

2.8 Senator B.E. Shenton of the Minister for Economic Development regarding airline licences and subsidy paid to B.M.I. in respect of the Heathrow route:

Does the Minister consider it appropriate for him to act as regulator, licensor and financier in respect of airline licences and would he notify Members of the amount of subsidy paid to B.M.I. (British Midland International) in respect of the Heathrow route and explain how this payment will be shown in the department's entry in the States' accounts?

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

Air permits are issued under the Air Permit Transport (Jersey) Law 1998. The policy underpinning this approach was presented to the States on 4th November 2003. This established the open-skies approach against which all permit applications are considered. Of course each application has also to be considered on its individual merits but there would have to be compelling reasons for departing from the stated policy. In any event, safeguards exist to ensure that any decision observes due process. An applicant may appeal to the Royal Court and a third party may seek judicial review. The majority of permits are issued by my department under delegated authority. However, in this case because of the strong representation given by Flybe the B.M.I. application has been referred to me for determination. Following advice from officials I expect to grant the licence later this morning. Many departments are in a similar position to myself as being legally regulator and operator. That is the nature of small states and it is this Assembly who has decided to form Economic Development in this way. In this case, officials advising me on this issue have been independent of the airport and senior officials have not been involved in any of the negotiation of the B.M.I. contract. Effectively a Chinese wall has been put in place to deal with this issue. Turning to the contract itself, the terms of this deal and any future ones must remain confidential to ensure that the most competitive terms can be negotiated. We recognise that public money is involved but to ensure best value commercial negotiations need to remain confidential. There are necessary safeguards to ensure that public monies are spent appropriately and these of course involve the Public Accounts Committee, Scrutiny and the Comptroller and Auditor General, any or all of whom may choose to investigate the terms of the commercial 'in confidence' arrangement. It is vital that we secure our existing route of networks and enjoy an expanding range of new destinations offered at competitively-priced rates. Route development expenditure will be published in the 2007 accounts in accordance with Treasury requirements. Expenditure in the E.D.D. (Economic Development Department) pages of the accounts will fall within the marketing service analysis and grants and subsidies expenditure of the income and expenditure analysis.

2.8.1 Senator B.E. Shenton:

Regional airline grants are normally done on an open-book basis. Will airport charges for other carriers be kept artificially high to pay for this subsidy and does the subsidy comply with the recent directive of the European Parliament dated 24th January regarding airport charges and complete transparency?

Senator P.F.C. Ozouf:

I can advise Senator Shenton and the Assembly that I took advice independently from the Jersey Competition Regulatory Authority in respect of this issue before signing any arrangements and I am satisfied with the advice that they have given me. Other deals will also remain confidential. That is the nature of a commercially operating airport designed to secure additional passengers, which has been the concern of this Assembly and the Island for so long. The airport needs to be commercial. It is becoming more commercial, and effectively different negotiations with different airlines designed to secure more passengers are effectively what is required. I am alert to all the international precedents and arrangements and recommendations on that and I believe and am satisfied that Jersey complies with the spirit of those arrangements.

2.8.2 Senator J.L. Perchard:

The Minister said that he took advice from the Jersey Competition Regulatory Authority. I am delighted that he did. Was the advice given to him compatible with the competition law and if it is what was the advice given?

Senator P.F.C. Ozouf:

The advice, which is effectively quasi-legal advice in respect of a transaction... effectively we are dealing with 2 different bodies. The airport is an undertaking as defined by the Competition Law and has to be compliant with Competition Law principles. We do not have in our Competition Law state-aid provisions. There were 2 different elements of subsidy. That advice has been received. I am satisfied with it and the arrangements between B.M.I. and the airport have regard to that advice from the J.C.R.A. which I am satisfied is compliant.

2.8.3 Connétable M.K. Jackson of St. Brelade:

Given that the lead article in the *Sunday Times* indicated that B.M.I. are operating flights to Wales empty in order to retain their very valuable Heathrow slots, might I suggest that there is not in fact a subsidy required for B.M.I. to run services to Jersey?

Senator P.F.C. Ozouf:

The amount of slots available at Heathrow: B.A. is the largest single slot holder and I think they hold something between 60 per cent and 80 per cent of the slots. B.M.I. is the second slots holder. I think if I read that *Sunday Times* article correctly it was British Midland Airways, which is in fact a subsidiary or an arrangement with British Airways, not B.M.I. that was doing these so-called ghost flights. But it underpins an important point. That is that Heathrow is different. Slots have a massive value and that is the issue which we are dealing with in terms of correcting the seeming inequity between access to some London airports and Heathrow. That is why a deal has had to be done and I would have thought that that would be warmly welcomed by this Assembly as it has been by the financial community. I want to get those 100,000 passengers that we lost from Heathrow originally back in Jersey in hotel rooms and that is the purpose of the arrangement.

2.8.4 Senator L. Norman:

Will the Minister accept my congratulations on achieving the revival of the Heathrow route and say what impact this and the recently announced reintroduction of the Luton connection have on the viability of the Gatwick route?

Senator P.F.C. Ozouf:

I would willingly accept on behalf of the airport and my Assistant Minister who has done much of the running on this issue, his congratulations on the Heathrow link. Indeed, things are looking up at the airport. We have the re-establishment of the Heathrow route, we have the Luton route and we have a whole load of other routes basically being established. We have British Airways announcement last year - we enjoy an excellent dialogue with British Airways, I know that the Airport Director met with British Airways only yesterday - that business is good. They fully intend to continue the 6-daily service for British Airways and we intend to use our tourism marketing and the airport to drive more business to Jersey and that includes Gatwick. Gatwick is growing, British Airways business in Gatwick is growing and I hope very much that Flybe's traffic on the route will also grow. We will do everything we can to help the now expanded Flybe to do all they can to bring people to Jersey and to benefit our economy.

