

3.11 Deputy G.C.L. Baudains of the Minister for Economic Development regarding the sanctions available to the Jersey Competition Regulatory Authority:

Would the Minister for Economic Development advise whether he considers if the sanctions available to the Jersey Competition Regulatory Authority regarding telecommunication providers are adequate and whether the Minister for Economic Development has any plans to amend or revise them?

Senator A.J.H. Maclean (The Minister for Economic Development):

Yes. The J.C.R.A. had the sanctions at its disposal increased in June of 2012 to include the ability to impose financial penalties on telecom licensees for breaches of their licences. Prior to this, the only sanction that was available to the regulator was the ability to revoke a party's licence, which was not a realistic option, especially in the case of Jersey Telecom. I am satisfied that the sanctions available are appropriate and have no current plans to amend them. I have also been assured by both the J.C.R.A. Chairman and Chief Executive that they are also satisfied with the current arrangements.

3.11.1 Deputy G.C.L. Baudains:

If the arrangements are as satisfactory as the Minister for Economic Development suggests, I wonder why we had the problem which we had recently, where Jersey Telecom and the J.C.R.A. were spending a considerable amount of money in court. Interestingly, as far as I know, it is the telephone users that pay the J.C.R.A. via J.T. anyway. Does the Minister for Economic Development have any thoughts as to how J.C.R.A. may behave in future to avoid these misunderstandings, which is unfortunate for everybody?

Senator A.J.H. Maclean:

I entirely agree with the court's conclusion in this matter that it should never have reached court. It is disappointing that it did and that it could not have been settled prior to that, for all the reasons already stated. Having said that, I have spoken to the regulator and it is understandable that they have to take a strong line; the matter of wholesale line rental is one that has been publicised. It is clear this market needs to open up. It was also made clear by the court that the regulator, the J.C.R.A., won the substantive arguments, the substantive points. They effectively lost on a technicality. Nevertheless, what this has done is set back the opening up of the wholesale line rental market by probably a year or so, which is clearly to be regretted.

3.11.2 Deputy R.G. Le Hérissier:

Would the Minister for Economic Development not agree that to prevent the spectacle of one branch of the government suing another branch, all with money essentially provided by the long-suffering public, that it would have been much better if there was something in the J.C.R.A.'s protocols which first ensured mediation was applied to the problem?

Senator A.J.H. Maclean:

I think it is a fair point but every effort, I can assure the Deputy and Members, was made by the regulator. The regulator's last option is to go to court, it clearly does not want to do that; of course, it needs to have the necessary armoury - and sanctions form part of that - otherwise it cannot effectively discharge its role. It made every effort to try and reach an agreement, and thought it had as early as 2 weeks or a week before the court case. We will continue to liaise with the regulator to see if there are amendments necessary that may help to remove such a situation in the future.

3.11.3 Senator S.C. Ferguson:

Does the Minister for Economic Development not think that the J.C.R.A. should have more sanctions so that situations such as J.T. putting wholesale prices up by over 20 per cent should be obviated and eliminated?

Senator A.J.H. Maclean:

As I was saying earlier today, I am very much of the opinion that we need a competitive economy and clearly ensuring that both on-Island and off-Island telecommunication costs are competitive is very important. Again, that is why we have got a regulator and I made the point a moment ago that the sanctions do appear to be appropriate, I am satisfied and certainly the Chairman and Chief Executive are satisfied in that regard. But, quite rightly, there has to be a high bar in order to satisfy that and that is correct that businesses need to be protected as well, there has to be the right balance in place, and that is something we believe is the case at the moment.

3.11.4 Deputy G.C.L. Baudains:

Is the Minister for Economic Development satisfied that the Jersey Competition Regulatory Authority is being robust enough, because there is a feeling outside that Jersey Telecom is frustrating competition for other providers to access the network?

Senator A.J.H. Maclean:

I think the Deputy is perhaps arguing both sides of the point ...

The Deputy Bailiff:

Thank you, Minister. Minister, I am sorry, would you please wait? Unfortunately, the States have become inquorate. Can I invite all Members outside the Chamber to return? We are now quorate, but can I still invite Members outside the Chamber to return because we are, and have been on the minimum for the last 5 minutes? Yes, Minister.

Senator A.J.H. Maclean:

I was saying that the Deputy is perhaps arguing both sides of the coin. Are we being robust enough, not "we" but the regulator. The regulator went to court to try and challenge the telecoms operator in the matter of wholesale line rental. The argument came down to a matter of a few months, at the end of the day, which was not really the issue. As I have already made the point, the regulator won all the substantive points in the case. There is no question of doubt that the wholesale line rental market does need to open up; it is just a matter of time, and it is frustrating that it has been delayed.