*

Thus, even though not required to find an abuse, the JCRA had direct evidence of an actual foreclosure strategy in the TTS Decision, which reinforced the JCRA's conclusion that the refusal to deal at issue constituted an abuse.

d. Are refusals to deal evaluated differently if there is a history of dealing between the parties? Is a prior course of dealing between the parties a requirement for finding liability?

The JCRA has not had the opportunity to consider this question, however, if it were to arise Article 60 of the Law would suggest an interpretation consistent, so far as possible, with EC competition law.

e. Are refusals to deal evaluated differently if the dominant firm has had a course of dealing with firms that are not rivals or potential rivals? Thus, if a firm sells its product to everyone except its main rival, is that relevant to whether the refusal is unlawful?

The JCRA has not had the opportunity to consider this question, however, if it were to arise Article 60 of the Law would suggest an interpretation consistent, so far as possible, with EC competition law.

9. Does your jurisdiction recognize a distinct offense of refusing to provide access to "essential facilities"? Your response need not include any offenses that arise from sector-specific regulatory provisions rather than the competition laws.

If so, how does your jurisdiction define "essential facilities"? Under what conditions has a refusal to deal involving an "essential facility" been found unlawful? Please provide examples and the factors that led to the finding.

The JCRA's Guideline on Abuse of a Dominant Position states that an abuse of dominance may arise from the denial of access to an essential facility. It goes on to state:

"A facility can be viewed as essential if access to it is indispensable in order to compete in a market and duplication is impossible or extremely difficult owing to physical, geographic or legal constraints (or is highly undesirable for reasons of public policy). Potential examples include ports, bus stations, utility distribution networks and some telecommunications

networks. In general, ownership of an essential facility confers a dominant position." (JCRA, Guideline on Abuse of a Dominant Position at p. 14)

This Guideline also notes that essential facility questions can be of particular importance to small island jurisdictions such as Jersey, *"where there may be only room for one facility." Ibid.*

As discussed in Question 6, above, the JCRA's TTS Decision had aspects of an essential facility case. Specifically, it arose from the denial of access by TTS to the Bellozanne facility to private companies for the disposal of waste from septic and tight tanks. Bellozanne is the only facility in Jersey that can accept waste from septic and tight tanks. The effect of this exclusion was therefore to create a monopoly in Jersey for TTS for the provision of sewerage services.

10. Does the analysis differ if the refusal involves intellectual property? If so, please explain.

    The JCRA has not had the opportunity to consider this question, however, if it were to arise Article 60 of the Law would suggest an interpretation consistent, so far as possible, with EC competition law.

    a. Does the type of intellectual property change the analysis (e.g., patents versus trade secrets)?

    b. Can a refusal to provide interface information to make a product interoperable constitute a refusal to deal?

11. Does the analysis change if the refusal occurs in a regulated industry? If so, please explain.

    In addition to being a competition law enforcement authority, the JCRA also acts as the regulatory authority for telecommunications and post in Jersey. In its regulatory capacity, the JCRA issues licences to providers of telecommunications and postal services in Jersey.

    In telecommunications, the JCRA's Licence issued to the incumbent, Jersey Telecom ("JT"), has specific conditions applicable to it as the telecommunications service provider with significant market power.

    Condition 27 of JT's Licence contains mandatory interconnection obligations, under which JT must, on request, *"Interconnect the Licensed Telecommunications System with the Telecommunications Network or the Mobile Telecommunications Network of any Other Licensed Operator whose licence authorises such interconnection, at any technically feasible point."* (JT Licence, Condition 27.1) Under this obligation JT is also required to *"make available to interested parties such Technical Standards and Specifications as may be required to enable connection to the Licensed Telecommunications System."* (JT Licence, Condition 27.2).

    JT's Interconnect obligations are largely (but not exclusively) implemented through a Reference Interconnect Offer ("RIO") that the Licence requires JT to offer to other licensed operators. The RIO must *"contain the terms, schedules of Interconnection and pricing of Interconnection between the Licensees network and*

any Other Licensed Operator whose Licence terms enables them to Interconnect with another Licensed System." (JT Licence, Condition 26.1)

Furthermore, Condition 31 (on undue preference and undue discrimination) prohibits such practices. In particular, JT *"will be deemed to be in breach of this Condition if it favours any business carried on by [JT] or an Subsidiary or Joint Venture or Other Licenced Operator so as to place Other Licenced Operators competing with that business at an unfair advantage in relation to any licensed activity."* (JT Licence, Condition 31.1)

These conditions are based on the powers provided to the JCRA under Jersey's sector-specific telecommunications regulatory law, the Telecommunications (Jersey) Law 2002.

A copy of JT's Telecommunications Licence may be found here: http://www.jcra.je/pdf/080415%20JT_Licence_in_effect.pdf

Therefore, the provisions contained in JT's Telecommunications Licence are more specific than, and likely extend beyond, access provisions arising out of general competition law.

12. Does the analysis change if the refusal is made by a former state-created monopoly? If so, please explain.

That depends on whether or not the former state-created monopoly in question is regulated.

