

# STATES OF JERSEY

## Economic Affairs Scrutiny Panel Jersey Post and Competition Sub-Panel

**FRIDAY, 24th SEPTEMBER 2010**

**Panel:**

Deputy D.J.A. Wimberley of St. Mary (Chairman)  
Deputy M. Tadier of St. Brelade

**Witnesses:**

The Minister for Treasury and Resources  
The Assistant Minister for Treasury and Resources

**Also present:**

Mr. D. Scott (Scrutiny Officer)

[15:15]

**Deputy D.J.A. Wimberley of St. Mary (Chairman):**

Well, good afternoon. Shall we start with the usual preliminaries. My name is Daniel Wimberley, Deputy of St. Mary, and I am chairing this in the absence of the Chairperson, Shona Pitman, who is bereaved.

**Deputy M. Tadier of St. Brelade:**

Deputy Montford Tadier of St. Brelade.

**The Minister for Treasury and Resources:**

I am Senator Philip Ozouf, Minister for Treasury and Resources.

**The Assistant Minister for Treasury and Resources:**

Deputy Eddie Noel, Assistant Minister for Treasury and Resources.

**The Deputy of St. Mary:**

Lastly, Scrutiny Officer Darren Scott, who is looking after us. So, welcome to this hearing and thank you for coming. I will say at the beginning what I said with the Minister for Economic Development who has just been here, which is that I hope we can set ideology aside, although we clearly have quite strong ideological positions but what we are trying to do with this complicated area is find the best for the Island.

**Deputy M. Tadier:**

The ideological position as become blurred as we hear different facts from different people.

**The Deputy of St. Mary:**

Different facts from different people and people coming up with quite surprising points of view actually. So, I will just kick off by asking what ...

**The Minister for Treasury and Resources:**

Can I just say something by way of instruction? This is a rather interesting hearing because normally I have an idea of where the panel is going in terms of lines of questioning and therefore I can brief myself and I can familiarise myself.

**Deputy M. Tadier:**

Have you not received anything?

**The Minister for Treasury and Resources:**

Nothing at all. So, it is rather difficult for me to have the opportunity of preparing in order to serve the panel in terms of what you are looking for. I have a terms of reference and I have the questions given to Jersey Post but those are questions to Jersey Post. Forgive me if I am wrong but despite requests I have not had any questions at all. Forgive me if I am mistaken.

**Deputy M. Tadier:**

Do you want to take ...

**The Deputy of St. Mary:**

Yes, but we will be following that loosely.

**Deputy M. Tadier:**

Yes, but we probably will not go with it. Sorry, it has notes scribbled on it, so if you are happy to look at that.

**The Minister for Treasury and Resources:**

Right. I mean, this is a rather, if I may say, unorthodox way of proceeding. I am used to attending panels briefed, armed with information and data and arguments in order to answer your questions, so I am almost coming in to you this afternoon completely blind. So, I have a terms of reference which is pretty broad.

**The Deputy of St. Mary:**

Yes, it is fairly wide.

**The Minister for Treasury and Resources:**

So, I am not at all aware really of the lines of questioning you want to go, and to rely on a sort of off-the-cuff answer to what are no doubt thoughtful and important questions of detail it is pretty difficult. So, you are not going to get the best out of me.

**The Deputy of St. Mary:**

I do not know why those were not sent but I do not know how your panel works.

**Deputy M. Tadier:**

We normally send those.

**The Minister for Treasury and Resources:**

Well, that is standard practice for scrutiny.

**Deputy M. Tadier:**

Well, let us see what we can do.

**The Minister for Treasury and Resources:**

So, were there any questions, or not?

**The Deputy of St. Mary:**

There were questions which we had yesterday and I think they have just slipped because we have talked before the hearing and melded our own question lines.

**Deputy M. Tadier:**

Why not give this copy to ...

**The Deputy of St. Mary:**

That is a clean one, is it not?

**Deputy M. Tadier:**

Yes. We will take that one because I have notes scribbled on it. We will share one. As I said we are going to stick loosely to that but ...

**The Deputy of St. Mary:**

The question is preparation in the past but I certainly did not have in mind the sort of questions that require that kind of background researching. However, we take the point and we shall proceed.

**The Minister for Treasury and Resources:**

Well, I am going to say that if there are issues that I will note the question and I will reply to you with a proper thoughtful answer after I have had the benefit of thinking about it and carrying out some research.

**Deputy M. Tadier:**

We should say there were certain questions that have arisen today from interviews that we have had prior to this which we would not have been prepared for anyway, so we are just as blind for some of those aspects as maybe you will be. In saying that we will try and seek clarification and see what we can get.

**The Deputy of St. Mary:**

So, if I can start with a question which I am sure would not need ... yes, sorry, the Scrutiny Panel document; I am sure you are familiar with that.

**The Minister for Treasury and Resources:**

I have understood it and read it many times.

**The Deputy of St. Mary:**

The contacts you have with Jersey Post, can you just for the record say how that works, both as the shareholder and as the Minister for Treasury and Resources. When do you meet with them, how do you meet with them, who do you meet them with and so on, just to give us the context of how that works?

**The Minister for Treasury and Resources:**

The Treasury is shareholder to a number of entities, 2 of which are treated in an almost identical way, 2 of which are not currently treated in the same way. Jersey Telecom and Jersey Post are the 2 recently incorporated bodies. We also have Jersey Electricity and Jersey Water. The relationship of Jersey Post and Jersey Telecom is guided by a memorandum of understanding which sets out effectively the way in

which the relationship will work and if you want a copy of that memorandum I can get you a copy of that; that really explains the whole no surprises policy signing off of business plan and the appropriate arrangements that are appointing non-executive directors. It is a good document. I should say that it is also going to be changed in future by guidance that I have had from the Deloitte review on utilities which sets even more guidance and standards in terms of the relationship between the shareholder and the owned entity and particularly while this area is currently handled for me by the Deputy Treasurer I am going to be, upon Deloitte's recommendation, identifying an individual of a fairly high level who will effectively be the Treasury individual who will handle the shareholding function because it should not be a political area in terms of appropriate activities or appropriate relationship. It is something quite difficult for perhaps Members to understand who have been in the States for maybe the period of time when there was a postal committee and now there is an owned entity. This is not a department of the States; it is an owned entity and it is its own separately incorporated entity with a board of directors with all of the responsibilities and statutory obligations that fall within directors of Jersey company law like any others. I cannot cover the whole of the Treasury area so Deputy Noel and I share some of the responsibilities with the owned entities and Eddie stands in for me in some of the discussions and meetings with Jersey Post and indeed Jersey Telecom as well. The way that the relationship works, to sort of describe it, is that there are regular meetings between the board, myself and the Deputy Treasurer, probably at least 3 times a year and formally twice a year, attendance at the annual A.G.M. (Annual General Meeting) and there is an annual requirement to sign off a business plan. There is also an ongoing dialogue between the Chairman and myself and the Chief Executive of Jersey Post and the Deputy Treasurer, as appropriate. That is basically how the relationship works. The Chairman talks to me and the Chief Executive talks to the senior official in the Treasury. That would describe a normal business as usual relationship, I guess. It will not have escaped your notice that both in the case of Jersey Telecom and Jersey Post there have, certainly in my period of time as Minister for Treasury and Resources, been a number of important issues which the company has wanted to engage us in because there have been significant decisions being taken of which we certainly needed to be aware of and the no surprises policy, if you can characterise it by: "I want to know from the company what is going to be a large decision that is likely to attract attention. I do not want to read about it on the front page of the

*J.P. (Jersey Post)*; I want to know about it before” and Members would expect me to know about it before if it is significant of commercial materiality or something. But that information should not be misinterpreted as influence in terms of being influential of a Minister in a department.

