

STATES OF JERSEY

Economic Affairs Scrutiny Panel Price and Charge Indicators (GST) Sub Panel

WEDNESDAY, 25th JULY 2007

Panel:

Deputy G.P. Southern of St. Helier (Chairman)

Deputy J.M. Martin of St. Helier

Connétable M.K. Jackson of St. Brelade

Witness:

Deputy A. Breckon of St. Saviour, Chairman, Consumer Council

Deputy G.P. Southern of St. Helier (Chairman):

It has been suggested by the Minister that the best way to protect consumers is to give them clarity by marking prices, including VAT (Value Added Tax) on the shelf, inclusive price marking. Can you start off with giving your version of what you think that would mean in terms of the consumer?

Deputy A. Breckon of St. Saviour (Chairman, Consumer Council):

I think there are some issues that have become confused here because it is strange that this issue is emerging now when, for example, restaurants have or have not charged 10 per cent and nobody has said anything about it. Taxi drivers charge additional per suitcase and various things and nobody has said anything about it. There is a shop in the High Street that have had a policy for years that has added 5 per cent on prices. And I have not heard either the Economic Development Minister or the Treasury Minister say anything about that. So I think the issue of pricing is being confused with GST (Goods and Services Tax) and the 2 issues are separate. That is what is confusing it. The other thing that the Economic Development Minister did do is produce a paper which was sent, certainly to all States Members, about how prices of goods should be displayed when GST is introduced in Jersey. And, again, there is some misinformation in that it refers to the Trades Descriptions Act and suggests that that is for displaying the one price when, in fact, the Trades Descriptions Act is something completely different and it was proposed there be one in Jersey in August 1975. Trade descriptions are exactly that, it is about a description of something, goods or services being what they are, price not being the leading factor. So I think in this particular instance the marking of items is being confused with GST and the 2 are separate. But that is not the way it is being presented because if you go back to the actual GST law it was said during that debate, before and after, that the price marking law would follow as part of this

when, in fact, if Jersey wanted to be the cutting edge of consumer law then this is not the issue to tackle. There are other issues about advertising, consumer credit and people's basic rights which have not been touched on yet, so I think it is a bit cynical really to pick on this and say we must be up there or be equivalent with the rest of the world, whatever that might be, when we are not there in other areas as well. So in general terms, the answer to your question is that this is the price marking and the GST confusing is not helpful because it has been presented in that way.

Deputy G.P. Southern:

But, nonetheless, do you not feel the Minister has a point when he says the customer should know the price he is paying for a particular good and it should be marked on the shelf to include GST?

Deputy A. Breckon:

That is generally accepted but how he said that, because we are starting from a situation where we do not have it and we are going to have it and if it is inclusive then there will be no transparency and there is a fear from businesses, small and large, as well as from consumers that if that happens and it is hidden in a price, an inclusive price, then they will not know what it is and then there will be accusations and allegations about who has done what to the prices. But, of course, it will not fall on the Government, it will fall on the traders, so perhaps there is some political mileage in disguising a GST in an inclusive price. So perhaps this is a political agenda rather than one that is functional for consumers.

Deputy G.P. Southern:

I hate to play devil's advocate but I think I may. I think perhaps the Minister might respond that, in fact, the only person who is playing politics with this issue is you in that you are saying, making a political point, that the pricing policy and the amount charged that is due to the Government should be made clear so that the people know that this is a government charge.

Deputy A. Breckon:

Indeed, and it happens on till receipts in other places that it is shown there but not necessarily shown on the item so there are examples of that. As I said earlier, the thing is that we are starting from scratch and there is, perhaps, a degree of mistrust there about how it is going to happen and how it is going to be implemented especially on items that do not round up, how is that going to work in practice. I think there is a fear that because of that traders will tend to round it up where they would rather not get involved in that argument, which is why I believe they put a certain amount of pressure not to do this immediately but to have a transitional period where we see what happens in the marketplace.

Connétable M.K. Jackson of St. Brelade:

Are you aware of any new legislation which suggests that there ought to be shelf edge pricing?

Deputy A. Breckon:

There was in the amendment I had to the GST Law which was to Article 94 and included in there, and I have it here, something about that because there are a number of issues about the European directives. There are European directives on all sorts of issues and in general terms Jersey might look at them but not adopt them or adapt them, whichever, wholesale depending on the circumstances. But in general terms there are other issues attached to this because also price marking is about unit pricing as well. So there are wider issues which does cause some problems for smaller traders. Can I give you an example? If you are selling fruit and vegetables then you should be able to demonstrate the price per weight of whatever it is. Now, that can cause problems for smaller traders. Bigger companies do it anyway. If you go into Woolworths you will see their chocolate is priced per 100 grams so you can compare any brand of chocolate with another to see how much you are getting for particular money. That is linked into some of the price marking because it is also unit price marking as well so the 2 things are connected. It is something that people have done for years. If you buy something by the pound, you know it is a pound of apples whether they are green or red or whatever they are, and you can compare that readily without necessarily having legislation, although there is with weights and measures. On the GST or the VAT thing there is some slight variations but in the main it is standard stuff really which applies which generally is inclusive.

The Connétable of St. Brelade:

Do you think we have any obligation over here to follow the leader, the EU (European Union) directions?

Deputy A. Breckon:

EC (European Community) directives are just that really and we are not a member of the European Community but that is not to say we need to ignore anything because there are hundreds of these things. So if you start getting into food labelling, hygiene, advertising, consumer credit, there are things about time shares, there are things about advertising, there are things about safety and consumer issues, there are all sorts of stuff that come out. Now, we probably would not be able to employ enough people to keep up with these things if we went down that road, and I do not think in the past anybody has ever cherry picked European legislation and said: "We need that" but having said that there is some sensible things that come out about terrorism, about money laundering and things like that, where governments generally adopt it without dissent really because it is commonsense. But on some of this stuff, as I say, if you drill down too far then perhaps we have a problem keeping up with some of this stuff, and we are a small Island. The other thing is we get literally tied up with red tape as well.

