

STATES OF JERSEY



JERSEY POST INCORPORATION: COST/BENEFIT ANALYSIS, INVESTIGATION AND RESPONSIBILITIES OF JCRA

Lodged au Greffe on 23rd May 2006
by the Economic Affairs Scrutiny Panel

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that an updated cost/benefit analysis, in a form to be approved by the Comptroller and Auditor General, be prepared prior to consideration of the Draft Postal Services (Transfer) (Jersey) Regulations 200- (P.9/2006), in order to provide information relating to –
 - (i) the overall financial viability of Jersey Post International Limited post-incorporation; and
 - (ii) the capability of each element of Jersey Post International Limited to support itself independently;and to request the Minister for Economic Development to take the necessary action;
- (b) to request the Minister for Economic Development to request the Jersey Competition Regulatory Authority, in accordance with the provisions of the Competition Regulatory Authority (Jersey) Law 2001 and the Competition (Jersey) Law 2005, to carry out an investigation, prior to the incorporation of Jersey Post, into the cross subsidy by Jersey Post of Offshore Solutions Limited (OSL);
- (c) to request the Minister for Treasury and Resources to review the decision(s) to grant any loan(s) from the States to Jersey Post International Limited in respect of liabilities under the Jersey Post Office Pension Fund, and the terms of those loans, and report thereon to the States;
- (d)
 - (i) to agree, in principle, that Article 8(1) of the Postal Services (Jersey) Law 2004 be amended to provide that the Jersey Competition Regulatory Authority should no longer have a primary duty to perform its functions under the Law in such manner as to ensure that the company has sufficient financial resources to discharge its liabilities under securities issued by the Company to the States; and
 - (ii) to request the Minister for Economic Development to take the necessary action arising from paragraph (d)(i);
- (e)
 - (i) to agree, in principle, to amend Article 9(1) of the Postal Services (Jersey) Law 2004 to provide that the States, and not the Minister for Economic Development, have the responsibility, in the public interest, to ‘direct or guide’ the Jersey Competition Regulatory Authority in relation to the implementation of any social or environmental policies in respect of postal services; and
 - (ii) to request the Minister for Economic Development to take the necessary action arising from paragraph (e)(i).

ECONOMIC AFFAIRS SCRUTINY PANEL

REPORT

The Economic Affairs Scrutiny Panel has developed this Project from the recommendations of its report entitled 'The impact of the fulfilment policy on the incorporation of Jersey Post' (S.R.2./2006). This report is essential to the understanding of the project and is referenced throughout as the 'Report'.

In respect of Section (a) of the project, the Panel considers that a new, current, cost/benefit study should be carried out before Jersey Post is incorporated. This was the recommendation of the only independent expert who has been involved with the process (Report p.35).

Given that this was the same person who helped guide Jersey Telecom through its incorporation, it is clear that this recommendation was not made on ideological grounds but on the basis of genuine concerns (Report p.32). These concerns were based on full and detailed access to all relevant information, and have increased in the intervening period since the last cost/benefit analysis was carried out (Report p.64).

In addition to the existing concerns, the recent change of policy by the Economic Development Minister in respect of the operation of fulfilment business will have a direct effect on the profitability of the company. This, and the attendant cross-subsidy that this might require should be studied in detail and the findings made available to the States, in order that members can debate this incorporation in possession of all the facts.

The Comptroller and Auditor General's role would be to ensure that any analysis was carried out in such a way that the conclusions, whether in favour or against incorporation, were objective, well-reasoned and fair.

Members should understand that once incorporated, there is no 'going back' for Jersey Post, and any overlooked issues now could have dire consequences in the future.

In respect of Section (b), the Panel has noted that the section of Jersey Post which acts as a 'Third-Party Service Provider' ('3PS' – Definition in the Report, p.15) for the fulfilment industry. This section is known as Offshore Solutions Limited, and, despite a high volume of work, does not make a profit from its operations. It does, however, by allowing fulfilment companies access to low cost, efficient 'pick and pack' services, encourage fulfilment business to operate from the Island. This acts to increase postal volumes, on which its parent company, Jersey Post, can make a profit.

Fulfilment postal income accounts for the vast majority of Jersey Post's estimated £3.8 million profits (Report p.22). The Panel is concerned that in order to maintain these levels of income, Offshore Solutions Limited is being operated at a loss to increase postal volumes. This would be detrimental to the operation of other businesses in the same market that must generate a profit to continue operations. It would constitute the funding of a competitive element of the business from monopoly profits.

In the course of its investigations, the Panel became extremely concerned about the issue of cross-subsidies which may unfairly affect competition. In particular, it questions the necessity of the States to act a banker to Jersey Post International Limited. In addition, it questions whether it is appropriate to lend Jersey Post International Limited £4 million under terms better than might be obtained in the commercial market.

These concerns are reflected in the recommendation in S.R.2/2006, and paragraph (c) of the project.

In respect of Section (d), the Panel is concerned that the provision of a loan to Jersey Post International Limited (Report p.28) will prejudice the position of the JCRA, as it will have a primary duty under the Postal Services (Jersey) Law 2004 to ensure that this loan is repaid (Report p.29), as will the Minister for Economic Development. This will supersede the duty in the same Law to protect postal customers. Not only is this undesirable for the customer, it also places requirements of maintaining the proper provision of postal services (regulation) with the same bodies that are tasked to ensure that Jersey Post have sufficient funds to repay the loan to the States and to run effectively (operation).

In respect of Section (e), the Panel is aware that the 'Guernsey model' puts the responsibility to offer guidance to the Office of Utility Regulation with the States of Guernsey. The Panel is of the opinion that the Economic

Development Minister has a vested interest by virtue of his role, as he has responsibility for economic growth of Jersey, for the repayment of the loan to the States, and for the profitable operation of Jersey Post (Report p.31). A conflict of interest therefore exists, and the authority to provide guidance to the JCRA should be placed in the hands of the States.

The financial and manpower implications for the States are –

The engagement of a consultant to carry out the cost/benefit analysis. It is recommended that £10,000 be budgeted and that the Economic Development Department meet this cost. (The only study undertaken so far cost £2,100.)

The Panel recommends that the JCRA recoup costs incurred from actions taken as a result of this project from Jersey Post, in addition to its previously agreed incorporation fees.