2.8.5 Deputy P.V.F. Le Claire:

I too would like to congratulate the Minister and Assistant Minister for the wonderful, great work in getting back to Heathrow, but can I get back to the earlier question on this issue? How will the States be able to identify what money has been spent and where will that money appear within the States' accounts for States' Members to identify as to the expenditure as expressed by Senator Shenton? I think it is important to maintain confidentiality but how are we able to retain the

oversight that is required by legislature in respect of its expenses if we are not able to understand this? Also given that he has stated that he has sought advice outside of the J.C.R.A. would he indicate where and with whom he sought that advice and whether or not, the question has been raised by Senator Shenton...

The Bailiff:

It is a supplementary question, not a speech.

Deputy P.V.F. Le Claire:

I am just trying to get back to the answer that was never forthcoming from the first one, Sir, and it is not my fault that the answer was not given. I am trying to get the answer. Whether or not the question by the Senator in respect of the E.U. regulations and transparency will be addressed and perhaps brought back to the Assembly in consultation with the Attorney General as to whether or not we are acting outside of some E.U. agreement.

Senator P.F.C. Ozouf:

First of all, I answered the question very directly in relation to where it will appear in the accounts. It will appear, according to the Treasury requirements, in the E.D.D. pages of Marketing Service Analysis and Grant Subsidies. That is where the grant is going to be held. I agree with the Deputy that this issue must remain confidential. Those bodies which have been set up by this Assembly to safeguard the expenditure of public money are the Scrutiny process, the Public Accounts Committee and the Comptroller and Auditor General. I fully expect them to review arrangements within the airport. I think I have answered all the Deputy's questions.

2.8.6 Deputy G.P. Southern:

Is the Minister prepared to release the advice he obtained from J.C.R.A. over this issue?

Senator P.F.C. Ozouf:

I enjoy, I think, a good relationship with the Scrutiny Panel. They have calling-in powers in relation to most papers that are with me in my possession and I would need to take advice about the confidentiality of that, but certainly the confidentiality arrangements that exist between the Scrutiny Panel and myself would clearly not preclude any advice being shared. Whether or not it would be published would be an entirely different matter. May I say also, in respect of the earlier question of Deputy Le Claire, there is no contravention of any E.U. arrangement. We are not a member of the European Union. We are an independent state according to Protocol 3 and we have absolutely no requirement to abide by E.U. regulations in those matters, just for the avoidance of doubt.

2.8.7 Deputy P.V.F. Le Claire:

Can I press just for the other question which I asked, Sir, which was not answered, which was with whom and what were the people you sought the advice from, please?

Senator P.F.C. Ozouf:

The airport, under Deputy Maclean together with the Airport Director, sought a widespread amount of advice from external consultants, accountants and route development specialists and the Airport Director himself is bringing a whole new range of working and commerciality in relation to agreements. We are seeing the results of that with the good work of my Assistant Minister. A substantial amount of advice was taken; advice which is good for the economy, good for Islanders and good for the visitor economy.

The Bailiff:

I am afraid I must draw supplementaries to a close on this question. 2 more supplementaries, one from Senator J.L. Perchard and one from Deputy Scott-Warren.

2.8.8 Senator J.L. Perchard:

The Minister informed Members just a moment ago that state aid provisions are exempt from the Competition Law and he maintains that the subsidy given to B.M.I. Baby should remain within his gift and confidential. Does he share my concern that one person should have such power?

Senator P.F.C. Ozouf:

For the avoidance of doubt it is first of all B.M.I. mainline service, not B.M.I. I take advice like other Ministers. I make decisions upon advice. Advice by - in this case - the Airport Director and his team, independent advice and indeed my own officials within E.D. and other people. So, it is not simply me deciding by myself whether or not to grant a licence, to grant subsidy arrangements, all the rest of it. There is a substantial amount of advice that was taken on the issue and I am absolutely delighted with the arrangement and the deal which has been struck with B.M.I. which I understand is already yielding additional passengers and indeed the forward bookings for the B.M.I. service are encouraging. It has given the boost of confidence that we need further for the finance industry, which is frankly fantastic news. But, safeguards are in place and I expect them to be scrutinised by the relevant bodies.

2.8.9 Deputy C.J. Scott Warren of St. Saviour:

I also congratulate the Minister and Assistant Minister. I very much welcome the reintroduction of the Heathrow link. But, I also want to ask at the local level, can anything be done - for instance, negotiations with Aurigny and the Guernsey government - to get the reintroduction of flights to nearby destinations such as Dinard in France? Thank you.

Senator P.F.C. Ozouf:

I wrote to my opposite number - the Commerce and Employment Minister - immediately upon his re-election. I enjoy excellent relations with Guernsey. We do enjoy continual dialogue in respect of the overall transport arrangements between the Islands. I expect the B.M.I. service to benefit Guernsey. Aurigny is a state-owned airline. We will do everything we can with Blue Islands, with Aurigny, and indeed there are discussions going on in respect of other routes developments, which we expect to announce in the not too distant future. We are doing everything we can to expand our route network but we need a commercial approach at the airport together with the joined-up tourism to deliver it. That is what we are doing.