Deputy G.P. Southern:

In terms of the complexities of pricing and the difficulties of pricing on the shelf, as I understand it Article 2(3), which is the part of the Price and Charge Indicators, the bit that says the requirement shall

be that the price or charge indicator is inclusive of tax, that is subject to paragraph (4) which in paragraph (4) says: "Regulations made under this Article may make exceptions to the requirement." So if there are difficulties with unit pricing or whatever, the type of goods coming in, exceptions can be made. It is argued that inclusive pricing can fit anybody provided that the exceptions are made clear, that people can thereby cater with inclusive practice. What do you feel about that?

Deputy A. Breckon:

I think that there is room really for both ways because if it is small ticket items then it causes problems. If it is a £20,000 vehicle then it is not quite so difficult because you know exactly where you are with that and you can say that this is the price and this is the government tax. It is when you get into the minutiae of some of the detail where the problems are and I think the problem would be -- is laying down at the start something that is perhaps too rigid and people have a difficulty to work with. So that is probably where the difficulty is, it is the mechanics of doing it, and then I think there is a feeling that if somebody says "shall" then, okay, they shall but there is consequences to that and the consequences could -- 3 per cent could become 5 or 6 per cent when the actual implementation comes through. If people have to do something then they will have to do it but they will have to have a cost for that and they will pass it on.

Deputy G.P. Southern:

Can you just explain the mechanism whereby you are suggesting that 3 per cent might become 5 or 6 per cent? How will that happen?

Deputy A. Breckon:

When some of these instances, although offers of help are coming forward from the GST Advisory Service, whatever it may be, to give an example, Jersey Telecom, if you need to isolate the telephone bill, on a telephone bill you have your line rental, you have local calls, you have international calls, you have calls from mobile, you might have special rates or whatever else it is, that will all have to be split out. Jersey Telecom, I know from a conversation I have had, cannot get a system anywhere that will do that. So they will need to build it themselves at a cost of about £300,000 to do that, so that every bit of the phone bill can be itemised separately. Because that is their interpretation of what they may have to do, so that is the way they are looking at it at the moment. Having said, they would rather not do it. So that is an example. The other thing is that those companies that operate in Jersey and Guernsey and they have systems that serve both Islands, that will not be the case if the Islands are different, then they will have to have separations of software and there will also be ongoing costs because some of the things required will not just be a one off, they will be day-to-day stuff. I have also spoken to some of the bigger retailers in the High Street and they have said that they would have to consider withdrawing some of the things that they have on the shelves because it is not worth it if it is 2 for £10, messing about with it, because these things are designed to go in, turn them over quick and they said in some instances their

head office do not understand exactly what is going on so they are still working with what might happen but they are not sure what.

Deputy G.P. Southern:

So you are basically saying that, correct me if I am wrong, that the 3 per cent cost will be passed on and the administrative cost of doing that 3 per cent will also be added in and, therefore, you are talking 5-6 per cent or whatever?

Deputy A. Breckon:

Yes. There are a couple of rumours that the High Street will absorb it, but they will absorb it because they are charging 17.5 per cent more than would be the Jersey price if the VAT was taken off anyway. But that is anecdotal, I have not heard that first hand, I have heard that from other sources but not direct from anybody that is doing it. So that is a possibility but how real that is I do not know.

Deputy J.A. Martin of St. Helier:

Sorry, Alan, can I just quiz you on -- I mean, that is a surprise to me about Telecom because seeing my mum's telephone from British Telecom, or whatever - she is still with British Telecom, she has not moved - it is price, price, price, bill, VAT, on the whole bill. Nothing is separated out. I mean, she has phoned me, she has phoned her sister in New Zealand, so she has done all the bits. Where does Telecom get the idea that they will have to ...?

Deputy A. Breckon:

I do not know. That is what they are working on. They are looking at a system that would do that.

Deputy J.A. Martin:

I am not saying they are wrong, it just seems to me if that is the system we are introducing it is ...

Deputy A. Breckon:

I do not know, it is maybe because of the way that their billing system is. The other thing is a lot of their money they want from the fixed line, which is their base costs. If you do not use the phone it does not matter but I think they see it as being transparency if you have it on each cost line as opposed to at the bottom.

Deputy J.A. Martin:

You are not saying they think it is the way the Government wants it, they think it is the way they should do it?

Deputy A. Breckon:

That is the worst news to them and that is the way they are doing it, or they are examining that now and they cannot buy something off the shelf that will do that. They have to do some of that themselves.

Deputy G.P. Southern:

The previous witness who was here before you from the Hospitality Association said that in hotels, in particular, exclusive pricing is absolutely correct, right for the hotel business. At the end of their stay they add up the bill and he was suggesting that what we needed was stability and that the position we have arrived at, as it were, not quite by accident, whereby we have not made any regulations at the moment and people are permitted to do exclusive or inclusive labelling as they see fit is the right position to be in permanently. Is it a case of exclusive versus inclusive or have we -- would you agree with Mario that perhaps we are in the right position to just let the market decide?

Deputy A. Breckon:

Probably because with a hotelier, they need to know 3 months ago what they are going to do for next year, and they need that degree of certainty which they have not got. But what they can do is there would be a transitional period where, and it is not uncommon in many areas of the world in the tourist industry for there to be some charge or other. Some companies charge an environmental charge for using the water and the drains and whatever else. So it would not be unknown for the tourist industry to levy that, but having said that the other side to that is that it is 3 per cent on a bill when they are in a competitive area and people can go somewhere else for their holiday so you can understand their concern about it being there at all really, and it is only going to be on basic foodstuffs and milk and services and stuff like that. So they would probably rather it was not there at all.

Deputy G.P. Southern:

Well, I am sure they would not and certainly that was Mario's position. Nonetheless, we are not here to investigate that, we are to investigate the aspect of pricing. I will repeat the question. Is it a case for you of inclusive versus exclusive pricing or have we arrived at a position which is probably perhaps the best position where those who wish to charge inclusively will do so, those who wish to charge exclusively, provided under the law that they advertise the fact clearly enough, are allowed to do so?

