

**WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT
BY DEPUTY G.P. SOUTHERN OF ST. HELIER**

ANSWER TO BE TABLED ON TUESDAY 12th FEBRUARY 2008

Question

Will the Minister inform members what progress, if any, he has made towards finalising the terms of reference and the selection of a body to conduct a review of the powers and resources of the JCRA, and state the timescale for this review?

Answer

As stated to the Economic Affairs Scrutiny Panel, the review of the JCRA's powers and resources is independent of the ownership of Jersey Telecom and as such the review will be undertaken as soon as possible. The terms of reference of the review have now been agreed with the JCRA and include recommendations of both the Steering Group and Oxera. Subsequent to the suggestion of the Economic Affairs Scrutiny Panel last year, that the terms of reference focus on the Authority's effectiveness as a telecommunications regulator; this is now the core remit of the review and it does not concern the JCRA's other roles as respectively: a competition law enforcer, postal regulator, or its provision of advice to the Minister for Economic Development.

The areas of enquiry will centre on both the current and potential powers available to the JCRA, in relation to telecommunications regulation, namely:

- examine the effective use of current powers at the disposal of the JCRA;
- examine the proposition to give the JCRA power to fine operators, explore whether this proposal goes far enough and if the extent is found to be proportionate to requirement, determine the structure for levelling penalties;
- explore what other powers, if any, are required in addition to the ones that are currently proposed in P.153/07, that should be added to make the JCRA a more effective regulator?

The review will determine whether the statutorily prescribed consultation process is appropriate in all instances and suggest streamlining if the present mandate is found to be excessive. To that end, consultation with the telecommunications operators is taking place and, subject to confirmation following the outcome of the review, law drafting instructions will be produced.

The review will also focus on the resources available to the JCRA. And assess the following areas:

- the skills, qualifications and competencies of the JCRA's current telecommunications regulatory staff, and an assessment of whether this staff is sufficient to meet the workload of regulation of telecommunications in a privatised environment, or whether additional resources likely will be required;
- sufficient flexibility in resources (both personnel and financial) to deal with different issues in telecommunications as they arise.

Conducting body

It had been hoped that the National Audit Office would undertake the review. However, given that the terms of reference of the review now do not permit for an examination of the regulator as a whole, the NAO felt that the scope of the study did not match their usual approach of a Value for Money Study.

Although, a VFM audit is needed to reflect the resource criteria of the review, regulatory policy is now of equal importance and in light of this we have asked both the Office of Communications (Ofcom, the UK's

telecommunications regulator) and the UK Competition Commission to consider the terms of reference with a view to approaching the project as a peer review.

Review timescale

Changing the focus of the terms of reference and, as a consequence, having to consider a different body to conduct the review, has inevitably led to a delay. Both Ofcom and the Competition Commission will need time to assess the terms of reference and decide if they have the capacity to undertake the review. Neither authority has yet given any indication of their decision, and it may well be that neither are able to progress a review within a reasonable timescale. If this is the case EDD will instigate a competitive tender process to identify who will undertake the review.