

---

# STATES OF JERSEY



## POSTAL SERVICES IN JERSEY: CONSULTATION ON THE UNIVERSAL SERVICE OBLIGATION

---

Presented to the States on 23rd November 2010  
by the Minister for Economic Development

---

STATES GREFFE

## REPORT

### Introduction

The Postal Services (Jersey) Law 2004 abolished the exclusive privilege of the States in postal services, allowed the former Committee for Postal Administration to incorporate, and empowered the Jersey Competition Regulatory Authority (JCRA) to license other operators.

On 30th June 2010 the Minister for Economic Development presented R.92/2010 'Postal Services in Jersey: Universal Service Obligation – Consultation Green Paper' to the States. In that Report, the Minister noted that the Island's Universal Service Obligation (USO) in postal services was under threat and asked the public for their thoughts on how the USO might be changed, what sort of service the Island should have, and how it might cope with the increasing pressures being felt by Jersey Post within the world market. The consultation ran for 2 months.

It is important that the parameters and role of all parties is properly understood.

The Minister for Economic Development has set responsibilities within the Postal Services (Jersey) Law 2004 (PSL) –

- Article 8 defines what the duties of both the Minister and the JCRA (referred to as the 'Authority') are.
- Article 9 describes the circumstances where the Minister can direct or guide the JCRA. Directions are mandatory whereas guidance must be considered by the JCRA, but does not need to be followed.

### Both Articles are included as the Appendix to this Report

**The essence of Articles 8 and 9** is that both the Minister and the JCRA must seek to promote competition, efficiency, economy and effectiveness, and do so in a manner best calculated to impose a minimum of restrictions. The 2 caveats to this are the duty to have regard to any special needs of persons who are disabled or have limited financial resources or particular needs, and the duty to provide a universal postal service, a social postal service or any form of subsidized postal service. These are matters that both the Minister and the JCRA have taken very seriously. The JCRA is bound by law to consider applications for postal licences and has a set process that it must follow.

### The process of licensing

Under Article 24 of the PSL, the JCRA issued 2 Initial Notices on 31st March 2010, which proposed to award postal operator licences to 2 prospective private operators.

Paragraph 6 of these Initial Notices set out the JCRA's reasons for its position that the grant of additional postal licences will not threaten Jersey Post's ability to continue to provide the USO. The 28 day notice and consultation period required by the PSL expired on 30th April 2010 and most interested parties responded directly. These submissions were considered by the JCRA and a decision on the way forward was announced with the publication of a Final Notice on 8th October 2010.

This Final Notice then requires a second 28 day waiting period before the proposed licences can take effect, during which time any person may appeal the JCRA's decision to the Royal Court. In making its Initial Notice and Final Notices the JCRA observed that –

- Jersey Post has sufficient cash reserves which could be used in part to fund the USO if Jersey Post were to lose a substantial amount of business to competition;
- Jersey Post has scope for efficiency savings which could be used to contribute to the cost of the USO;
- the proposed Licences expressly limit the format of the items that competitors will be permitted to convey and the customers in Jersey they will be able to provide their services to, namely –
  - the proposed Licence is expressly limited to the conveyance of Large Letters and Packets only, and not the conveyance of Letter Format mail; and
  - the proposed Licence has a Minimum Volume Requirement, which means that under the proposed Licence, competitors can only convey mailings of 50 or more items for Large Letters, and/or mailings of 25 or more items for Packets.

Furthermore, the JCRA stated in its Final Notice that –

*'In balancing our duties to ensure that JP [Jersey Post] has sufficient financial resources to discharge its current USO responsibilities, the JCRA now proposes to phase in the liberalisation of the fulfilment market into two parts with the opening up of Packets first and the much larger Large Letters segment on 1 January 2012. This will enable JP the opportunity to implement its own planned efficiency savings. As a consequence the JCRA believes that the Treasury Minister's concerns (regarding the funding of the USO) should be addressed.'*

The Minister is grateful that the JCRA has taken heed of the very real threat that unchecked competition could have in the local postal market. The onus is now clearly on Jersey Post to achieve the efficiency savings that they have identified and turn themselves into a sustainable business moving forward. The licence decision puts that firmly in their court. Jersey Post must adapt to changing circumstances and inevitably that must mean a change to working practices and the current system of collection and delivery. It does not, however, mean that the USO must be downgraded. Things will have to be done differently: done better and more efficiently. The USO itself, however, should be maintained.