Deputy A. Breckon:

I think it is a bit more complicated than inclusive and exclusive because there is a lot of ramifications associated with either, so whatever happens there needs to be a great deal of transparency so that people know exactly what is going on. Now, if it is simplified by being one charge on to whatever, whether it is a plumber's bill or an electrician's bill, and if they are under a certain threshold they do not charge it so I do not know how that will work exactly. But there is going to be a bedding in period and I think that is probably the right way where you have both and one versus the other, commonsense I think will prevail. Many, many people, and there could be a silent majority that want the inclusive but that is not

what has emerged so far. Most of the people who have voiced an opinion have talked about having it as a separate itemised thing rather than being inclusive.

The Connétable of St. Brelade:

Can I just pick up on that, in that given that the other jurisdictions around here and maybe England and Europe charge it inclusively, do you think public perception was that it would be inclusive here?

Deputy A. Breckon:

I think part of the fear of going there is because of the numbers, because the numbers do not add up when you break it down, and that is what I think has caused concern because of how you implement it on smaller stuff which translates into price increases. If you take an example of something that costs 50 pence, that item would -- 3 per cent on it would be 52 -- that would translate at 52. So if you had 10 of them, instead of paying 3 per cent on £5, which would be £5.15, you would pay £5.20 on 10 separate items at 52. Now, the difference is 5 pence but it is 33 per cent higher than what it should have been. It should have been 15 pence and it is 20 pence. So that is the fear of how that will translate and filter through. The other thing is, as night follows day, GST if it is introduced will go up at some time, and if it goes up where do you put the added bit on? Do you go back to the base or do you put another, say, 4 or 5 per cent on what you have already got which is 5 per cent on 3 per cent or do you go back to where you were? Do you go back to your 50 pence and rebase it; probably not. So I think there is a fear, and in general terms it will just roll from year to year if that moves on, and it probably will.

The Connétable of St. Brelade:

Would you say that the Economic Development Minister has consulted with consumers and got any consumer opinion on the whole price marking question?

Deputy A. Breckon:

It has emerged fairly quickly as in indeed the GST law did. It was lodged and then debated 6 weeks later. The other one, the price marking law, was certainly going the same way. It was lodged on 5th June, it was down for debate a week or so ago but it did not happen.

Deputy J.A. Martin:

I asked the Minister what the haste was last night and that was because someone brought amendments to Article 94 of the GST law and then they realised that-- it seemed to sink in then that there could be a possibility that people thought that GST was ever going to be exclusive. So this is the follow-up which was a quick -- well, I will not say quick, it has been brought in and hopefully would have been debated so there would be a certainty when it goes live in May, end of April, next year. But because there has been so much controversy, I mean, we are looking at it so we have now got the blame for holding it up. I think the blame could be the consultation down the line, or the expectation of certain politicians, I

never really thought about it. GST to me, I was always told was not VAT. We are not having value added tax. We have got our own system and it is GST and it is going to be simple. So I did not really think about how it was going to be passed on necessarily. I never voted for it anyway but that is an aside. So where there was never any consultation except through probably your group and the Chamber; that is why we are where we are. I think Geoff was trying to say is in the worst of all worlds can we carry on letting the retailer or the hotelier decide how they do it? Is there a point down the line, a year's time or a year after it comes in, that we have to make a decision, Government, inclusive as much consultation as possible?

Deputy A. Breckon:

I think with this it is going to have to be a suck it and see because you cannot predict really. If somebody goes in a paper shop and buys a paper and cigarettes and whatever else then that will roll up. If you just buy a paper then that is what it will be. It will be 3 per cent on that so that, in effect, will be a rounding effect anyway. I mean, that is going to have to happen, I think, and then people will, after a period, make their mind up. If we just come back to Article 94. What it said in here in the explanatory notes were: "The States may make regulations under Article 94 about the display and other disclosure of prices in GST including requiring GST not to be separately disclosed." Now, the terminology of some of the language was -- and it was aiming that way for GST not to be disclosed and if you look at 94 which I sought to amend, and the Attorney General said something, I am still not sure what he said, but he said: "Well, it does not make any difference" but it does because it says in Article 94(2): "A retail price be expressed or indicated as a global price that includes GST without separate mention of GST." So this law was fairly specific in hiding GST. And people had a fear about it.

Deputy G.P. Southern:

But that says "it may require that." It does not say "would". The crunch comes with the Draft Price and Charge Indicators in Article 2(3) where it says: "The requirement shall be subject to paragraph (4) that the price or charge indicated is inclusive of the tax." So inclusive with some exemptions.

Deputy A. Breckon:

Just to give you an example of how that does not work in reality. About 2 weeks ago I had a meeting with somebody who is involved at the garden centre and they said they had not really realised any of this. They were not aware of what was in this law and they were not aware what price marking was all about. They had not got a clue and they said they had never really followed the GST thing and they said now they regret it because this has crept up on him and he says it is going to be a bloody nightmare for their business. Now, this is a local company that have invested millions of pounds and they are thoroughly fed up because of this creeping up on them. They do not know what they are going to do. He said: "Some times like this you just feel like packing it in. What is this about?" Now, this had 6 weeks. This is not really for public consumption, it is about Article refers to this and what is this and

there is a schedule at the back. The public do not understand this stuff. Most small traders would not understand this and 6 weeks, lodge it, debate it. It is indecent haste really. The same with the other thing; really, why is the rush to do this? We do not comply with EC directives on hundreds of things.

Deputy J.A. Martin:

Have you got -- and we make sure that we get the *Hansard* of what the AG (Attorney General) said because it was something about the law, was it not, and a directive possibly. Do not worry about it now, Alan, because we are getting our files together. We need it in our file because we need to know what he said. I was not in the debate, I was away.