**The Deputy of St. Mary:**

So, for example, when Jersey Post went in for MeMo and for Ship2Me you knew about it in the briefings before?

**The Minister for Treasury and Resources:**

I mean, MeMo is a diversification matter, but it is not financially material, so there are certain materiality issues in terms of cash materiality issues which I would be briefed upon. There are certain transactions and Jersey Telecom have one that is in the public domain, for example, the purchase of data centres from Newtel Guernsey. As far as Jersey Telecom is concerned that would be a material transaction which would require communication and at some level some tolerance because it is a 100 per cent owned entity and would require certainly an acceptance that that would be an acceptable risk for the company to take. I would not say that MeMo is a large financial matter in that regard. It certainly would be a notable transaction in terms of diversification but MeMo and Ship2Me was part of a general diversification strategy which was certainly known about.

**Deputy M. Tadier:**

Did you have any concerns or inputs? I mean, specifically with MeMo because it is probably more of a perception issue but in your other role as shareholder for Telecom, was there tension there?

**The Minister for Treasury and Resources:**

I am somewhat struggling to know how that relates to your terms of reference of your view.

**The Deputy of St. Mary:**

Well, it is the relationship. It is how it works between you as opposed to ...

**The Minister for Treasury and Resources:**

I am not being difficult but I am just trying to work out why that is relevant to matters in relation to ...

**The Deputy of St. Mary:**

Well, it is where you draw the line and how many things come to you and how many things do not and leading on from there we are going to get to questions on the U.S.O. (Universal Service Obligation) and so on.

**Deputy M. Tadier:**

I mean, I can put it in context, to cut to the chase. First of all, I think the fact that you are not creating a new post, you are going to assign responsibility for dealings, effectively your position as shareholder, to somebody else already in the department. Is that correct?

**The Minister for Treasury and Resources:**

No. The Deloitte report sets all this out. We are going to be effectively identifying an individual who will not be a civil servant; it will be an expert adviser who will be an adviser to the Treasury in relation to shareholder matters, partly to get familiar with the entities to be able to challenge the entities. At the end of the day the shareholder does wish to challenge the entities in terms of business plan, in terms of returns, in terms of maximising shareholder value et cetera.

**Deputy M. Tadier:**

What are the reasons for that?

**The Minister for Treasury and Resources:**

The reasons for that are that the Treasury is not particularly well-equipped but this is almost an investment role. The Treasury is responsible for entities that are worth hundreds of millions of pounds; the investments in Jersey Telecom and Jersey Electricity. Jersey Electricity obviously have been



quoted. This represents a very substantial amount of value which are Islanders' assets ultimately and Treasury has to be equipped in order to act as a good and responsible and appropriate shareholder for those entities and if the States, which I hope they do, pass S.O.J.D.C. (States of Jersey Development Company) we will also be getting the shareholder responsibilities for S.O.J.D.C. and potentially as the Minister for Economic Development considers the future of Jersey Airport and Harbours, maybe those will be incorporated entities as well.

[15:30]

**Deputy M. Tadier:**

Is it fair to say that there is another benefit? I think it is fair to say that there is a tension in your role first of all as a States Member but also as a shareholder, so in one sense you do not want to be micromanaging Jersey Post because it is a separate entity and it is a corporate in its own right but nonetheless as a shareholder there will be times when quite validly you want to make an input into the direction of Jersey Post.

**The Minister for Treasury and Resources:**

I make direction appropriately through the communication, through a structured arrangement which is set out in the memorandum of understanding which is the regular meetings, the A.G.M., Chairman's letters formally reporting performance in a 6-monthly review. There is an investment team within the Treasury that also is, apart from what I do and part of the Deputy Treasurer's role, which is looking for example at the 6-monthly accounts of the entity, seeing their actual versus budget and their performance and all of those issues. There is no tension, in my mind, between myself being a States Member and being the Minister responsible for the shareholder. I have a job to do and I am not facing in 2 different directions. The States has appointed me to be the Minister for Treasury and Resources and that is the job I am doing on behalf of the States. I am very clear that there is a segregation of duties between myself and the Minister for Economic Development and having been the person responsible for setting up the J.C.R.A. (Jersey Competition Regulatory Authority) and doing the Telecoms and postal law I am

very clear about the duties of the Minister for Economic Development and my duties. They are absolutely not the same. I act in the interests of the shareholder and the interests of the company.

**Deputy M. Tadier:**

It is not a criticism.

**The Minister for Treasury and Resources:**

No, no, but it is important that there is absolute clarity.

**Deputy M. Tadier:**

Perhaps a better way to phrase it is that it is necessary for you in your separate roles, as a politician and as the shareholder, to compartmentalise.

**The Minister for Treasury and Resources:**

Yes.

**Deputy M. Tadier:**

I think that is probably seen in the letter that you made as a submission in the sense that you had to represent the concerns of Jersey Post, which may or may not be your particular view.

**The Minister for Treasury and Resources:**

Sorry, there are no personal views here. This is not Philip Ozouf, this is me in my statutory position and upon advice of my officials talking to the company I may have moved from the Minister for Economic Development, promoting competition, but now my job is looking after the interests of Jersey Post. So, the communication between myself and Jersey Post will often sometimes be characterised by political advice in relation to how to handle issues in competition and I will also fight the corner of the company in relation to issues that the Regulator or my colleague Minister may also have. It is a healthy tension.

**The Deputy of St. Mary:**

The expert adviser on shareholder matters, it sounds like they are going to be very busy if they are looking after your role in the sense that you have Telecoms, Jersey Post, and possibly other bodies. Would it not be a staff member, or you are seeing it as a consultant, as a separate person who comes and does this job?

**The Minister for Treasury and Resources:**

It will be an expert individual who will be advising ultimately me in relation to decisions that the company is inviting us to do. There is a myriad of administrative matters which need to be handled between the utilities and the shareholder, all sorts of things. Feel free to come in when you want.

**The Deputy of St. Mary:**

Yes. I have always been intrigued by the A.G.M. You are the shareholder on behalf of the States. How does the A.G.M. function as a supervisory mechanism in the way that it would at a BP annual meeting? Are you there on your own? Is the Deputy Treasurer there as well, or this adviser in the future? How does it work?

**The Minister for Treasury and Resources:**

What happens is that we discharge the statutory functions of the A.G.M. because an A.G.M. votes on appointment of auditors, appointment of directors, signing the remuneration of directors. I cannot think of any other matters.

**The Assistant Minister for Treasury and Resources:**

Dividends.