It is important to be clear that this decision is one solely for the JCRA to determine. The Minister has no legal power to intervene in that decision, and Jersey Post should be supported in making the changes required to put it on a stronger position moving forward. The PSL abolished the postal monopoly and put in place a competitive

framework designed to promote efficiency and effectiveness. The Minister does, however, have the 2 duties mentioned beforehand that he takes extremely seriously, namely Articles 8(2)(f) and 8(3)(e)(i). These place an obligation on him to consider the special needs of persons who are disabled or have limited financial resources and, the provision of a universal postal service, a social postal service or any form of subsidized postal service.

### **The role and responsibility of the Minister for Economic Development**

While the question of licensing is one for the JCRA, the Minister is not entirely benign in the process. He has a number of important duties as already outlined and is accountable both to the States and to the public for each of them. To that end he wrote to the JCRA on 29th April 2010 asking that the consultation regarding the grant of Class 1 Licences be extended. In their reply of 30th April, the JCRA stated that an extension was not necessary given that the consultation had already lasted 31 days (rather than the statutory 28 days), and that 10 comments had already been received. Both main interested parties, namely Jersey Post and the Communications Workers Union, had already responded and it was unlikely that further responses from other parties would be received.

Since the decision was announced by the JCRA that it was considering opening up the postal market, the Minister has had a number of meetings with representatives of Jersey Post, together with some of their clients, and is fully aware of their concerns. He is also mindful that the Universal Service Obligation is an important issue for Islanders. A number of questions have been asked in the States Assembly and it is right to draw attention to the need for a wider debate around the USO and what Jersey Post can realistically be expected to provide given the costs involved. To that end, the Minister instructed the [Economic Development](#) Department to liaise as a matter of some urgency with the JCRA and Jersey Post to produce and publish a public consultation on the USO in order that Islanders have a chance to comment on the level of service that they wish to have, while recognising the associated costs and market dynamics of retaining the status quo or varying the level of service within the USO.

### **Consultation on the Universal Service Obligation in Postal Services Methodology and cost**

The consultation was devised, revised and produced by the Economic Development Department. It was reviewed by the JCRA and Jersey Post for factual accuracy. After discussion, it was agreed that the best option to engage public opinion and raise the profile of the consultation was to have Jersey Post circulate it to all households in the Island. This was undertaken at a cost of £4,762.21. To that end it accomplished the headline objective of the Minister, which was to raise the profile of the problem and ask the public for their views.

The Department received nearly 480 responses, many highly detailed. In producing these results, the Department has reproduced the trends as accurately as possible, regardless of whether they support proposed policies or not. All information has been supplied to the JCRA, Jersey Post and the Scrutiny Sub-Panel with the exception of data from those respondents who clearly stated that they did not wish to have either their identity or their comments made public. These data have been added numerically to the themes reports, but they are not in any other way referenced or quoted in this report.

## Results

Data was evaluated in 2 ways. First, responses were categorised according to their answer to the questions posed in the consultation. This produced a straightforward percentage of the sample against each question as ‘for’, ‘against’, ‘don’t know’ and ‘no answer’, which is shown graphically in this report. The actual term for each ‘positive/negative’ response varied by question.

Second, the qualitative data was analysed and placed in broad categories summing up the main themes that were evidenced in the responses. This data, consisting of written responses from members of the public, will be available to view on the Economic Development Department’s website.