Deputy A. Breckon:

There were a number of views on this but I could read it to you but --

Deputy J.A. Martin:

No, before I forget -- please do not read it to me because I need a lawyer to interpret what the AG is telling me. But what I am saying to our officers, we need to see that and see where he is coming from.

Deputy A. Breckon:

There is a contribution here from the Constable of St. Brelade in between 2 of the Attorney General's speeches.

Deputy J.A. Martin:

We will have your contribution as well, Mike.

Deputy A. Breckon:

The other thing, I did ask him for clarification on what he said and he went on and said something else. The Constable of St. Lawrence has said, after there had been an exchange between myself and the Attorney General: "Yes, Sir, I think in view of the fact of the uncertainty and even the Attorney General says he is somewhat uncertain and the fact that ..." and the Attorney General is up again: "I am sorry, Sir, I said I was not uncertain. I am not at all uncertain." Everybody else was after he spoke. So that transcript, and it goes to a couple of pages, and I did say that: "With respect, I cannot fully accept the view of the Attorney" because I did not agree with what he said.

Deputy J.A. Martin:

No, I was just saying we do need to.

Deputy G.P. Southern:

Can I come back to what you were saying I think on the principle of rounding up? One of the arguments

that is put is that if you have to label every item on the shelf with GST that the temptation will be there for retailers to round up, every fraction round up. That builds up with a number of small items into more than 3 per cent. Now, the Minister suggested yesterday to us that the market in Jersey is competitive enough (a) that retailers would not be marking up because they want to keep their prices down to compete, effectively, and (b) he went further to say that many or some retailers will absorb the cost. Can we start with your impression as the consumers' representative of the competition that is out there in market and whether those arguments hold for you?

Deputy A. Breckon:

Only the labelling. It is not sticky labels on everything now. It is mostly shelf edge so that would translate on to a shelf edge price. I can understand the difficulty if you see one price and then at the till you pay another and we have had the Marks & Spencers thing which has been going on for probably about 8 or 9 years where they still have 5 per cent price premium and some of this is softening in areas. They are softening their policy a little bit now. But it is transparent, they do have signs everywhere. But there is a problem, not just in retailers of all sorts of how that translates because there could be individual items or there is a stack of baked beans or whatever else it is so it is not quite as straightforward as is there one way of doing it because it might be easy in some instances to put a price over another price and in other instances it is not. But as long as the transparency is in the advertising we charge 3 per cent on all these prices or 5 per cent, whatever else it is, at the till, what you see is not the price, this is the price, plus 3 per cent. Then if there are areas of -- I mean to say, Mercedes or whatever else it is, if it is inclusive of any tax, whatever that may be, then that would be the price. That happens now with the taxes on cars. It is not charged separately. It is in the price. So you do not pay that separately although they might break that down to you to delivery charge, to local taxes, and then the price of the car. They will break that down for you. But in general terms they will say it is £35,000 or whatever it is. But they will give you a breakdown. So it varies from a tin of beans up to something that costs many thousands of pounds.

Deputy G.P. Southern:

Can we stay with the relatively small value items for a minute? Can I get you to answer this question? The argument has been put that if you mark on the shelf for small items, I will use the example of my *Guardian*. It costs 70p. Now, 70p at 3 per cent makes it cost 72.1 pence. I would expect when I go into the newsagent in a year's time to pay 73p or expect them to round it up. The counterargument is put that no, no, no, no, no, the market is competitive enough that (a) he won't round up, he will charge me 72p if he wants to pass it on, or he may even absorb the cost because the market is so competitive. What is your impression of the competition level in the market and what are you expecting to happen under that circumstance?

Deputy A. Breckon:

Well, if it is 72.1 you would expect it to be 72 and in general terms if traders are being honest then if it is up to point 5 it should go down and if it is 5 and then it should go the other way. So it should be swings and roundabouts but, of course, it does not work like that because it will depend what are heavy selling items. If heavy selling items constitute a considerable part of trade and they can tweak that by going up then that is where that will go. You could have things that do not sell very much like hair dye, it does not matter what you do with that because nobody will notice anyway. So there is room for traders to play about. That is why the transparency is needed so what they do not have to do is re-price anything, which would be the case at the minute, you just have a button at the till that does that. Now, if people are not happy with that then they will soon express that: "Well, why are we paying that?" "Well, it is a government tax" if and when it comes in.

Deputy J.A. Martin:

Geoff keeps using his *Guardian*. I take it you are a *Guardian* reader, are you, Geoffrey?

Deputy G.P. Southern:

Too right. I use it because I like to wave it in front of Phillip.

Deputy J.A. Martin:

But the point is, the *Guardian* has 70p on it and it comes from England. Now, bigger traders could quite easily absorb that on just that item. They will absorb that because they will work out at the end of the week we sold X amount of newspapers but we have got to pay the 3 per cent on that. But, in that case, we have me who is popping in for my paper, I am not going to pop into the shop who is going to sell me 73p but also then I am going to get my -- I always pop in Checkers for a post and bread and milk and come out spending £20. So it is the shop I have popped into to get the cheapest thing. It was also put to us that because we have introduced GST without -- and I think it seems to be becoming more and more apparent to me that we seem to have got cheaper food into the Island because it is on the box price from Iceland or wherever, but we are selling them all in Jersey-owned supermarkets, that this is going to be where the real problem is because food and children's clothing - I think mainly food I get the feeling - was not brought in like it is in VAT where it is zero-rated. So if they are getting a price charge on a packet or a big - I used earlier - economy lamb chops in Checkers, big bag, big £3 on it, now what are they going to do with that if that has got to be re-priced? It has come in, in that frozen bag, at £3 on it. They said this is the impossibility because then they have to unpack that or they do not sell it. That could even make our food prices go -- if they cannot get these deals from the suppliers without having to unpack it or re-price it this to me seems to be we have added a problem, and I was always -- if we were going to have GST go for the zero-rate in food.