**The Minister for Treasury and Resources:**

Dividends. Yes, that is a fairly good one, but none of that is a surprise. We do not turn up and not know about it. All of those, the agenda, the papers will all have been circulated weeks before they will have

been clarified and discussed with officials. I will have been asked my view as to what the matters on the agenda are. I will have signalled whether or not I am content with the resolutions that have been put forward. Again, not me just making it up but upon advice and then we will typically have an hour or so of discussion with the full board and the Treasury team where we will talk about the strategy; what are the issues that the company is facing, what the important decisions that the board is facing, what the problems are. We will discuss the political climate in terms of what may be relevant. I will give advice, as it is appropriate to do, to the board in relation to some of the decisions they want to have my views on and generally I will be aware, on that sort of regular rhythm, of what is going on in the entity and what their concerns are and obviously I will be reading that situation in the context of whether or not I am generally satisfied with the performance of the board because the key issue is that one is putting a group of individuals in order to run the entity for you.

**Deputy M. Tadier:**

Who can vote at the A.G.M.? I mean, people are entitled to vote.

**The Minister for Treasury and Resources:**

There is only one vote. I think the shares are held. It is a resolution. The States owns 100 per cent of this entity and can accept or reject.

**Deputy M. Tadier:**

So, in that sense you can call the shots? If you turned up to a meeting and said: "I think this person should take a 15 per cent pay cut" you can make all the decisions yourself?

**The Assistant Minister for Treasury and Resources:**

No. You can either accept or reject the resolutions.

**Deputy M. Tadier:**

But that is in your power to do that.

**The Minister for Treasury and Resources:**

Yes, but the powers of the shareholder are that you can call an A.G.M. and you can sack the board. I mean, I would never be in a situation that I would vote against a resolution. We would never get to that point because something would have been put forward. If a completely unacceptable dividend was put forward or a share options arrangement which was palpably not acceptable, you would never be in a situation where you would vote against the resolution; these matters would all be dealt with previously.

**The Deputy of St. Mary:**

So, let us take the kind of matter that is being raised with us today and then turn it into a question to you, as you are the shareholder. What steps would you take if you were confident that Jersey Post was inefficient in the sense of having cost burdens that it could do without? How would that translate into meetings and process and so on?

**The Minister for Treasury and Resources:**

Well, there are 2 forces at work at driving Jersey Post to be an effective and efficient entity. The first is the Regulator and the Regulator will be far more aware of issues. They will be all over the numbers of Jersey Post in a sense which the Treasury will never be and that is the control that has been set up. That is, in the absence of competition you effectively regulate or you introduce competition in order to drive efficiency which the market effectively sets. That is the control mechanism to ensure that an entity does not abuse a dominant position and ultimately put consumers in a disadvantageous position. That is the philosophy and that is the standard practice of competition and regulators across the world. Our postal law, our arrangements with the J.C.R.A. are no different than any other European ...

**Deputy M. Tadier:**

The difference is though of course the J.C.R.A. are not interested in the return that Jersey Post provides to the shareholder. They might be concerned about value for money from a customer's point of view but purely from a shareholder's point of view if you were concerned that there were inefficiencies and

you were not getting the return that you expected in any particular year ...

**The Minister for Treasury and Resources:**

Do you have a copy of the postal law as a part of your papers, because I will draw your attention to something which is rather fundamental? This law, which I have not read for some time but I will find it in a second “Duties of the authority” at 14: “Insofar as this is consistent the Minister and the authority shall have a duty to promote ...” you have underlined all this stuff, so you know all about this. There is one crucial function ...

**Deputy M. Tadier:**

The Minister for Economic Development you are talking about here?

**The Minister for Treasury and Resources:**

Yes, but this is: “and the authority”.

**The Deputy of St. Mary:**

And the J.C.R.A. yes.

**The Minister for Treasury and Resources:**

There we go. There is an obligation somewhere in here that the ... I cannot find which paragraph it is but it is here somewhere. It is so important it is Article 1(a) and (b). This is absolutely critical: “That the company to the extent that it is, or 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 of the States” and that the one before that is that it has to be able to fund itself.

**Deputy M. Tadier:**

That is not really what I am asking though.

**The Minister for Treasury and Resources:**

But the J.C.R.A. cannot just shut its eyes against the ability for the company to fund its operations.

**Deputy M. Tadier:**

Yes, that is not what I am talking about. What I am saying is that clearly Jersey Post can fund its own operation and it may still be able to do that even if it is run in an efficient manner. It is not a trick question, but we have received conflicting information, but compelling information from a couple of previous witnesses, which suggests that for whatever reason Jersey Post is not offering good value for money either to ... well, it is not maximising its profits. Let us put it bluntly.

**The Deputy of St. Mary:**

Also it is running the U.S.O. inefficiently.

**Deputy M. Tadier:**

Yes, it is running the U.S.O. inefficiently. This is what has been alleged by a previous witness. Simply what we are asking is, as the shareholder, who would expect normally to get a return from that entity, what are your plans and what steps would you take if it became apparent to you that they were not being run in an efficient way?

**The Minister for Treasury and Resources:**

Well, I would put a different board in. I require the board to run the company in a manner which is efficient and providing the shareholder with an appropriate return. Moreover, in the Spectre, which is why I wrote in fairly strong terms for a Minister for Treasury and Resources to write that and I wrote to almost fire a warning shot across the J.C.R.A.'s bows that there is no possibility I am afraid to say of using taxpayers' money in order to fund Jersey Post; it must be a standalone entity and all of the evidence that I have received over a long period of time in relation to postal services is that the revenues that Jersey Post gather in and their sales should be sufficient to meet their ongoing liabilities.

**Deputy M. Tadier:**

One concern we have, and I think we are sympathetic to that view to a certain extent, is that if competition eventually does come in sooner or later they obviously do not have the burden of the U.S.O. They certainly do not have that initially and it is also questionable whether any kind of levy system could be put in place in any meaningful way which would mean that Jersey Post would not have a level playing field; it would be competing in the profitable section but still having to fund ...

[15:45]

**The Minister for Treasury and Resources:**

Well, I mean, those are all matters that are not ... I am a bystander in that debate in terms of not being involved in it from a political point of view. My job is to be the Minister responsible for ensuring that Jersey Post is run by a board which is competent and knows what it is doing and is putting the appropriate arrangements in place to make the necessary and difficult changes of a postal company that is in a massively changing world.

**Deputy M. Tadier:**

Is this not simply a consequence of incorporation? It seemed fairly obvious when we went down the avenue of incorporation it does the groundwork for competition to come in so that the U.S.O. of course is going to be coming under threat. It is not something that has happened by chance. We have been the architects of this, the previous States.

**The Minister for Treasury and Resources:**

The States have approved the Postal Law which is very clear in relation to the matters under Article 8 which says that the authority shall ... the law could not be clearer about what the regulator has to do: perform his or her functions in a manner which is calculated to promote efficiency, economy and effectiveness; to perform in a manner and way which is best calculated to forward the economic interests of Jersey; to perform his function in a manner which is calculated to impose a minimum of restrictions



on postal persons; to ...

**Deputy M. Tadier:**

To issue licences and ...