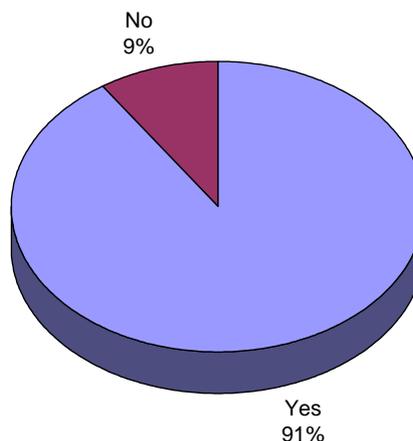
Responses from people who did not wish their name to be revealed have been anonymised, and responses which have been provided in confidence do not appear. Although the qualitative data does not correspond exactly with the consultation questions, it has been summarised alongside the question that seemed most appropriate.

Also, the final section of the report provides an overview of responses that sit outside of the scope of the questions. This was an important section, as many respondents choose to provide a general written response.

### Q1: Is the analysis of the Market in sections 2 – 4 correct?

The response rate for this question was 15.6%

#### Question 1 - Is the analysis of the market in sections 2-4 correct?

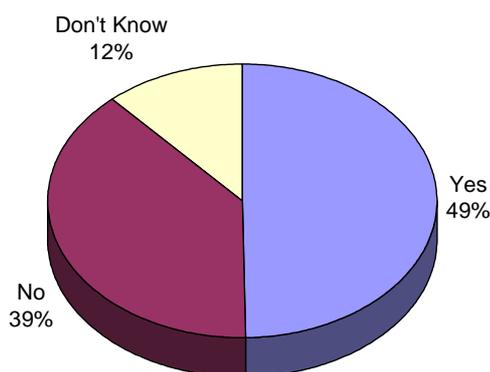


Clearly, the vast majority of those who responded to the question recognise the commercial reality of the postal services market, i.e. with declining volumes of “traditional” mail, without significant change, including but not limited to greater efficiency savings at Jersey Post, the level of service delivered by current USO is not sustainable.

**Q2: The Treasury Minister has ruled out providing a taxpayer subsidy to support the present USO. Do you agree?**

59% of respondents answered this question. Of those respondents that did reply, a larger number (49%) supported the position of the Minister for Treasury and Resources against public subsidy, but a significant minority (39%) disagreed, some very strongly. 12% were recorded as 'don't knows'.

**Question 2 - The Treasury Minister has ruled out providing a taxpayer subsidy to support the present USO. Do you agree?**



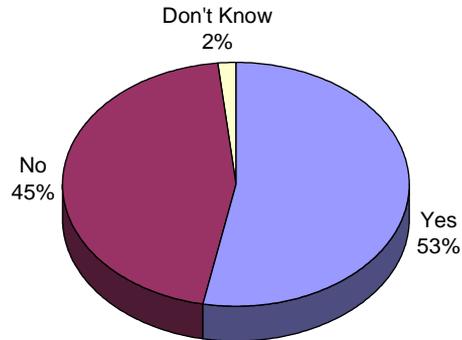
Whilst the majority of respondents to the questionnaire agreed with the position of the Minister for Treasury and Resources on public subsidy, the theme of public support for Jersey Post came out very strongly in the written submissions to the consultation. Twelve respondents made the point that Jersey Post should be considered a social service, with a further 10 stating that the States should pay a public subsidy to keep current levels of service.

**Q3: Do you agree with the analysis of why cross-subsidisation from other postal services to fund the USO is not viable?**

38% of respondents answered this question. Of those who did respond, a slightly larger number agreed with the analysis (53%), compared to the 45% who disagreed. 2% answered 'don't know'.

Data from the qualitative analysis would appear to support this, with 10 respondents directly stating that cross-subsidies should be allowed to continue, against 16 respondents who stated that no cross-subsidies should be permitted.

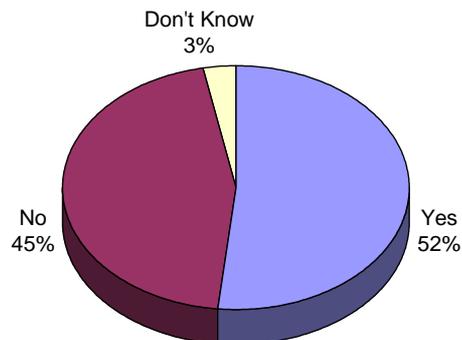
**Question 3 - Do you agree with the analysis of why cross-subsidisation from other postal services to fund the USO is not viable?**



**Q4: Do you agree that the only viable solution is to reduce substantially, probably by around half, the current collection and delivery service?**

74% of respondents answered this question. Again, opinion was fairly closely divided, with 52% agreeing with the proposition against 45% who did not agree and 3% “don’t know”.