As detailed in the previous question, JT, which is a corporatized but wholly owned Government undertaking, has specific access obligations mandated in its telecommunications licence issued by the JCRA under the Jersey's sector-specific telecommunications regulatory law, the Telecommunications (Jersey) Law 2002. Note, however, the JT also is subject to Jersey's general competition law which applies to the activities of all undertakings.

On the other hand, TTS, which also is a Government-operated undertaking, has no specific regulatory regime mandating access, but is subject to Jersey's general competition law which applies to the activities of all undertakings. As detailed above in response to Question 6, TTS infringed the provisions of Jersey's competition law by refusing access to the Bellozanne facility for the provision of sewerage services by private waste disposal companies.

Evaluation of constructive refusals to deal

13. Does your jurisdiction recognize the concept of a "constructive" refusal to deal? If so, does it differ from the definition in the introductory paragraphs above? When determining whether the terms of dealing constitute a constructive refusal to deal, how does your jurisdiction evaluate such questions as whether the price is sufficiently high or whether the quality has been sufficiently degraded so as to constitute a constructive refusal?

As noted above, the TTS Decision involved an actual refusal of access. The JCRA otherwise has not had the opportunity to consider the question of constructive

refusals to deal. However, if it were to arise Article 60 of the Law would suggest an interpretation consistent, so far as possible, with EC competition law.

Evaluation of "margin squeeze"

14. Does your jurisdiction recognize a concept of (or like) margin squeeze? If so, under what circumstances and what criteria are applied to determine whether the margin squeeze violates your law?

    You may wish to address the following sorts of issues: the effect the margin squeeze must have on the downstream market to be a violation; must the firm be dominant in both the upstream and downstream markets, or only the upstream market; how, if at all, the criteria are different from determining whether a firm is engaging in predatory pricing; any cost benchmarks used to determine if a margin squeeze exists; how your jurisdiction would treat a temporary margin squeeze; how, if at all, your jurisdiction's analysis of margin squeeze differs from its analysis of a traditional refusal to deal; do the criteria change depending on whether the margin squeeze occurs in a regulated industry or in an industry in which there is a duty to deal imposed by a law other than the jurisdiction's competition laws?

    Jersey does recognize the concept of a margin squeeze. Although the JCRA has not had a margin squeeze complaint which has resulted in a final decision on the issue, the JCRA would, in investigating an alleged margin squeeze, apply to concepts and jurisprudence developed by the Court of Justice and the Court of First Instance, as well as decisions and guidelines issued by the European Commission, as Article 60 of the Law effectively requires the JCRA to do.

    Of particular relevance in this regard would be Case T-336/07 *Telefonica v. Commission* as well as Case T-271/03 *Deutsche Telecom AG v. Commission.*

    The European Commission has also recently dealt with refusal to supply and margin squeezes in its *Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings* [2009] OJ C45/7 at paragraph 75 *et seq*.

Presumptions and Safe Harbors

15. Are there circumstances under which the refusal to deal (or any specific type) is presumed illegal? If yes, please explain, including whether the presumption is rebuttable and, if so, what must be shown to rebut the presumption.

    None have been recognized to date under the Law in Jersey.

16. Are there any circumstances under which there is a safe harbor for a refusal to deal (or any specific type)? Are there any circumstances under which there is a presumption of legality? Please explain the terms of any presumptions or safe harbors.

    None have been recognized to date under the Law in Jersey.

Justifications and Defenses

17. What justifications or defenses are permitted for a refusal to deal? Are there any particular justifications or defenses for specific types of refusal? Please specify the types of justifications and defenses that your agency considers in the evaluation of a refusal to deal, the role they play in the competitive analysis, and who bears the burden of proof.

In the TTS Decision the JCRA considered whether the abusive conduct could be justified. This could be shown *"demonstrating that its conduct is objectively necessary or by demonstrating that its conduct produces efficiencies will outweigh any anticompetitive effects on consumers."* (JCRA TTS Decision, Para 77). In addition, and in particular because this case involved a Government-operated undertaking issuing restrictive licences purportedly under a Jersey law, the JCRA also considered whether the conduct in question was compelled by the state.

Note that these defenses analyzed in the TTS Decision are not only applicable to refusals to deal, but are potentially applicable to any abuse of dominance under Article 16 of the Law.

Objective Necessity – Interpreting EC precedents, in the TTS Decision the JCRA examined whether the conduct in question is indispensable and proportionate to the achievement of a public policy goal, such as a health and safety consideration. TTS argued that the restriction to competition was necessary to ensure that Jersey had sufficient drainage capacity to meet the demands of an emergency situation such as a failed pumping station or collapsed sewer. While the JCRA did not dispute that this was a real concern, it concluded that monopolizing the entire sewerage services market in Jersey was not a proportionate response, especially considering that private waste disposal companies were willing to make equipment available in the event of an emergency. Thus, the JCRA found that the conduct in question was not objectively necessary.