**The Minister for Treasury and Resources:**

Yes, sorry, and by the way, just because I have not read this for some time. The crucial Article is Article 2(e): “In performing his or her function under the law to have regard to the need to ensure that persons engaged in commercial activities connected with postal services - read Jersey Post, okay, those are regulated entities - have sufficient financial and other resources to conduct those activities.” That means it has to ... sorry, if I had known this is where we would be going, because this is Minister for E.D. (Economic Development) territory, not me, but that paragraph means the J.C.R.A. has to ... it is not “may”; the law says: “shall have a duty”, that both the Minister and the authority shall have a duty to ensure that Jersey Post has sufficient financial resources to conduct those activities. That is why I write that letter.

**The Deputy of St. Mary:**

Yes, I can see that the letter follows from that.

**The Minister for Treasury and Resources:**

It may be not very clear if you just read it because it does not say “Jersey Post”.

**The Deputy of St. Mary:**

No, I have always taken that to mean new entrants. I have not taken it to mean: “Oops, Jersey Post, too, has to be able to do what it ...”

**The Minister for Treasury and Resources:**

J.C.R.A. cannot make decisions which render Jersey Post unviable. These are carefully balanced

obligations, but the obligations are so important that they are set out as a statutory obligation. The Minister in discharging his functions as Minister for E.D. must also ... and there are also issues of guidance or direction of the Minister in terms of what he can do. So, I expect J.C.R.A. to make decisions which do not mean that Jersey Post cannot fund its operations.

**The Deputy of St. Mary:**

Can I put it to you ... and this is quite strong in the ... we have had some direct contributions to the scrutiny review and the gist of them, apart from the one from Hub, is basically what are we doing; what are we, collectively the States, doing, because the government has a loss-making U.S.O. We accept that it is loss making.

**The Minister for Treasury and Resources:**

Well, it is loss making.

**The Deputy of St. Mary:**

I added that we accept that it is because we have had someone in this morning, a business person, who said it should not be loss making. You say it is.

**The Minister for Treasury and Resources:**

That is a big difference between whether or not it should ...

**The Deputy of St. Mary:**

Okay, it is.

**The Minister for Treasury and Resources:**

... and whether or not ... there is a massive difference ...

**The Deputy of St. Mary:**

It is at present loss making.

**The Minister for Treasury and Resources:**

It should not be, it must not be loss making.

**The Deputy of St. Mary:**

Yes, but there are different ... if we say that it is loss making, the assumption is: “Oh, well, cut the service.”

**The Minister for Treasury and Resources:**

Make it more efficient.

**The Deputy of St. Mary:**

But there is also another line which says you can make more if you can ... you could even do the same thing for less. Or you could do a reduced thing for a lot less or whatever, there are different mixes. But leaving that aside, government has a loss-making U.S.O. and government divests the profit-making sector of Jersey Post so, therefore, exacerbating the problem. It is not so much the profit ... it is not the profit sector of Jersey Post, it is the volume sector. Fulfilment has volume which supports the U.S.O. As a government we are supposed to do what is morally right. I think the people there are saying: “We want this, we want that”, including inclusion and the ageing society. There are issues there. As a shareholder you have to seek to protect Jersey Post’s interests, and it does not square. As you have been saying, the law says what leads you to write your letter and yet what is likely to happen is new entrants who seem to blow a great big hole in the viability. It does not stack up.

**The Minister for Treasury and Resources:**

There are tensions, there are tensions, and tensions drive analysis, good decisions. The relationship between Jersey Post and the regulator should be a tense one. If it is not tense then consumers should worry because Jersey Post should be being tested by the regulator to ensure that consumers are getting

the best level of service at the right price.

**Deputy M. Tadier:**

So, for the record, are you satisfied that it should be the role of the J.C.R.A. to put pressure on Jersey Post to be both competitive and efficient rather than through competition?

**The Minister for Treasury and Resources:**

You are asking me in not my capacity as ...

**Deputy M. Tadier:**

I think we established there was only one capacity.

**The Minister for Treasury and Resources:**

Yes, but you are asking me to interpret what is already a statutory ... you do not need me to answer that question. The statute is ... the law is very clear.

**Deputy M. Tadier:**

No, because the J.C.R.A. will come back and say to us: "Well, actually, we are quite confident that we can introduce competition and it will still ... Jersey Post can still have a thriving and bright future."

**The Minister for Treasury and Resources:**

We set up the J.C.R.A. to do a job. The Minister for E.D. through ... and the States approves a chairman, and they are either confident in the J.C.R.A. in discharging those functions properly ... you cannot have a dog and bark.

**Deputy M. Tadier:**

Let us put it another way. What I am trying to get at is we are coming under strong pressure or Jersey Post is coming under strong pressure from the business sector, in particular those in the fulfilment

industry who send packages, whatever scale they are working at, to provide cheaper services. Now, their argument is that we need competition in order to reduce Jersey Post's ... the prices that they are offering to us. What I am saying is, is that true? Is it sufficient simply to have the J.C.R.A. to regulate the pricing or is competition necessary for the pricing to be regulated, to be reduced?

**The Assistant Minister for Treasury and Resources:**

I think you are asking the wrong people.

**Deputy M. Tadier:**

No, I am not.

**The Minister for Treasury and Resources:**

You are asking me to do the job of the regulator.

**Deputy M. Tadier:**

No, I am not, it is a simple question. I am not asking you to do that. I am saying ...

**The Minister for Treasury and Resources:**

Yes, but any answer that I give is entirely plucked from ...

**Deputy M. Tadier:**

You are here in your capacity as shareholder to represent the interests of Jersey Post, so what I am saying is there is a clear lobby from the business community that they want cheaper prices for fulfilment business. They are not getting that from Jersey Post at the moment. Now, the prices ... they are threatening to leave the Island, which may be a very real threat. So what I am asking you as the shareholder is, is it a fact that in order to drive those prices down to keep businesses in Jersey we need competition or can it be simply left to the J.C.R.A.? So, in fact, let us forget about J.C.R.A. and say do we need competition in Jersey in order to drive down the prices for the bulk mail sector that Jersey Post

are offering?

**The Minister for Treasury and Resources:**

I cannot answer that question, Deputy, because I have set up an expert body, the States set up an expert body in order to make those decisions guided by a statutory set of responsibilities. You do not set up a body and then tell them how to do their job.

**The Deputy of St. Mary:**

Can we take a different tack?

**The Minister for Treasury and Resources:**

Because my view is you are asking me to adjudicate and to be the appeal against a decision of the J.C.R.A. of which I do not know the answer. Am I concerned? Am I concerned of the possible implications of the introduction of competition and do I want the J.C.R.A. to be absolutely clear of the consequences of competition? Absolutely. But I do not know the answer to that question because I am not ... I have not carried out the analysis and the review and the benchmarking that they have done. That is their job and it is for the Minister for E.D. to ensure that he is satisfied that the J.C.R.A. is independent but he needs to be satisfied that he has the right ... appointed the right board of commissioners, members of the authority, in order to make those decisions.

**Deputy M. Tadier:**

But you have already said that. With due respect, you have already said in the letter: "I am advised that the issuing of additional licences potentially puts the funding of the U.S.O. at serious risk." So essentially you are ...