**Question 4 - Do you agree that the only viable solution is to reduce substantially, probably by around half, the current collection and delivery service?**



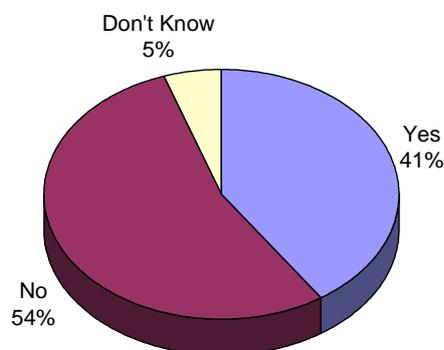
The written submissions provided a similar level of responses. Twenty-seven made statements that broadly supported the status quo, with 28 making various statements that reflected a need for Jersey Post to change its working patterns. Further responses around this theme centred upon the need for Jersey Post to reduce its headcount and/or its overheads (18 respondents) with only 5 stating that they would support a reduction in deliveries, but only if Jersey Post could be made more efficient by doing so. Two respondents believed that reductions in domestic deliveries could be accepted, but that

businesses required a daily service, with only one respondent stating that businesses should see their service levels cut while maintaining the daily domestic services.

**Q5: Do you agree that part of this solution should include changing the way postal services are accessed, by improving availability, but removing the requirement for sub-post offices?**

This question provided the first significant majority opinion amongst those who answered, which is **clearly against** the removal of sub-post offices. 54% of respondents opposed changing accessibility, with 41% in favour and 5% 'don't know'. 64% of respondents answered the question.

**Question 5 - Do you agree that part of this solution should include changing the way postal services are accessed, by improving availability, but removing the sub post offices?**



There was a clear majority of the written submissions supporting the maintenance of the sub-post office network, with 21 stating that the network should be maintained and only 3 supporting their removal. Of those who argued in favour of their retention, a number recognised a need for change and made various suggestions regarding their being re-sited in Parish Halls or supermarkets.

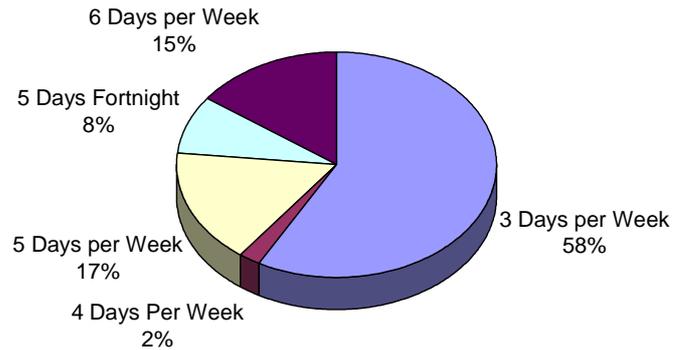
**Q6: If you had a choice between deliveries three days a week or five days a fortnight, bearing in mind that the latter would be accompanied by marginally lower costs, do you have a preference?**

6 days a week	10%
5 days a week	11%
4 days a week	1%
3 days a week	39%
5 days a fortnight	5%
Not answered	34%

Of those respondents who answered the question DIRECTLY, responses show a clear preference in favour of the 3 days a week option and against the 5 days per fortnight option. Although 3 days a week was the most popular choice, 21% wanted neither option and wished to retain 5 or 6 days a week delivery. A number of the 34% noted as 'unanswered' have provided a written response calling for the retention of existing

services. These include the 27 respondents noted previously who wanted the status quo to be maintained, as well as a substantial number of other responses who noted that although they answered the question, they did not believe that either was acceptable.