Efficiency – In addition, in the TTS Decision the JCRA considered whether the conduct in question was efficient. This could be shown by evidence that the conduct in question would satisfy the following criteria:

- is likely to improve the production or distribution of goods or services, or to prosmote technical or economic progress in the production or distribution of goods or services;
- will allow consumers of those goods or services a fair share of any resulting benefit;
- does not impose on the undertaking concerned terms that are not indispensable to attainment of these objectives; and
- does not afford the undertaking concerned the ability to eliminate competition in respect of a substantial part of the goods or services in question.

The JCRA did not find the conduct in question to satisfy these criteria in the TTS Decision. Specifically, the conduct in question had the effect which is contrary to the fourth bullet point listed above: it eliminated competition for the provision of sewerage services in Jersey.

State Compulsion – The licences in question in the TTS Decision were purportedly issued under the Drainage (Jersey) Law 2005. The JCRA analyzed that law, however, and determined that it provided no legal basis for TTS to prohibit private operators from discharging effluent from septic tanks and tight tanks at the Bellozanne facility. Thus, the restrictive conduct of the dominant undertaking in this matter was not compelled by law.

Other – In the TTS case the dominant undertaking argued that the restrictive practice was justified by the need to protect public sector jobs. The JCRA declined to accept this justification as a defense to an abuse of dominance.

Burden of Proof – While not yet decided by Jersey's Royal Court, the JCRA's administrative practice has been to place the burden of proof for defences with the party or parties under investigation.

Remedies

18. What remedies for refusals to deal were applied in the cases discussed in questions 6 and 7? If one available remedy is providing mandated access/rights to purchase, how is the price established for the sale/license of the good or service? How are other terms of the transaction determined?

    In the TTS Decision, as a result of the JCRA's investigation, TTS itself voluntarily stopped the infringing conduct by rescinding the restrictive licences. Thus, the JCRA decided that imposing a direction on TTS, which it had the power to do under Article 37(1) of the Law, was not necessary. However, the JCRA did impose a financial penalty on TTS of £15,000.00.

19. If the unlawful refusal to deal arose in a regulated industry, was the remedy available because of the regulatory provisions applicable to the defendant or is the remedy one that could be used for any (non-regulated industry) unlawful refusal to deal?

    The JCRA has not, to date, made a decision on a refusal to deal in a regulated industry. However, as detailed in response to Question 11, above, under the Telecommunications (Jersey) Law 2002 and the telecommunications licence issued under that law, the incumbent operator JT has a wide range of interconnection and access obligations, such as provding a RIO to other licensed operators. In its role as Jersey's telecommunications regulatory authority, the JCRA currently is conducting a major review to determine if these access provisions need to be strenghtened with regard to access to JT's fixed-line network. Part of this review is whether new access remedies, such as wholesale line rental, carrier pre-select, and local loop unbundling, should be imposed. The JCRA also is considering whether the price of access to JT's fixed-line network should be regulated through the imposition of wholesale price controls.

20. Has your agency considered using any other remedies in refusal to deal cases that are available under your jurisdiction's competition laws and that were not described in your response to Question 18? Did the availability or administrability of a remedy influence the decision whether or how to bring a refusal to deal case? If so, please expain your response.

    No

Policy

21. What policy considerations does your jurisdiction take into account with respect to a refusal to deal? Do they apply to all forms of refusal? Are there any particular considerations for specific types of a refusal to deal? What importance does your jurisdiction's policy place on incentives for innovation and investment in evaluating the legality of refusals to deal?

    Under Jersey's Competition Law, the JCRA has a duty to prohibit anticompetitive exclusionary conduct by a dominant undertaking. Similar to the European Commission's view taken in its recent Guidance on Article 82, with respect to exclusionary abuses the JCRA's main goal is to protect an effective competitive process and not simply protecting individual competitors.

    In its role as a sector-specific regulator in Jersey's telecommunication and postal industries, however, the JCRA's objective is similar, but different. Under the sector-specific regulatory laws the JCRA has an affirmative duty to *promote competition* in the provision of telecommunication and postal services. The JCRA must also consider, among other factors, whether the services provided are accessible to and affordable by the maximum number of business and domestic users of telecommunications and postal services, whether there is innovation in the services and their delivery, and whether the services provided are of high quality and reliable. The telecommunications and postal service industries are both formerly state-created monopolies in Jersey that are in the process of liberalization. In telecommunication services, therefore, the JCRA has mandated specific access provisions to Jersey's telecommunications incumbent, JT (as described more fully in response to Question 11), and is currently considering strengthening these requirements for access to JT's fixed-line network. These remedies are designed to not just protect an effective competitive process (as under Jersey's equivalent of Article 82) but to promote competition and help establish effective competitive processes in markets that were formerly state-controlled monopolies.

22. Please provide any additional comments that you would like to make on your experience with refusals to deal in your jurisdiction. This may include, but is not limited to, whether there have been – or whether you expect there to be – major developments or significant changes in the criteria by which you assess refusal to deal cases.

    No additional comments are necessary.