Deputy A. Breckon:

Some of that, you see, with things like that that is pre-packed, and cheese would be another example

where --

Deputy J.A. Martin:

Cheese and meats are one but it is a lot of these branded.

Deputy A. Breckon:

Where it would be bar coded and with that it would be priced and the bar code would pick that up, weight per bar code and do that. But what it would not do, it would not allow for a Jersey price difference because that is in so that would have to be built into some software or other to absorb that, which is a problem again if you look at the bigger supermarkets because they trade in Jersey and Guernsey and there would be a difference so they would have to separate the 2 systems out which, at the moment, they would not. But there are some issues of impôt and duty, and that is about the only issue really. There are one or 2 things but not that much. There is some localised stuff but in the main the bulk of their stuff is priced very similarly or can be from a computer system in both Islands at the moment, but there would be a significant difference if Jersey and Guernsey were different because --

Deputy J.A. Martin:

They would not do it over there. I mean, to them we are small fry. Iceland supply us, Safeways, they are not going to price -- it is going to be done this end.

Deputy A. Breckon:

It would have to be done, yes.

Deputy J.A. Martin:

It was pointed out to us by the Minister last night, the Isle of Man do it, the rest of the world do it, but the Isle of Man --

Deputy A. Breckon:

The Isle of Man have got 17.5 per cent and they have got the same exemptions as the UK.

Deputy J.A. Martin:

The Isle of Man have adopted the UK system which is importing food from and same prices as and exempted of VAT.

Deputy A. Breckon:

That is another problem in the UK system is because the proposal is to sort of virtually tax everything then it is a different system. So there is no way you can pick a system up and get a bespoke system and say: "Fit it over my business" because it does not work like that. That is part of the problem that

businesses are screaming about because they are saying: “Hang on, what do we do here?” and that is where they are really struggling. They are really struggling.

The Connétable of St. Brelade:

Going back to the consumer, do you think it is necessary for the States to find a method of display by legislation?

Deputy A. Breckon:

In general terms we have never had some of these things that have been common elsewhere about advertising and display and, therefore, there might be an element of trust that went before that so that if there was a demonstration of failure and confusion then there would have to be. I mentioned the restaurants before, some charge 10 per cent and some do not, so it is a case of you look, you might pick it up. You might be surprised if you paid if they buried it in the small print at the bottom. But I think what we are talking about if GST does come in at some time then I do not think there will be many people who were not aware of it, but we have to be conscious that people do visit the Island so there has to be sizeable notices that say that that is the way it is going to be if it is not apparent in a price. But, again, that will depend on which shop it is, which product it is and how much it is.

The Connétable of St. Brelade:

Picking up on your 10 per cent, where would you see the 3 per cent coming; before or after at the end of the restaurant bill?

Deputy A. Breckon:

Again some of it could be built in, it depends on the size of a business and what they buy in and how they treat it because they would be consumers for products as well. As well as selling them they are buying them as well.

The Connétable of St. Brelade:

We are talking about the 10 per cent gratuity they put on a restaurant bill. Where would you see the 3 per cent coming from a consumer’s point of view?

Deputy A. Breckon:

I cannot see them putting 13 per cent on. So I do not know what they will do but the thing is, like you say, Mike, some of it I think will be built in before they put the 10 per cent. I do not think they would miss the trick because theirs would be grey areas because you have got a lot of ingredients that go on to a plate and I am not sure how you would price that up.

The Connétable of St. Brelade:

Would you see there being legislation necessary to cover that or to clarify that in the minds of the consumer?

Deputy G.P. Southern:

And in the minds of the restaurateur.

Deputy A. Breckon:

Some of that is covered by licensing as well if you get into the alcoholic bit as well. Things that they have to do by I think it is Article 48 of the licensing law. They have to display and they have to say what it is, and they have to have it lit outside as well. So there are issues there but again that will depend what the interpretation is. What happens if you go into a pub and get 3 pints and somebody says: "Well, that is 6 quid and whatever it is" have they done it? They will have to say which way they are going to do it.

Deputy G.P. Southern:

Who will have to say?

Deputy A. Breckon:

You will have to know in licensed premises what it is going to be. They have a duty under the licensing law to do that, to display prices.

Deputy G.P. Southern:

At the moment they have to display the prices that they charge and the measures that they measure.

Deputy A. Breckon:

They cannot charge any more.

Deputy G.P. Southern:

Cannot charge any more.

Deputy A. Breckon:

That is under Article, I think, 48 of the licensing law.

Deputy J.A. Martin:

So how would they work exclusively?

Deputy A. Breckon:

They would have to say what they were doing and they would have to demonstrate that. They have to

display it outside as well and it has to be lit. That is all part of the licensing law. So if they change their prices, for example, to be inclusive they would have to say that.

Deputy J.A. Martin:

But you said they cannot charge any more, so it is either inclusive and that is the price charged or exclusive plus, that is charging more than the price being displayed.

Deputy A. Breckon:

What they have to do is, say it was a pint of lager and it was £2, they would say the price is £2.06 inclusive of local taxes. They would have to display that according to the licensing law. They have to.

Deputy J.A. Martin:

So you are saying under the licensing law, licensees will not have a choice?

Deputy A. Breckon:

No. They have to say.

Deputy J.A. Martin:

Whatever this says they will have to be inclusive?

Deputy A. Breckon:

Yes, and it is the same if they charge 10 per cent they have to show that not just on a menu, if they charge it on the wine list they have to demonstrate that, and if they charge it on drinks at the bar they have to say that under the licensing law. So they would have to do that under another law and they would have to interpret it whichever way and they might do it different ways. Some might add a charge at the end.

Deputy J.A. Martin:

We have had different views on that from obviously different people. I cannot remember what Steve Lowthorpe said.

The Connétable of St. Brelade:

You have got considerable experience of VAT being charged in Jersey. Do you think the States should legislate against that?