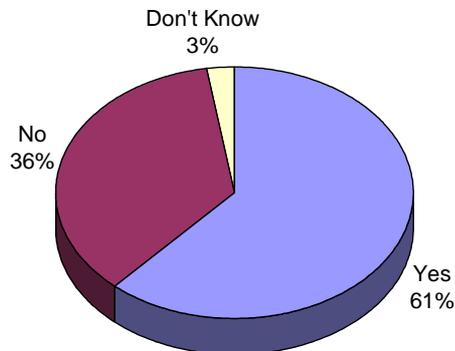
**Question 6 - If you had a choice between deliveries three days a week or five days a fortnight, bearing in mind that the latter would be accompanied by marginally lower costs, do you have a preference?**



**Q7: If collection and delivery services are substantially reduced would you favour a daily collection facility from a limited number of collection points?**

66% of the respondents answered this question. Although responses to this question gave a substantial number in favour of limited daily collection from a small number of points (40% in favour, with 24% against) as with the previous question, **a number of respondents qualified their answers by stating that they were against the principle in the first place and would only support it *in extremis*.**

**Question 7 - If collection and delivery services are substantially reduced would you favour a daily collection facility from a limited number of collection points?**



Again, qualitative responses in this area were mixed, with statements reflecting diverse opinion. While most respondents against the principle made fairly short statements, those supportive of change made more detailed proposals. A strong theme also identified with reducing domestic deliveries was the potential negative impact on the elderly and disabled (17 respondents).

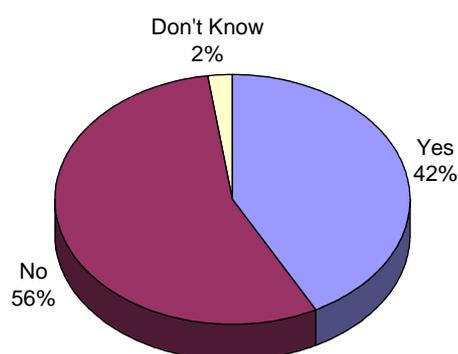
**Q8: If delivery and collection services are significantly reduced would you favour mail recipients having the option to pay a fixed commercial charge in exchange for daily deliveries?**

63% responded to this question.

The question also provided a number of qualified answers, with several respondents commenting on the differing needs of individual households as opposed to businesses.

Overall, however, 56% of those who responded were opposed to further charges, with 42% in favour. 37% did not answer the question, with 'don't know' at 2%.

**Question 8 - If delivery and collection services are significantly reduced would you favour mail recipients having the option to pay a fixed commercial charge in exchange for daily deliveries?**



Ten respondents made general comments in favour of increasing postal charges as a means of supporting the USO, with a further 6 specifically stating that charges should not be increased.

**Other comments**

Of the areas that fell outside of the scope of the defined questions, 2 main additional themes were widely commented upon.

The first revolved around the question of efficiencies and restructuring within Jersey Post.

The other theme was that the Law should be changed to restore the postal monopoly to the States and to restrict competition (36 respondents).

## Conclusions

There was substantial division between respondents on the way forward. Nearly all questions were roughly evenly split between those for or against, with the greatest difference (13%) against the removal of sub-post offices.

There was substantial customer support for Jersey Post, particularly delivery personnel, with the majority of respondents positive about the current level of service.

Even amongst those who recognised the need to restructure the USO, there was concern that reducing daily contact with a postman or postwoman would result in social exclusion and marginalisation, especially amongst the elderly or disabled. Many of the respondents were elderly and sent handwritten responses. Many claimed that they did not have a computer, nor the ability to send or receive e-mails. To these respondents the USO provides a real lifeline.

There was a clear confusion in the public eye regarding competition and efficiency, although it was also generally accepted that the organisation is inefficient and does not make most advantage of its resources. Whilst the quantitative responses to Question 1 reflect an appreciation of the market dynamics, a large segment of the public, characterised in the qualitative responses to Question 1 clearly believe that introducing competition will damage Jersey Post and that it should not be introduced. There is limited appreciation of the fact that Jersey Post is already competing in a global market-place and that they must restructure in order to remain competitive. Many respondents feel that, irrespective of the level of the market, postal services are an essential public service and that they should be maintained at public expense.