**The Minister for Treasury and Resources:**

There are 2 very careful words in there: "I am advised."

**Deputy M. Tadier:**

Yes, I noticed that.

**The Minister for Treasury and Resources:**

So I am advised by Jersey Post that that is the case. Let us be very clear. I am not expressing a ... Jersey Post have said that they are gravely concerned about the implications of the introduction of competition. They have explained to me in their view that there are going to be consequences to their ability to continue to fund the U.S.O. and I am confident in Jersey Post's ... I am confident in what they are doing. They have a very difficult job at the moment which I think they are doing in the circumstances that they find themselves, with a massively declining letter business, the internet which is changing the entire dynamics about the postal business, I am confident that they are making the decisions about making Jersey Post more efficient as quickly as possible. I am concerned that they are advising me of the consequences of potential competitive licences.

**Deputy M. Tadier:**

Have we exhausted that now?

**The Deputy of St. Mary:**

Yes, I have 2 questions following on from that. Within Treasury you have a team, or you said you had a team, who were looking at the figures from Jersey Post on a 6-monthly basis to sort of go over them and satisfy yourselves as shareholder. J.C.R.A. you said recently, just now in this hearing, are more *au fait* with the figures than the Treasury would be. They are closer in to the figures. So, I suppose my first question is what is the difference between these 2 sets of analyses; that is the first question. The second question is, following on, when you say: "I am advised that there is serious trouble ahead if competition is introduced, serious risk to the organisation", we heard ... we challenged the Minister for E.D. and his officers about the £5 million loss that Jersey Post say the U.S.O. incurs, and we said: "But other figures say £150,000, then it goes to £5 million and then it goes to £3 million." We were told quite firmly that the £5 million loss is in audited accounts, regulated accounts, so you have pretty well got to take that

figure as being sound. Then another person comes to us and says that that loss is not realistic and it does not need to be there. It is there now but it does not need to be there. I just wonder how you square these, how you make your way through that little minefield with your shareholder hat on. I mean: "I am advised" does not let you off the hook. You are still ... the trouble is the shareholder will eventually have to square up ...

**The Minister for Treasury and Resources:**

Deputy Tadier asked me a very generic question in relation to general competition issues and that is a general ...

**Deputy M. Tadier:**

It was not a general question. It was specifically in the context of Jersey Post.

**The Minister for Treasury and Resources:**

No, that is a general competition and Jersey Post question.

**Deputy M. Tadier:**

It is about Jersey Post and competition, not general.

**The Minister for Treasury and Resources:**

It is a general question about competition and the postal market. The issue before me writing that letter was the discrete issue of competition in relation to the fulfilment market and the small packet area. Now, if you are asking me am I concerned of the financial implications to Jersey Post of opening up that section of the market as opposed to the generic issue, I am entirely with Jersey Post. I think there is an issue and I am concerned about it and I am concerned enough about it to write about it. I would not write a letter unless I was in agreement with it, but it is upon the work that Jersey Post does.

[16:00]



I do not have a team of Treasury number crunchers going over Jersey Post's numbers. You asked what the difference is between ... we will be carrying out a pretty high level review of budget to actual and general performance if the entity says that they are making ... that they are going to be making £1 million and we will be wanting to see ... we will be wanting to see budget versus actual in terms of their numbers so they have a ... are there 6 months in the year? Is their turnover meeting the £30 million target that they set? Are their cost of sales, their staff costs, are they ... do they appear to be managing this business in a competent way that shows that they know what they are doing? That is a very difficult function from the regulator being all over the numbers in terms of comparative numbers of Jersey Post costs versus Guernsey Post or Manx Post or Malta Post. That is all those issues that they are going to be doing. We are looking at it from a slightly different perspective.

**Deputy M. Tadier:**

We are getting on with time now and we are mindful that you probably have your own time pressures, so I think we should try and get as many points out as we can.

**The Minister for Treasury and Resources:**

I am booked until 4.30 p.m.

**Deputy M. Tadier:**

Okay, that is good. Can I ask a question about the U.S.O. because we have heard from Jersey Post that the threat to the U.S.O. is a very real one in the sense that Jersey Post have said to us that if competition does come in and it undermines their profitability that they would have to reconsider first of all the level of U.S.O. but also whether they could ... would be prepared to deliver a U.S.O. at all. They may at some point in the future turn around to the States and say: "We cannot deliver this U.S.O. anymore. We are just going to concentrate on being a profitable organisation." That is basically what they told us. It may not be a real risk but what do you think of that?

**The Minister for Treasury and Resources:**

Jersey Post is the entity which must deliver the universal service obligation. I take your point and agree with the point that one is looking for the J.C.R.A. in any decisions to open up the market which ... and in the event of that opening up of the market means that Jersey Post ... it is unfair for Jersey Post to be bearing the cost of the U.S.O. and some sort of levy, tariff arrangement that a new entrant would pay in order to contribute to the U.S.O. But let us be clear, if Jersey Post ... if the chairman wrote to me and said: "We have decided to surrender our licence for the U.S.O. and we have decided not to be a general postal business anymore" then I would be indicating that that was not exactly what the shareholder intends this entity to be. We would be considering whether or not this is the board of directors in order to discharge those functions.

**The Deputy of St. Mary:**

I think it is a slightly ...

**The Minister for Treasury and Resources:**

This is a stretching the limit point. This entity is owned by the States. Public ownership does mean something. They are not a trust. They are there to act in the interests of the shareholder and the shareholder set this entity up and created it in order to continue being Jersey's post office.

**The Deputy of St. Mary:**

Yes, I take a slightly different angle. I suppose if I just step back a bit, I think behind them saying: "We cannot do the U.S.O." was the other statement they made, or a statement they made, which was that if this goes ahead, the issuing of the 2 licences, then it is possible or likely, I am not quite sure which, that they will no longer be able to sign off their accounts in 2 years' time as a going concern. That is what they said in the hearing.

**The Minister for Treasury and Resources:**

Then the J.C.R.A. if it makes that decision will be breaching its obligation under part 3 of Article 8(1)

(2)(e) of the law.

**The Deputy of St. Mary:**

Exactly, that is what I would have thought. So it is interesting that you say that, so that if the J.C.R.A. have the big stick and say: “We intend to open this up” and, of course, we have put off the decision so that the consultation can take place and so that we can do these things ...

**The Minister for Treasury and Resources:**

A going concern means has sufficient financial and other resources.

**The Deputy of St. Mary:**

Exactly. So that is what I ... and that is I suppose the gist of where I see this hearing, the key question, if the J.C.R.A. are saying: “We are going to do this” and if Jersey Post is saying ... you are the shareholder and Jersey Post is saying, and you are convinced of that: “This is going to be break us” ...

**The Minister for Treasury and Resources:**

The different parties coming from different sides will represent their views in forthright ways and you examining this issue will hear lobbying from all parts of it. You are almost role-playing the role of the regulator. You are not regulators. You are not, with the greatest respect, experts in relation to competition but it is an interesting activity to do. It would be quite interesting from your side of the table to hear all these different positions. I am sure you do not believe everything that people say in terms they are not ...