Deputy A. Breckon:

I do not think they can. I think the opportunity has been lost and I say that because a number of years ago when Colin Powell was advisor to the States we, the Consumer Council, occasionally used to get

asked about what we thought about a certain trader coming to the Island and at the time when the Consumer Council was set up in 1995 shortly after British Home Stores changed their policy, they used to charge UK prices less 10 per cent, and they scrapped that. There were a number of other instances where Marks & Spencers changed their policy, and somebody else. Under the Regulation of Undertakings we were asked about somebody coming to the Island and what we said at the time was: "Give them a licence but stipulate in the licence that they must demonstrate a Jersey/UK price differential of at least 10 per cent" and they never came. So they have probably seen it as a windfall. But having said that I cannot see how you can legislate now for companies that charge it. Some demonstrate a Jersey/UK price difference. The other thing, the High Street is transparent but some of the side streets are not so if you buy clothing, for example, and it is not branded in a department store you do not know what you are paying anyway because it is not easily comparable. You cannot compare this shirt with another shirt because of its colour, fashion, whatever it may be, and you do not know what is in the price anyway. So perhaps the High Street has been battered for it when perhaps some of the side streets have been doing okay. They have probably been charging UK equivalent prices but not been in the glare of publicity for that. That is something that has never really been explored because it is a difficult area to look into because they might have a contract with somebody to provide children's clothing, it could be women's clothing, it could be men's, it could be anything at all. It might not be clothing. It could be a company like Millets or somebody like that, whereas they are more comparable. But having said that, who is looking anyway? Who is checking? The answer is probably nobody.

Deputy G.P. Southern:

I think the argument that has been put to us is that the pricing on the shelf is the only way to do anything about this charging of UK VAT without calling it VAT because obviously nobody can because it is not charged here. In that, if you see a particular good can be bought in Reading or Southampton at the same shop for the same style in the same size and yet over here it is charged at the UK price plus GST, so it is fairly obvious what is happening. In fact, it has been put to us today that the only people who will absorb GST are those people who are already charging the equivalent of their 17.5 per cent VAT on their goods and that they are the companies that will absorb it. Does that argument hold for you?

Deputy A. Breckon:

It is a bit more complex than that because you have to look at the mechanics of who it is because if you take, say, Marks & Spencers, they had a policy of -- first they had a slogan, costs 10 per cent less to dress in Marks & Spencers. Then what they had done is they had a lot of high moving stuff for under £10, especially women's clothing, bits and pieces like that where they were selling lots of stuff. So it was in their interest not to discount that by so much because they were selling lots of that where there was other stuff they could knock 12 per cent off because they did not sell many of them. So there is a balance there. Having said that, on the Jersey/UK price differential there was somebody who used to advertise "come to Jersey to VAT free shopping" which is true in reality but it was not because VAT is

not a Jersey tax so, therefore, it should not be there at all. Part of the price marking stuff that is being talked about now, nobody insisted that you must do that, you must show prices, for example, of what is a UK price, stuff you mention there, and what would be a Jersey price? Then if you are selling at a UK price then you say: "Well, this is what it should be but we are selling it at that" then it would have been transparent. But, of course, nobody was going to do that and then it perhaps was seen as a bit too far for legislation. Let the market decide. The other thing is, of course, we do not have a free market. We have a restricted market because not anybody can come here and set up business. So then we do not have, if you look at clothing, we do not have TK Maxx, we do not have ASDAs, George, we do not have Primark, there are loads of shops that we do not have that might be more aggressive on pricing and demonstrating UK/Jersey price differences. But they are not in the market now. They have an opportunity if they want to come here, they could set up; they have chosen not to. So the argument about Jersey and UK price differences is not quite as simple as saying: "Well, they should show it, they should do whatever" but there is anecdotal evidence and stronger to say it is an abuse of position. But then we have had the argument about freight, about wages, about premises but if you are in Aberdeen and you are getting sourced from the south you have got transport issues there, there is all sorts of stuff as well. So it is not particularly a Jersey problem that adds to costs. There are other increased costs as well. But what we have not had, and I do not know if you are aware of it, I think it might have been from another study you have done, in Southern Ireland there was a retail study done and they asked businesses to come up with business cost analysis. And there they have to pay for landfill; you have to pay for dumping rubbish. We just put it out on the street here. So rates are different here. Insurance is different. Transport, you are not going very far once you got on the Island so there are different issues. Now, nobody has explored that and the reason I say that is that it is set against costs for business and the prices they charge. At the end of the day they have to make money. How much? Again, you see, you do not see accounts for the businesses because they are subsidiaries of bigger retailers, so we do not know what happens. Somebody might but ordinary consumers do not know if they are getting a fair deal even. They have to make that judgment based on what they sell and if it looks good value, but without transparency.

Deputy G.P. Southern:

In your opinion how should the Economic Development Minister proceed with this law? Should he continue to endeavour to bring it in?

Deputy A. Breckon:

I think it is good at the moment as a sort of cooling off period, if you like, because we had a lot of contact from people supporting the 3 per cent at the till. Probably 96 per cent of people that contacted us said that is really what it should be, that makes sense because they were worried about the roll-up factor of individual pricing. But having said that, if there is a period where businesses are deciding what to do and making their mind up then I think people will get confidence from that. I do not think it is

confusion. I think it will generate confidence, and if there are some people who are trying it on and not playing the game then I think that will come out. The difficulty is that nobody is monitoring the market so we do not really know because if somebody puts their prices up 10 per cent who knows anyway what has happened? We are in a limited market and if you want something you pay it or go without. There are issues about importing stuff but that is another issue.

Deputy J.A. Martin:

What is your interpretation of where we are anyway because we have just had this conversation? The Minister has made a statement to say that there is going to be no decision before GST comes in. What is your understanding how long the market has got after GST comes in before somebody has to make a decision, basically? Because we are confused now and something Phillip said to us last night or the Minister said to us last night about a week or a month from the decision being made did not seem -- listening to the retailers who offer pricing at the till, they are not going to do a lot except price at the till, which I do not think is rocket science. So if then there is a decision to go the other way in 8 months' time, 10 months' time, a year's time, have you an understanding when the Minister thinks that should come in? How long the retailers will be given or the trade or whatever will be given?

