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4 Senator P.F.C. Ozouf of the Chief Minister regarding the independent assessment of the Jersey Competition Regulatory Authority: [OQ.64/2018]

Will the Chief Minister update the Assembly on the action being taken for an independent assessment of the Jersey Competition Regulatory Authority and when the conclusions of this recently announced review will be publicly available?

Senator I.J. Gorst (The Chief Minister):

The terms of reference for the review were confirmed on 20th March by Ministerial Decision which is publicly available. Based on the availability of leading counsel it is anticipated that the report will be completed post the election. It will be published once the newly elected Minister with responsibility for the J.C.R.A. (Jersey Competition Regulatory Authority) has had time to consider it and after any outstanding court matters have been resolved.

3.4.1 Senator P.F.C. Ozouf:

Included in the terms of reference is the infographic, which C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) put out, and made a number of extraordinary claims about their work in the last few years in defence of what they have been doing. Is that included in the terms of reference and has he had a chance to have a look at the infographic and consider whether or not it is representative because clearly there are a number of representations in that infographic which have got nothing to do with C.I.C.R.A. at all, such as the cutting of the fixed price house purchases and another series of extraordinary claims and does he want ... if he has not included it in it, will he?

[10:00]

Senator I.J. Gorst:

It is well known that success has many fathers and that if, as the Senator is suggesting, there are things there which are difficult to allocate directly to the door of C.I.C.R.A. then that would be, of course, inappropriate. The terms of reference are about the particular case, in particular, but also we will be asking counsel for a view on amendments to the law. It seems to me, and I think this case perhaps is proven, that the current options available to C.I.C.R.A. can be seen as heavy handed and not working necessarily in the best interest of competition in the market.

3.4.2 Senator P.F.C. Ozouf:

Can the Chief Minister update Members as to the latest estimated cost of dealing with the case that he has referred to and is this in the terms of reference? Is it true, for example, that we are now heading towards the £2 million or £3 million mark for the public purse in chasing a start-up?

Senator I.J. Gorst:

I do not have any update on the costs from a personal perspective. I have not been briefed on that. From a personal perspective, the costs which are in the public domain, which are over £500,000 on behalf of C.I.C.R.A., to me are excessive when we consider the issue that was being considered. I would not expect you to respond to this but we know that litigation and going to court can be, in some cases, expensive because of the time and the expertise involved. Therefore it should not be an early recourse but a last resort if all other methodologies have not been able to solve the issue. I think this goes to the heart of the current Competition Law which points almost immediately to reference to court rather than seeing, as I said earlier, if there can be other more appropriate methods of seeking resolution, which will have the same result of ensuring that there is no anti-competitive behaviour.

3.4.3 Senator P.F.C. Ozouf:

I am looking at the terms of reference now and the Chief Minister is referring to the additional government funding of C.I.C.R.A. of £500,000. Would he confirm that indeed the likely cost for the public purse of dealing with and supporting C.I.C.R.A. in their failed case is likely to be a multiple of that figure? Moreover, is he now of the view that knowing what he now knows about the fuel market and both the aviation, heating oil and petrol market, does he believe that there is a strong case to invalidate all the previous reports that were produced by C.I.C.R.A. and basically redo them and does he not think that this is a really important issue if we are to lower the cost of living for Island residents in the future?

Senator I.J. Gorst:

I am not sure that “invalidate” is quite the strong term that is appropriate in this instance but I think we have all learnt a great deal from the changing cost of airline fuel at the airport when we have an operator which is prepared to operate in a totally different more open and transparent way, albeit the court case is in the public domain. The reasoning is in the public domain and I have no reason to offer any comment upon that. We also see in the domestic fuel market the same reduction of price to the public. We are now also seeing in the motor fuel market the same reduction in price to the public. Some Members, perhaps one of those who is asking this question, has been banging on about this issue for year after year and he has been criticised and he has been vilified. Perhaps now he is being proven to have been right all along where we have an operator that is able to deal with markets, which may not in the past have been operating in a competitive manner in the best interests of Islanders. He, like I, absolutely believe in competition as the best way to reduce prices to the public and allowing the public to keep their money in their pocket where they can put it to best use and where they are getting best value.

Senator P.F.C. Ozouf:

As the Chief Minister has referred to the “forecourt”, while I have no business interests but I will just declare that I am a beneficial owner of a forecourt that he refers to but I have no commercial relations in relationship to it because it on a long lease, just to close it down.

The Bailiff:

That, I think, was not within the scope of the first part of the question. Very well, Senator Ferguson, you were flashing your light, not with a question to follow this up with a final supplementary, were you?

Senator S.C. Ferguson:

No. I have ... there were so many questions being asked I lost track.

The Bailiff:

Yes, and the Chief Minister did manage to answer one of the 3 of them but there you go.