**The Deputy of St. Mary:**

You cannot believe all ...

**The Minister for Treasury and Resources:**

They are not lying to you, but they are representing their interests from their own perspective and you

have to judge whether or not what you are being told is ... they may believe it but they may be wrong.

**Deputy M. Tadier:**

We were quite lucky to have a businessman before and he took exactly that view and he has provided us with figures. Now, of course, we have to look through these figures but ...

**The Minister for Treasury and Resources:**

Is this somebody who wants to enter competition?

**The Deputy of St. Mary:**

This is somebody who uses Jersey Post and is ...

**Deputy M. Tadier:**

He has a very nuanced view, though, I think it is fair to say.

**The Minister for Treasury and Resources:**

It is somebody who wants to see his prices fall?

**Deputy M. Tadier:**

Yes, but he is not necessarily mad on competition either.

**The Deputy of St. Mary:**

No, he was quite civilised. On the Jersey Post it appears that their staff costs have gone up by substantially more than the rate of inflation in the last 20 years, even though the amount of letters they deliver - and this is excluding the offshore solutions bit - have gone down. Now, on the face of that, that is hard to explain that you need more staff to deliver fewer letters. That is in both directions. So he goes: "Well, looking at that" ... and that brings me back to the lobbying. Of course you are being lobbied from all sides, but you are the shareholder of Jersey Post so presumably their lobbying is closer

and you have a regular dialogue and so on with Jersey Post.

**Deputy M. Tadier:**

Can we pass these over? You will not have time to digest them, but this is what we were given. Again, he has compared 1990 ...

**The Minister for Treasury and Resources:**

This has been evidence in public?

**Deputy M. Tadier:**

This is what we have just been given.

**The Minister for Treasury and Resources:**

So who is the individual?

**Deputy M. Tadier:**

This is Mr. Tim Dunningham.

**The Deputy of St. Mary:**

Tim Dunningham, so he is ex-National ... not National Audit Office. He has been on the Audit Commission in Jersey and he has been on P.A.C. (Public Accounts Committee) in Jersey as well.

**The Minister for Treasury and Resources:**

But run a fulfilment business?

**The Deputy of St. Mary:**

He runs Fine Flowers, which is now called something else, First Choice ...

**The Minister for Treasury and Resources:**

So he has an interest in fulfilment?

**Deputy M. Tadier:**

He has.

**The Deputy of St. Mary:**

Yes, sure.

**The Minister for Treasury and Resources:**

So let us be clear about where he is coming from.

**The Deputy of St. Mary:**

He is interested in showing that ...

**The Minister for Treasury and Resources:**

Jersey Post is inefficient?

**The Deputy of St. Mary:**

Well, is an expensive operator and he has figures here to say: "If I did it direct."

**The Minister for Treasury and Resources:**

You have to be very careful about ... you have to be absolutely clear ... I am not being disrespectful of Mr. Dunningham, I know Mr. Dunningham from ... I have not seen him for years. He sat on the old Audit Commission.

**Deputy M. Tadier:**

We are clearly aware of this, but obviously if he has given us these figures we will have to try and verify

them. It goes without saying that everyone who comes in here has usually got an opinion one way or the other.

**The Assistant Minister for Treasury and Resources:**

Is this not just proving what Jersey Post is trying to do?

**Deputy M. Tadier:**

In what sense?

**The Deputy of St. Mary:**

Reduce their cost base.

**The Assistant Minister for Treasury and Resources:**

Restructure and reduce their cost base.

**The Deputy of St. Mary:**

That is right.

**The Assistant Minister for Treasury and Resources:**

To be able to make sure that their U.S.O. is sustainably funded.

**The Deputy of St. Mary:**

The figure here, the 2008, is obviously pre the latest voluntary redundancy package but it includes the first wave of efficiency savings.

**The Minister for Treasury and Resources:**

Jersey Post has to become more efficient and it must not cut the U.S.O. The discussions I have with Jersey Post is ... we have the ... in my view we have had the bounty of fulfilment revenue for many years

which has ... almost it is quite similar to the rest of the States organisation, is that the money has been flowing in and once the money is flowing in and you have money in your pocket you do not have to worry about your household expenditure, you do not have to worry about your costs too much, life is pretty easy. That, I am afraid, is the situation for the whole of the States organisation and including with Jersey Post. I do not think that the super profit, if you are of one view, or the profit from the fulfilment sector can be relied upon in order to fund the important delivery of letters on a regular reliable basis in Jersey in the longer term. So they have to make some difficult decisions.

**Deputy M. Tadier:**

Can I ask about the ...

**The Minister for Treasury and Resources:**

I almost think the issue of competition is, to be frank, and I know that the whole tenure of your review, it is a little bit of a red herring to be honest in the overall issues with Jersey Post. Jersey Post know that. Of course they are going to want to hold on to the revenue from fulfilment for as long as possible. It may well be a business that is not around for the longer term. It is a declining business in terms of its volumes. There may well be action outside of this jurisdiction on it and it would be incredibly unwise for Jersey Post to rely upon that revenue to fund the U.S.O.

**Deputy M. Tadier:**

We spoke about that with E.D.

**The Deputy of St. Mary:**

Yes, there has to be a solution.

**Deputy M. Tadier:**

Can I ask, Daniel, the question that obviously ... I know where you are coming from in your stance saying that the U.S.O. must be self-funded, but we have had a very compelling argument from



somebody who has made a submission saying that in fact no matter how you dress it up, the universal service obligation of the final mile, the traditional postal service, whatever you want to call it, is essentially a public service and, in that sense, it should be funded through the normal channels of general taxation. It is a fairly difficult argument, I think, even if you have a particular opinion of your own, to find a flaw in that argument, especially if it is on the back of businesses being overcharged in one area to cross subsidise in another area.

**The Minister for Treasury and Resources:**

We have a deficit in the range of £100 million in our public finances which I am spending most of my waking hours dealing with, of which the solution is going to be a combination of reducing expenditure, maximising economic growth and increasing taxes. If you are going to make my life even more difficult [Laughter] in terms of a further cost to taxpayers of this additional service, in Jersey taxpayers already fund more services out of general taxation than in other places: the sewage charge.

**Deputy M. Tadier:**

So if you let me put this in context, that is why I started off by saying I can completely understand your stance. But nonetheless, as a Scrutiny Panel, we have to weigh up the facts. We have to also ask what is fair to do. It is quite a compelling argument from businesses. If they feel that they are being overcharged and if they, in fact, are being overcharged for services which they could obtain elsewhere at a significantly lower cost, it is only fair, it is only understandable that they would feel aggrieved because in fact they are being taxed ...

**The Minister for Treasury and Resources:**

So your question was overcharged ... the corollary of what you have said is businesses are being overcharged ...

**Deputy M. Tadier:**

If they are being overcharged.

**The Minister for Treasury and Resources:**

... we will somersault over Jersey Post and we will ask taxpayers to basically pay for businesses.

**Deputy M. Tadier:**

Taxpayers are the ones benefiting from the universal service obligation as well as businesses.

**The Minister for Treasury and Resources:**

Which taxpayers?

**The Deputy of St. Mary:**

I think you are saying it is fairer than ...