Deputy A. Breckon:

First thing to say is, I mean, GST is for many ordinary people in Jersey a disaster, absolute disaster; individuals and businesses. So I do not think it is a done deal yet. But having said that, the law was withdrawn on 17th July so, therefore, there is nothing there at the minute so it needs to come back into the States system because my understanding is that the Minister withdrew it.

Deputy J.A. Martin:

He withdrew the law on price marking but he is adamant that GST -- all right. That is another argument for another day, whatever happens if GST goes ahead, is adamant that it will come in by the end of April, beginning of May next year. My question is; are we clear, are you clear what he intends to do, how long he intends to hold the debate off for or how long he intends to give retailers or the whole of the trade to get their act together if they decided to go either way, all exclusive or all inclusive?

Deputy A. Breckon:

If it is at the till I do not think it is an issue, but obviously if it is drilling down then it is an issue and I think in general terms businesses have said they will need at least 12 months. Now, some have done some preparation and some, like the guy I spoke to the other week in the garden centre, just said: "Well, I do not know what the hell I am going to do with this." Then one guy has told me, he said: "I am not paying it, I will go to jail."

Deputy J.A. Martin:

So you are sort of saying you think he said 12 months from when it comes in?

Deputy A. Breckon:

No, I think the understanding of areas that if there is a move to bring this back then there would be a period of 12 months where industry would have the time to prepare for that for their own particular systems, but I have not seen anything that guarantees that. I think it is just a --

Deputy J.A. Martin:

No, we need to clear that up because the industry has asked.

Deputy G.P. Southern:

You refer to phone calls coming in and 96 per cent of the calls being for on-the-till pricing. Can you just give us an indication of how many calls came in because 96 per cent could be 39 out of 40 callers? Is that the sort of magnitude we are talking about?

Deputy A. Breckon:

It is still ongoing now. I mean, it has developed really from this and I think it emerged from the GST thing because, as I say, that was lodged and debated within 6 weeks and people did not really know what it was about.

Deputy G.P. Southern:

Are you getting a large response?

Deputy A. Breckon:

Yes, and it is ongoing. It is still going on.

Deputy J.A. Martin:

Is it all monitored and recorded?

Deputy A. Breckon:

The calls get logged but we do not put verbatim of every conversation.

Deputy G.P. Southern:

Do you have an idea of how many?

Deputy A. Breckon:

It would be hundreds rather than half a dozen.

Deputy G.P. Southern:

Hundreds rather, that is fine. You are on record as saying that we ought to defer or delay the onset of the imposition of GST. What do you think that would do in terms of retailers, in terms of businesses that are out there?

Deputy A. Breckon:

I think there is some difficulties in implementing something for April or May next year. And I think there are some strange bedfellows here because the Institute of Directors, for example, are not very happy that the Council of Ministers save £20 million and then spend it on something else, and that was not the deal. I think other organisations and individuals are expressing some concern about public expenditure and not having value for money demonstrated, and then taxing the whole population when we have issues that keep emerging about are we spending public money, why is he now -- although that overlaps. The thing is, it is easy to push this GST argument saying that we need to spend more money and then you can up the ante as much as you want and then you do not have to demonstrate that you are spending public money wisely. You can just keep taxing the people.

Deputy G.P. Southern:

That is a political argument, Alan. I asked you, and I would like you to answer it, what impact you think delaying or deferring the onset of GST would have on businesses out there?

Deputy A. Breckon:

On businesses?

Deputy G.P. Southern:

Yes.

Deputy A. Breckon:

I think they would be delighted because they see it as they are collecting taxes. Some small businesses that are struggling already without this, especially for smaller businesses, there were some issues there. One guy said as well: "Do what they want, I will go to jail, I am not paying this, fed up with them." So there is a great deal of frustration out there of the GST argument and some who went along with it are now expressing: "Well, maybe we rolled over too quick here." The other thing is: "Finance have been able to buy their way out of it where they will pay a sum and they will not have to bother, so why can we not just say we will give you 50 quid, leave us alone? Why are you discriminating against Finance like that?"

Deputy G.P. Southern:

In making those criticisms of the way GST has been introduced, are you criticising the consultation that

has gone on? Is that a result of people feeling they have not been listened to or the absence of consultation? What is your point? What is the point you are making there?

Deputy A. Breckon:

No, there was a consultation process. They had done an Island road show. I went to about 3 or 4, I think. I went to Quennevais, I remember being there. I was at St. Clement's Parish Hall, to the Town Hall and there was probably one here or somewhere else. There were probably about 4 or 5. But if you look back at the way that was done, it was a done deal, really. It was a case of it is not going to be very bad because it is going to be one of the lowest rates in the world and you do not have to worry about it. Then there was your small business; you do not have to worry. They were looking for certain opposition and to sort of quell anything that might be, so the fact that it was there. Then there were meetings going on with trade organisations, Chamber of Commerce and perhaps others who said: "Well, you know, this is not very nice but this is where we are because of Zero/Ten and whatever else, we have to do other things." I think some of them who were sold it then feel disappointed because they are still not satisfied. Again, it is a political argument that public money has been well spent and, therefore, now it is easy, it is felt, to use this as a blunt instrument. A lot of people are saying now: "We did not realise exactly what all this was about now and we are not content at taxing pensioners on their electricity bills and loaves of bread and pints of milk and stuff like that." I mean, that is really the stuff that is starting to hit home now. I think where they say no new tax: "We are not having GST then?" "No, I do not think so." No new taxes, you see. That is what has been said, so not quite the GST argument.

Deputy G.P. Southern:

Yes, their phrase should have been no new additional taxes.

Deputy A. Breckon:

Yes. There will be changes to existing taxes but no new ones. So what happens really is that the GST issue has run into the politics of the public finances and that is because, as Judy said before, we are where we are, and people accept it to an extent but they are now having a rethink about that.