## The way forward

It should be noted that Under Article 9 of the Postal Services (Jersey) Law 2004 the Minister may issue the JCRA with Directions and Guidance with regard to the level of provision within the USO. **In 2005, the former Economic Development Committee issued the JCRA with guidance, which stated that deliveries must be made every working day. The Guidance also stated that post must be collected from post offices, sub-post offices and post boxes at least 5 days a week.** As a working day is defined as Monday – Friday, in effect this permits the frequency of delivery to be varied from 6 days a week to 5 without any changes to the existing guidance from the Minister. Given this, the Minister is NOT minded to change the guidance to the JCRA, although the JCRA may wish to modify the USO to allow Jersey Post to deliver on 5 days per week, as they have always had the power to do.

The JCRA noted throughout the process that the main bulk mailers, as well as other users in Jersey, would like to see increased choice and competition in this area. Specifically, this would help them reduce costs and remain competitive. That, in turn, would encourage their continued presence in Jersey as opposed to moving to other similar jurisdictions who offer highly competitive postal rates which represent a major contributor to the profitability of bulk mail “fulfilment” businesses.

The JCRA think any possible risk to the USO is manageable and have stated an intention to review the situation in 2013. Ultimately, of course, the JCRA still retains discretion to invoke the USO funding mechanism contained in the 2 new licences,

should Jersey Post be able to show that the provision of the USO represents an unfair burden.

The Minister recognises the concerns expressed by Islanders in the consultation about competition and new licences, but remains convinced that the Postal Services (Jersey) Law 2004 is sound and that Jersey Post should be able to operate as a going concern without the need for additional funding from the taxpayer. It is also clear, however, that Jersey Post will need time to restructure, and this should be addressed by the efficiency review currently underway.

As part of this restructuring process, the Minister believes that greater thought should be given to how postal services are delivered in the country parishes and believes that a network of sub-post offices should be maintained. Clear opportunities for partnering with other businesses do exist however, and the work undertaken by such companies as the Channel Islands Co-Operative Society provides a clear illustration of this. Of paramount importance must be the availability of services to the elderly and disabled, and the Minister will expect Jersey Post as part of its planning to specifically address this issue.

Frequency of deliveries will be addressed within Jersey Post's restructuring plan, but it is clear that Islanders currently want a service that provides a delivery at least 5 times a week. The Minister accepts that this is a level of service that should be maintained, but recognises the pressures on Jersey Post, some of which are outside of its control. To that end the Minister intends to write to the JCRA to indicate that he is not minded to redefine the USO at this time. In doing so, the Minister accepts a reduction to a 5 days a week delivery (already provided for in Written Guidance to the JCRA by the former Economic Development Committee in 2005) if the JCRA believe that this measure will materially advantage Jersey Post and provide it with additional flexibility to increase the speed at which it moves to an efficient and competitive model.

The Minister has made it clear that he supports competition and does not believe that it will impact adversely on Jersey Post. Indeed, greater competition internally should incentivise Jersey Post and provide local customers with greater choice and cheaper products. To that end, the Minister believes that the USO should only be reduced if Jersey Post cannot otherwise achieve its efficiency targets, and only when the JCRA has determined that all possible alternative remedies have been attempted. In this situation, a discussion, ideally involving representatives from the JCRA, postal operators, Treasury, Economic Development and the Economic Affairs Scrutiny Panel should take place to address options going forward.