**Deputy M. Tadier:**

This is not my personal opinion necessarily, but this is a strong argument.

**The Minister for Treasury and Resources:**

No, it is a fair question. If taxation is taken from individuals, and our chief economist regularly rightly reminds us that it is not businesses that pay tax, it is people ultimately, so if it is people paying the tax and if it is businesses being overcharged, why should people pay for businesses overcharging, somersaulting over Jersey Post? If the problem is Jersey Post ...

**Deputy M. Tadier:**

It is not businesses overcharging, it is Jersey Post which is allegedly overcharging businesses.

**The Minister for Treasury and Resources:**

You said businesses overcharging.

**Deputy M. Tadier:**

No, I said ...

**The Minister for Treasury and Resources:**

Businesses being overcharged?

**Deputy M. Tadier:**

Businesses being overcharged.

**The Deputy of St. Mary:**

Which is fairer ...

**The Minister for Treasury and Resources:**

So businesses being overcharged will ask the public for some more money? Not on my watch. I have to make sure that ...

**Deputy M. Tadier:**

So you would prefer businesses to be overcharged to pay for the cross subsidy?

**The Minister for Treasury and Resources:**

Businesses do not need to be overcharged. They need to ...

**Deputy M. Tadier:**

But they are maintaining that they are.

**The Minister for Treasury and Resources:**

Well, they may maintain it but we need to ensure that Jersey Post is delivering its services efficiently and effectively, and if there is a cost to the U.S.O. ... we have to be honest and say that the U.S.O. is

going to have to change. The U.S.O. will change over a period of time.

**Deputy M. Tadier:**

Surely that is for the public to decide. Of course we have to be flexible, but there is probably a middle ground somewhere between a 6-day delivery and a 1-day delivery which ...

**The Minister for Treasury and Resources:**

We need to listen to the views of the public, but we are elected to make decisions. Some of us are then directed into certain areas to make decisions and we have to make decisions which we judge are in the best interests of competing issues. Let us be clear, the U.S.O. is going to change.

[16:15]

It is maybe regrettable but just as we 20 years ago enjoyed deliveries of milk on our doorsteps and everything else, life has changed, unfortunately, and it is inevitable that the U.S.O. is going to be amended. There are alternative ways of people getting those services as well. The internet means that if you want to write to me, 20 years ago it would mean the post office ...

**Deputy M. Tadier:**

But you still have not answered my fundamental question of why it is that education is funded through general taxation, so is the hospital, so are the roads, but this other service, daily delivery, is funded not through general taxation but via cross subsidies.

**The Minister for Treasury and Resources:**

Those are political decisions we make and you are not going to ...

**Deputy M. Tadier:**

It is the historical legacy of course as well, that is the way it has been.

**The Minister for Treasury and Resources:**

It is a historical legacy but I see no compelling reason why, knowing what I think I know about the necessary evolution that Jersey Post needs to go through in terms of efficiency and removing cost and this is not just postie costs, this is management costs, this is the way that they conduct their business, the scale of their operations, senior management pay, efficiency of their marketing operation, enhancing I.T. (Information Technology), the whole lot. I know that Jersey Post can and must over a period of time look at its costs and it is by working on that area that we can deliver a reasonable U.S.O. and Jersey Post can charge individuals and businesses an appropriate amount for their services.

**The Deputy of St. Mary:**

You mentioned milk on the doorstep and that reminded me of an area we have not touched on which is the social agenda, the ageing society which I am sure is generating the majority of our letters here.

**The Minister for Treasury and Resources:**

Have you got evidence of that?

**Deputy M. Tadier:**

It stands to reason, does it not?

**The Deputy of St. Mary:**

It is a very small sample but I do not know ...

**The Minister for Treasury and Resources:**

I do not think that is right.

**The Deputy of St. Mary:**

It is about 500 consultations. It would be interesting to see the age profile but anyway the ageing side is

an issue because the older you go up the aged profile the less likely people are to tap on a keyboard, the less likely, and the social inclusion agenda which was mentioned in the document about the post office in the Central Market, about Polish people and Portuguese people using the post office because they were familiar with it to handle money transactions and so on. I just wonder where those things figure in your position as the shareholder (acting on behalf of the public).

**The Minister for Treasury and Resources:**

Those are matters ... they are really important.

**The Deputy of St. Mary:**

It is a balancing of weighting.

**The Minister for Treasury and Resources:**

They are really important. Some of those services that I thought you were going to talk about, the importance of the postman going to be the only visitor that somebody sitting in their home may get but you talked about banking services. If you take the 2 social issues ... if you talk about banking services, I think there are alternative delivery units or businesses that can deliver that and certainly in my discussions with the retail postal network, I am very concerned about the services that the Jersey post office counter delivers and I want to see a network which is an appropriate network where people can access some of those services. Not all of them need to be delivered by Jersey Post. I think money transfers is not one of them. That is a personal opinion. Do I think that we need to ensure that there is a regular delivery of mail to people for all sorts of reasons? Absolutely, and we need of course to maximise it but it has got to be paid off. It has got to be paid and there is a trade-off.

**The Deputy of St. Mary:**

Part of the loyalty the public has to ... and, indeed, the emotional content of their reaction to issues around Jersey Post which does not exist with the other utilities is Jersey Post ... it is the postman coming around with the thing and the post box and the whole business of it is there for you somehow. It is just a

different feeling and I just ask you how important is that in your considerations of these issues like striking the balance?

**The Minister for Treasury and Resources:**

In a sense those are ongoing, obvious and default positions that one is guided by in the discussions one has but we have set up a body called the J.C.R.A. in order to spend expert time in making these adjudications of these trade-offs, because there is a trade-off between social issues and financial issues. Of course there is. To say there is not is ... I know you are not saying that but there is an obvious linkage relationship between the 2.

**The Deputy of St. Mary:**

Yes, but you are the shareholder. The J.C.R.A. is the regulator but you are the shareholder so J.C.R.A. will emphasise competition or has emphasised competition as well as these ...

**The Minister for Treasury and Resources:**

No, no, no, no. That is absolutely not ... their primary duty is not ... they have got to keep all of these plates spinning. They may well consider that competition is a way in which they can achieve their social objectives of getting an efficient operation. They cannot ... each one of these is not a silo. It is not an "either/or". It is an "and".

**The Deputy of St. Mary:**

But I mean when you say that it is prioritisation, is it not, and it becomes an issue of ... when you say all the plates are spinning at once, in the end somebody will make an adjudication like is this a step too far if the business is made unviable which you have said here or after consultation if all the public said one thing or another thing, then one might be inclined to think: "Gosh that is important" although in fact that has not happened.

**The Minister for Treasury and Resources:**

But you might not have read the law before you started your review because you might not have been familiar with it.

**The Deputy of St. Mary:**

Well, it is not the most thrilling but I have read it now.

**The Minister for Treasury and Resources:**

But it is incredibly carefully crafted. This is what guides the activities of the authority, that is what we have been trying to do and it is really important. This is primary legislation and they shall have regard to it.