Deputy G.P. Southern:

You said earlier that GST is a disaster for people and businesses on the Island. Would you like to explain what you see that as meaning? Disaster is a big word.

Deputy A. Breckon:

Jersey, to the greatest extent, has always flown the flag about individuals, get good allowances, and we are able to do all these sorts of things and we tax people who can afford it and that has been the theme that has run through it. But now we are getting to a stage where we are talking about taxing pensioners, the singles or couples who maybe cannot afford much and have not got much, we are going to tax them

on some basic essentials like utilities and basic foodstuffs, and these are people that will not get any income support because they are not on income support unless they have got some other particular problem or need; therefore, they will get no compensation for it. What we as a Government are targeting is we are targeting the local population in a way that has never been done before. We are also putting burden on business, small and large, and we are putting in place a system that is going to cost money. I think the figure I have seen was £1.7 million to date for the kit to do this and 10 staff, which will probably go up 5 at the Customs and 5 in Income Tax, so there is a cost to collecting it. I think there is £1.7 million in income support and it is going to bump up the Retail Price Index by a number that is going to be estimated at 2.5 per cent. If it is going to be 3 per cent plus I cannot see how it works out as that. The other thing, if you are looking at some of the --

Deputy G.P. Southern:

It works out as that, Alan, because it does not apply to housing costs, essentially.

Deputy A. Breckon:

Having said that, the other thing that is in there is it is going to be ignored, the GST bit is going to be ignored when it comes in the Retail Price Index for the calculation of some things, including wage negotiations and perhaps some benefits as well, as the system levels off after income support takes off, whichever it does. So there are all sorts of people who feel disillusioned by all of this from all sectors of the community, really. So when I said disastrous it is that, and people who perhaps never had things in common before and now have a common hatred of this and why are they doing it. Then you get stories like on the front of the paper last night, there is somebody goofed here for some money: "Why can you not look after your own money? Why do you want to take ours?" That is the sort of feel that I get that is permeating through. If you look at next year the estimate from GST is £30 million and it comes out with a surplus at the end of £38 million and it is a surplus that is building for 2010 when the tax system kicks in from the Zero/Ten percent. So it is a provision that is being made and the same is for 2009 as well and people are making noises.

Deputy G.P. Southern:

Is that £48 million figure based just on GST returns on an expanding economy?

Deputy A. Breckon:

Yes, the £38 million is a surplus, the actual thing from GST was --

Deputy G.P. Southern:

The surplus including taxation?

Deputy A. Breckon:

Yes. I think it was about £30 million from GST. This is not a full year. It was two-thirds, I think, which was based on from April or May.

Deputy G.P. Southern:

I am loath to go on to the ground of what are basic politics. In the context of this investigation in terms of Price and Charging Indicators Law, it could be said that, are you not just simply too late, you are using this as an excuse to run an argument which should have been run perhaps 3 years ago?

Deputy A. Breckon:

What, on price marking?

Deputy G.P. Southern:

Yes. Price marking, are you using this as an excuse because it has come up now to ferment an argument that should have been run and perhaps was not run well enough and we lost, 3 years ago?

Deputy A. Breckon:

There are 2 issues emerging now. People would rather not have GST and then, if they have to have it, then they would rather have it in a simplified way which to them is one button at the till rather than throughout the store when they feel, rightly or wrongly, that they might be getting ripped off because of hidden price changes that are not just reflecting the 3 per cent but could be reflecting something else. So that is the fear that they have. Regarding the timing of it, as I say, the consultation exercise did go on but in the main if you look back at the publicity and the stuff that was there it was probably a done deal anyway and it is not uncommon to transfer -- and if you look at the make-up of Jersey's tax then you could probably argue that it is skewed too far in the business area rather than spread on to consumption as well. We have never had many consumption taxes so that is where this was headed probably from OXERA (Oxford Economic Research Associates) from years ago. There was a consultation group years ago, a fiscal review strategy group, many years ago and this was the sort of thing that they predicted might well come. So it has not come without some notice, albeit a list of other things as well which have not come.

Deputy G.P. Southern:

Is it the case that you are making that GST in whatever form or however it is priced will have a damaging impact on the competitiveness of Jersey business? Is that what you are saying?

Deputy A. Breckon:

It will because obviously there is administration of it and then there is also the competitiveness, one with another. If, for example, you had contractors who were above the threshold and had to charge it and those below who did not, then they would be able to demonstrate a cheaper price for their service; if you

had, say, contractors and plumbers or electrical who were individuals who did not and they would not have to charge it, whereas the others would. So it would be in all their prices. So that then adds into renovations, building, whatever, or does it not, depending who does the job.

Deputy G.P. Southern:

Competitive internationally? Is that elsewhere the case?

Deputy A. Breckon:

The thing is you have a number of issues. There is the tourism aspect, and it does not take many bad stories really to permeate to cause damage, and then you have the Finance aspect and Finance are in a position or look to be in a position where they will be paying some fixed fees and they will be buying their way out of the GST administration burden as negotiations, I understand, are going on and the sums mentioned are between £5 million and £10 million for them to do that. There again we might all say: "We will give you 50 quid, leave us alone. Go away." So, therefore, maybe you can do it another way.

Deputy G.P. Southern:

I am done.

Deputy J.A. Martin:

I am done.

Deputy G.P. Southern:

No notice from our right? Anything else you want to add, Alan, you think we have not covered that you thought --

Deputy A. Breckon:

No, the only thing, as I said at the start really, it is a shame that the price marking and some of the forward looking stuff that they could have brought about, advertising and display and things like that, have come linked to GST. Of course, this is about good practice and it is a shame really that it is associated with GST because it is then being used and abused really which is not the way it should be. It should be about demonstrating that we are concerned about these issues and we want to do it right. I think there is some confusion here about throwing it in with GST and I do not think that has done the GST issue any good either, really.

Deputy G.P. Southern:

Okay, thank you for that, Alan, and that is the end of our day. I hope it is the end of yours.