

2020.09.08

**6 Deputy S.G. Luce of St. Martin of the Minister for Treasury and Resources regarding a Memorandum of Understanding: (OQ.208/2020)**

Will the Minister advise whether or not a review of the Memorandum of Understanding between her department and Jersey Telecom is underway?

**Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):**

The Assistant Minister for Treasury and Resources: will answer this question.

**Deputy L.B.E. Ash of St. Clement (Assistant Minister for Treasury and Resources - rapporteur):**

Members should already be aware that a review of the Memorandum of Understanding, or as they are more commonly known M.O.U.s, for all wholly-owned States entities is currently being undertaken. This has been highlighted in various reports published to Members, most recently R.132/2019, although I appreciate that a lot has happened since then. The review has recently recommenced following a pause because we had to reallocate resource to manage COVID-19, and it is intended that the new M.O.U.s will be agreed and finalised before the end of the year; we are currently consulting with the companies about them. The Deputy may be aware that the current M.O.U. with Jersey Telecom was agreed some years ago and one of the key aims of the current review is to ensure that the new documents reflect the latest corporate governance standards. In addition, by applying the new requirements to all the wholly-owned States entities at the same time, we achieve a much more consistent approach to our oversight as shareholders, which has perhaps been lacking in the past.

**4.6.1 The Deputy of St. Martin:**

M.O.U.s are documents which set out the relationship between the Minister of the day and any entity, and I accept that the Minister has the delegated responsibility for that through the Public Finances Law. Will the Assistant Minister confirm also that the original M.O.U. was agreed by the States Assembly as part of the incorporation?

**Deputy L.B.E. Ash:**

I am not able to confirm that on the incorporation. What I am able to say is the Assembly delegated the responsibility for States-owned entities to the Minister for Treasury and Resources through the Public Finances Law. The M.O.U. is merely the document which sets out how the relationship between the Minister, or in this case myself, and each entity operate. It is not legally binding as such, and given the delegation I have just referred to I would suggest that it is not appropriate for the States to approve each M.O.U.

**4.6.2 Deputy D. Johnson of St. Mary:**

Against the background of the original M.O.U. produced at the time of the incorporation of Ports of Jersey and which the Scrutiny Panel, and its advisers too, considered unfit for purpose, would the Assistant Minister confirm that in drafting these revised M.O.U.s Scrutiny will be given the opportunity to make their input?

**Deputy L.B.E. Ash:**

Thank you very much for that comment because I think it is very important. Scrutiny will indeed be allowed to view the M.O.U.s and to have an input. I value that input because often their input has

been very constructive in this arena. I would say that all aspects of the existing M.O.U.s are being updated. The new M.O.U.s have been drafted to reflect the recommendations, for want of a better word, contained in the recent Comptroller and Auditor General's report and related reports as well that we have had so that it will fully reflect modern corporate governance standards.

#### **4.6.3 The Deputy of St. Martin:**

I am glad that the Assistant Minister agrees with everything I said but will he accept this fact, that M.O.U.s are given to Ministers and the Ministers then have to look after their entities on behalf of the States. As the M.O.U.s are given to the Ministers it is not for the Minister to come back or for the Minister to agree a new M.O.U. without referring to the States.

[10:30]

Will the Assistant Minister bring a revised M.O.U. to the States Assembly for an agreement?

#### **Deputy L.B.E. Ash:**

As I said previously, I do not think it is appropriate for the States to approve each M.O.U. although we will be bringing it to Scrutiny for any observation that they have.