**Postal Services (Jersey) Law 2004 – Articles 8 and 9**

**8 Duties of Minister and Authority**

- (1) *The Minister for Economic Development and the Authority shall each have a primary duty to perform his, her or its functions under this Law in such manner as each considers is best calculated to ensure the following –*
- (a) *that (so far as in his, her or its view is reasonably practicable) such postal services are provided, both within Jersey and between Jersey and the rest of the world, as satisfy all current and prospective demands for them, wherever arising;*
  - (b) *that the company, to the extent that it is or is to be licensed under this Law, has sufficient financial resources to discharge, during the period when this sub-paragraph is in force, its liabilities under securities issued by the company to the States.*
- (2) *In so far as it is consistent with paragraph (1), the Minister for Economic Development and the Authority shall each have a duty –*
- (a) *to perform his, her or its functions under this Law in such manner as each considers is best calculated to protect and further the short-term and long-term interests of users within Jersey of postal services, and to perform them, wherever each considers it appropriate, by promoting competition among persons engaged in commercial activities connected with postal services in Jersey;*
  - (b) *to perform his, her or its functions under this Law in such manner as each considers is best calculated to promote efficiency, economy and effectiveness in commercial activities connected with postal services in Jersey;*
  - (c) *to perform his, her or its functions under this Law in such manner as each considers is best calculated to further the economic interests of Jersey;*
  - (d) *to perform his, her or its functions under this Law in such manner as each considers is best calculated to impose a minimum of restriction on persons engaged in commercial activities connected with postal services in Jersey;*
  - (e) *in performing his, her or its functions under this Law, to have regard to the need to ensure that persons engaged in commercial activities connected with postal services in Jersey have sufficient financial and other resources to conduct those activities; and*
  - (f) *in performing his, her or its functions under this Law, to have regard to any special needs of persons who are disabled or have limited financial resources or have particular needs.*
- (3) *The Minister for Economic Development and the Authority shall, in considering whether the postal services referred to in paragraph (1)(a) satisfy the demands referred to in that sub-paragraph, have regard to –*

- (a) *whether the services are rapid, of high quality and reliable;*
  - (b) *whether the services are affordable by and accessible to the highest number practicable of business and domestic users;*
  - (c) *whether the services are provided at times, at places and in ways, that meet the demands of the highest number practicable of business and domestic users;*
  - (d) *whether users are able to express their views about the provision of the services; and*
  - (e) *any objectives that the States prescribe by Regulations, including, but not limited to –*
    - (i) *the provision of a universal postal service, a social postal service or any form of subsidized postal service, and*
    - (ii) *the provision of certain services at uniform tariffs or at subsidized tariffs.*
- (4) *In paragraph (1)(b) –*
- “liabilities” means any liabilities, debts or obligations (whether present or future and whether vested or contingent);*
- “securities issued by the company to the States” means securities issued by one company to another company, by the company to the States, or by the company to any body corporate wholly owned directly or indirectly by the States.*
- (5) *Paragraphs (1)(b) and (4), and this paragraph, shall cease to be in force on the tenth anniversary of the date when they come into force.*

## **9 Minister may direct or guide Authority**

- (1) *The Minister for Economic Development may, if he or she considers that it is desirable in the public interest to do so, give to the Authority written directions in respect of the principles, procedures or policies to be followed by the Authority in relation to –*
  - (a) *the implementation of any social or environmental policies in respect of postal services; or*
  - (b) *philatelic services.*
- (2) *The Minister for Economic Development may, if he or she considers that it is desirable in the public interest to do so, give to the Authority written guidance in respect of the principles, procedures or policies to be followed by the Authority in relation to any other matter relating to the performance by the Authority of its functions under this Law.*
- (3) *It shall be the duty of the Authority in carrying out any of its functions to comply with any such direction and to consider (without necessarily complying with) any such guidance.*
- (4) *The Minister for Economic Development shall not give directions or guidance under this Article without first consulting the Authority.*
- (5) *The Minister for Economic Development shall notify the States of the directions and guidance given by him or her under this Article and of any*

*comments received by him or her from the Authority about the directions and guidance.*

- (6) The Minister for Economic Development shall take reasonable steps to bring the purport of that notification to the attention of the public.*
- (7) The requirement in paragraph (6) shall be taken to have been satisfied by the publication in the Jersey Gazette of the notification, but this is not the only way in which that requirement may be satisfied.*
- (8) A reference in this Article to the public interest includes a reference to the economic interests of Jersey.*
- (9) Paragraph (8) is included only for the avoidance of doubt.*