

2.7 Deputy S. Power of the Minister for Economic Development regarding the monitoring of fares for cars and passengers on the St. Helier-St. Malo route by the Jersey Competition Regulatory Authority:

Will the Minister inform Members whether the J.C.R.A. (Jersey Competition Regulatory Authority) will be instructed to pay particular attention to the fare structures being charged by both Condor and HD Ferries and to investigate any new or unusual sharp increases in fares for cars and passengers on this route while HD Ferries are not operating the St. Malo route for the approximate 4-month period that they indicated they would not operate?

Senator P.F.C. Ozouf (The Minister for Economic Development):

I have asked my Assistant Minister to be rapporteur, Deputy Maclean.

Deputy A.J.H. Maclean of St. Helier (Assistant Minister for Economic Development - rapporteur):

I appreciate the Deputy's longstanding interest in ferry matters and his understandable concern for consumer interests. The Minister and I are also very disappointed at the loss of HD Ferries' service this winter but can assure Members that Economic Development and Jersey Harbours will continue to work with the company to assist it to return to service as quickly as possible. There have been many occasions over the years when Jersey has been served by just one ferry operator and so this winter will not be unique in that respect. The fact that we have had just one operator in the past is one reason why ferry companies using the ramps are required to commit to a Service Level Agreement. Among other things, the Service Level Agreement is intended to provide some protection to consumer interests. The Service Level Agreement with Condor contains a clear requirement to seek Ministerial approval for increases to maximum public fares. However, there are currently no proportional methods of sanction against ferry operators who breach any terms of an S.L.A. (Service Level Agreement). However, Members will be reassured to know that the new Harbours Administration Law, that will be brought before this House in December, will seek to address this shortcoming. The J.C.R.A. reserves the right in law to conduct investigations into any suspected abuse of a dominant position. It can act whenever it has reasonable cause to do so in accordance with its powers under Article 26 of the Competition Law 2005. However, it is not appropriate for the Minister to instruct the J.C.R.A. how to exercise its powers. If there is any evidence of abuse, the J.C.R.A. is perfectly entitled to take such action as it considers is appropriate.

2.7.1 Deputy S. Power:

I would like to ask one supplementary question. The Assistant Minister will be aware that there is one Service Level Agreement in evidence at the moment and that one relates to a monopoly. Does the Minister really think that a Service Level Agreement is effective, based on what he has just said?

Deputy A.J.H. Maclean:

Service Level Agreements are effective as far as they go and there are clear limitations which will be addressed with the Harbour Administration Law which will be brought to this House in December. We are hopeful that, at that point, any additional concerns that the Deputy or other Members may have will be taken care of.

2.7.2 Deputy R.G. Le Hérissier:

I wonder if the Assistant Minister could define what is meant by abuse of a dominant position and could he state whether the Minister has come near, or, indeed, has acted on information that he has received about abuse of a dominant position?

Deputy A.J.H. Maclean:

Abuse of a dominant position. When one operator should take advantage of its position in a marketplace, clearly the J.C.R.A. has a role to play in this regard. No information has been brought to the department which would lead us to believe that there is an abuse in place. If we are led to believe there is an abuse in place, I am more than confident that the J.C.R.A. would choose to investigate such circumstances.

2.7.3 Deputy R.G. Le Hérisier:

Am I right, Sir, in inferring that an abuse is not a consistently higher level of fares with one operator as opposed to another, for example, and fares that remain consistently high when there is only one operator on the route?

Deputy A.J.H. Maclean:

All operators or the majority of operators running ferry services between France or the U.K. and the Channel Islands operate what is described as or is similar to a fluid pricing system. It is clearly difficult to define precisely where different pricing points are because prices change. The nearer to the time of departure that one reaches, the price becomes more expensive. It is clearly contained within the Service Level Agreement that the Minister has control with regard to maximum prices and, indeed, any change to the maximum price needs to be notified by the operator to the Minister in advance. There are 2 issues. It is not just about dominant position. There is also, of course, an issue of predatory pricing which can occur where there is competition on the route. That is another area which is clearly of concern and something that is watched very closely. We do not want a position where a market should become unsustainable and we lose all services altogether and clearly, with predatory pricing, where prices become uneconomic and it drives unfair advantage to one operator and possibly pushing another operator out of service is not a position that we want either.

2.7.4 Deputy J.B. Fox of St. Helier:

I wonder if the Assistant Minister could clarify or enlighten us as to a procedure to draw any complaint or any attention of complaint to the J.C.R.A. Clearly, this is not one that the Economic Development Department or the Harbour Department seems to have responsibility for and therefore I would seek an assurance that there is a method in order to bring such complaint or queries to the attention of the J.C.R.A. for them to examine it in more detail.

Deputy A.J.H. Maclean:

Yes, it would be clearly open for, for example, another operator should they feel that there was a situation of either dominant position or predatory pricing to bring the matter to the attention of the J.C.R.A. and, in such circumstances, the J.C.R.A. would be bound to investigate. That would be the course of action I would expect to see evolve.