

2.4 Deputy J.A. Martin of St. Helier of the Minister for Treasury and Resources regarding Ministerial study of the “Jersey Telecom Privatisation” Scrutiny report:

Has the Minister had time to study the Scrutiny Report, S.R.5/2007 - Jersey Telecom Privatisation and will he now state which of the 5 recommendations he agrees with and which he will act upon. Thank you, Sir.

Senator T.A. Le Sueur (The Minister for Treasury and Resources):

I have not had as much time as I would have liked but I have indeed studied the Scrutiny Report and the potential sale of Jersey Telecom. I found the report helpful to some extent and I am pleased that the Panel recognises that it is a combination of competition, regulation and privatisation that is most likely to deliver the best telecommunication services to the people of Jersey. It is not possible to give a detailed response that the Scrutiny report merits in the limited time available to me, so I will publish a further written response in the next week or so. I do, however, see merit in some of the Scrutiny report's recommendations. I agree, for instance, that a sale to a private equity group should be treated with caution. Members should know that I will treat any approach with caution but private equity groups may well require particular care and to only be considered if we are certain that they will invest in Jersey Telecom and improve the quality of telecommunication services for Islanders. I also agree that there may be a case for introducing a T.U.P.E. (Transfer of Undertakings (Protection of Employment)) type of legislation in Jersey as soon as possible. This, however, has no relevance to the proposed sale of Jersey Telecom where there will be protection in place for employers as good as or better than they would receive under T.U.P.E. The Panel proposes a review of the powers of J.C.R.A. (Jersey Competition Regulatory Authority) but provides no evidence that they are inadequate. The J.C.R.A. has already strongly refuted the Panel's assertions in this respect and all the evidence shows that the J.C.R.A. has sufficient power to regulate a privately-owned Jersey Telecom. I will, however, commit to working with the Minister for Economic Development to provide whatever assurances States Members feel they require and if the regulatory framework does go bust, there is no need for the States to retain partial ownership in Jersey Telecom. The Panel recommends that the States sell a minority share but does not make any case as to why it should. The advice I have received is that there will be little or no interest in Jersey Telecom if they only offer a minority stake and certainly, we will not attract major players in the telecommunications market. Finally, the Panel has proposed that a full cost benefit analysis is undertaken before sale. This would be a costly exercise and my advisors are not aware of such an analysis ever having been carried out anywhere else in the world prior to a sale but we are willing to talk to the Panel's expert advisor to understand the rationale behind this recommendation and whether it has any merit.

2.4.1 Deputy J.A. Martin:

On recommendation 3 - and this really worries me and I think really should worry other Members of the House - we may be not so sure that the J.C.R.A. does not have the legal power, our problem being that the only assurance that we have if they have to fight a court case is from the Economic Minister telling us, when pressed, what the budget was: “Well, how long is a piece of string?” As Treasury Minister, Sir, is the Minister happy with this and could he also update us on the powers of the J.C.R.A. on how effective they have been in getting Jersey Telecom to give Sure Mobile number portability because I think this is not happened at the moment. Thank you, Sir.

Senator T.A. Le Sueur:

I am perfectly happy that the powers within the Telecommunications Law and the Competition Law are more than sufficient for the J.C.R.A. to deliver the services they need to do fully and properly. As to number portability, that is a question which will need to be addressed to the Minister of Economic Development. I understand that the J.C.R.A. is indeed working to find a constructive solution to that particular issue.

Deputy J.A. Martin:

I must push him on the budget, our concern is that if the J.C.R.A. has to take on a multi-national company, do they have the budget to go to court? We cannot find out a definite: "Yes." They have a very limited budget to backup their powers.

Senator T.A. Le Sueur:

The budget for the J.C.R.A. is a matter which is, to some extent, within their own remits because they omitted to charge to the operators, sufficient fee in order to recover the costs of regulating that particular industry, so I believe that were additional budget to be required the J.C.R.A. already has the power to achieve it.

2.4.2 Deputy G.P. Southern:

Does the Minister accept that the answer he has just given is incorrect when he refers to action taken under the Competition Law which has to be funded by the Economic Minister, not under the Telecoms Law and if it is a Competition Law ruling, it has to be funded by this House?

Senator T.A. Le Sueur:

I do take the point, Sir. Were it a matter for competition, it would be funded by this House and that will need to be addressed but we do not, at present, have any particular indication of the needs for that budget or in which area it might be required.

Deputy G.P. Southern:

In denying that there was any problem with the powers of the J.C.R.A. to regulate adequately should the Jersey Telecoms be taken over by a multi-national, has the Minister paid attention to the limitations stated on page 69 of the report that are headlined: "5. The regulatory tools are not optimal" and it is a statement from the J.C.R.A. themselves?

Senator T.A. Le Sueur:

I believe the J.C.R.A. will make their own case for the extent with which their comments are correctly reported. I repeat that I have every confidence that J.C.R.A. do have all the tools within the law to deliver the services and the regulation that they need.

2.4.3 Deputy R.G. Le Hérissier:

The Minister said that the report was helpful to some extent. To what extent was it not helpful?

Senator T.A. Le Sueur:

As I have tried to outline in the answer, Sir, there were some recommendations which I do not believe have been fully justified. For example, although there was a request for a cost benefit analysis that was perhaps not explained as fully as it might be. As far as the powers of the J.C.R.A., I would say that was not necessarily argued as well as it might be; it was argued at some length but I think the conclusions do not necessarily support the facts within the paper. As I say, it is a mixed paper and there were some very helpful comments within it.

2.4.4 Deputy G.P. Southern:

In criticising the report on the Jersey Telecoms Privatisation, the Minister refers to a lack of justification for some of its recommendations. Does he not accept that there is no justification given anywhere in any documentation that he has produced for the a priori assumption that 100 per cent sale of Jersey Telecom is the only way forward?

Senator T.A. Le Sueur:

If I have not made that conclusion of mine clear in documentation so far, I will make it amply clear when I come to debate the proposition when we do that.