**The Deputy of St. Mary:**

Okay, I think the R.I.A. (Regulatory Impact Assessment) comes in here, the regulatory impact assessment which does not figure here and I think we asked the J.C.R.A. and they said: "No, it is not in the law," and yet Jersey Post is saying in any other jurisdiction there would be a regulatory impact assessment which would sort out all these issues about old people using the monograms and would say what the impact would be on the viability.

**The Minister for Treasury and Resources:**

As shareholder, I want to see regulatory impact assessments because it documents exactly what the trade-off of the things are. So as shareholder that is something that I would want to see because it is in the interests of the companies to see that and for that to be ... yes.

**The Deputy of St. Mary:**

And for us all to see a formal statement of the different things but we have not had one although the ...

**Deputy M. Tadier:**

There has been one apparently.



**The Deputy of St. Mary:**

They are saying: "Well, it is the Frontier Economic study.

**Deputy M. Tadier:**

This is the issue. We are not in disagreement. What we are saying is that while the law might have been very well crafted and very well worded, it is still subject to interpretation unless some ...

**The Deputy of St. Mary:**

Well, no, the R.I.A. is not there. There is no requirement.

**Deputy M. Tadier:**

That is the point. Without the R.I.A., it is difficult to know what ...

**The Minister for Treasury and Resources:**

They will say that they have got one but I will say, acting as the shareholder, that I want them to see these things.

**Deputy M. Tadier:**

We have got 5 minutes and I just wanted to ask one question, probably to end on possibly, is that the future of Jersey Post even if ... can it sustain competition but I did not ask that before, did I? I think it is a different. Are you confident ...

**The Deputy of St. Mary:**

You have asked it already but we can have it again.

**Deputy M. Tadier:**

Are you confident that Jersey Post structurally is ... whether or not competition comes along, will have

a bright future?

**The Minister for Treasury and Resources:**

You did ask me that question and I said that was a generic question which is ...

**Deputy M. Tadier:**

There is a reason I ask you that, though.

**The Minister for Treasury and Resources:**

If you ask me discrete things, am I worried about competition in the area which you will review? You are reviewing, you are considering the implications of increased competition on the viability of Jersey Post and the private fulfilment and its effect on employees.

**The Deputy of St. Mary:**

Yes.

**Deputy M. Tadier:**

Yes.

**The Minister for Treasury and Resources:**

I am afraid that those are matters for you to come to.

**Deputy M. Tadier:**

But the reason I ask you, there is a parallel here to be made with Jersey Telecom and you have told me I think, both publicly and privately, that you are confident that Jersey Telecom has a bright future and that is in the context of with competition in already. So what I am asking I think is a fair comment given that opinion that you have already stated, why should we worry about competition to Jersey Post if Jersey Telecom can sustain it? I know it is a different business but why should we worry about competition to

Jersey Post?

**The Minister for Treasury and Resources:**

Well competition works. It is uncomfortable, it is challenging, but competition works. That is why ... and the States have thought that that is a ... on the basis on which the Postal Law and the Telecom Law was, that is the default position but there can be “buts”. Notwithstanding the widely held view, in my view, that competition works, you need to be very careful in certain markets and in certain businesses. We have a business. The Telecom business is a hugely expanding business. It is going to revolutionise as much in the next 10 years as it has in the last 10 years if we can possibly conceive that. I heard the refrains from everybody about the threat of competition. Jersey Telecom is lean, fit and absolutely capable of serving customers, enhancing shareholder value, et cetera. I think you have got to be much more careful with Jersey Post because it is a different market.

**Deputy M. Tadier:**

Because of the U.S.O. presumably because ...

**The Minister for Treasury and Resources:**

Yes, but that is why we have got a J.C.R.A. to judge those things. They are not a slave to competition in every case. They are a competition and a regulatory body and in Jersey ... I mean, this is slightly outside the brief of what you ... but because I was involved in the setting up of this it might help you to know. In an ideal situation you would have a competition commission and you would have a regulatory body if I am absolutely ...

**The Deputy of St. Mary:**

Yes, slightly different.

**The Minister for Treasury and Resources:**

Yes, you would have an off post. Having said that the Office of Communication, Ofcom in the U.K.

(United Kingdom), has almost deregulated itself out of a job, although Ofcom obviously has responsibility for postal in the U.K. as well. You have got to be careful and the J.C.R.A. has got to be very careful about what it does in relation to competition. I am not the expert in it. I just know you have got to be very careful.

**The Deputy of St. Mary:**

I am a bit troubled. You are saying the J.C.R.A. has to be very careful, you are saying the J.C.R.A. has to judge these things and you have put in a letter to them saying: “Be careful,” but are you saying that the J.C.R.A. has the final say because ... no, I will just leave it at that. Are you saying that J.C.R.A. has the final say in this matter?

**The Minister for Treasury and Resources:**

In a jurisdiction that runs itself properly, nobody has a final say apart from the ultimate appellate body, and the J.C.R.A.’s decisions are not necessarily final and the threat of having your decisions judicially appealed is an important control. My decisions are not final because I can get questioned by people in the States. I can be judicially reviewed. I have to be constantly worried that I am making decisions in a way that will be seen to be made appropriately: fair, balanced and taken appropriately. The J.C.R.A.’s decision ... they are the decision-maker. Have they got the final say? There is an appellate procedure.

**The Deputy of St. Mary:**

There is ... under the law.

**The Minister for Treasury and Resources:**

Yes, and they will be worried about that.

**Deputy M. Tadier:**

Where does the States fit into that? If, for example, the J.C.R.A. made one recommendation and the States body ...

**The Deputy of St. Mary:**

Well, no, made a decision.

**Deputy M. Tadier:**

Yes, if the States felt that was not the right decision, is that one way to change it?

**The Minister for Treasury and Resources:**

If you read the postal law you will be ever more surprised by the subtle balancing act that exists. The responsibilities of the Minister that “shall”. The “may” for the authority. The power of the States to make, in certain cases, regulations. It is complicated but very carefully balanced to ensure that there is an appropriate check and balance ultimately.

**The Deputy of St. Mary:**

You are commenting on the ...

**The Minister for Treasury and Resources:**

That law has all of the necessary abilities to ensure that things are done properly and that there is no single individual who may have a particular view that could run amok to make that view.

[16:30]

**The Deputy of St. Mary:**

So you are saying the ultimate sanction if the J.C.R.A. was to do something that would terminally damage Jersey Post that the Jersey Post could go for a judicial review?

**Deputy M. Tadier:**

That is difficult to prove though, is it not? Any Member of the States could disagree with the J.C.R.A.

and say ...

**The Minister for Treasury and Resources:**

The J.C.R.A. is not ... the States is not the appellate body. The States is the body that passes the legislation.

**Deputy M. Tadier:**

But we could still try and hold the Minister to account if, for example, we believed that the direction of the J.C.R.A. and the Minister for E.D. was going in was incorrect. We could hold the Minister to account either through questions or through other ...

**The Minister for Treasury and Resources:**

The Minister can, under certain circumstances, provide written guidance.

**The Deputy of St. Mary:**

Or even instruction under the Social Environmental heading.

**The Minister for Treasury and Resources:**

Absolutely, and I happen to believe that the previous Economic Development Committee, prior to me being at E.D. for example, did not provide the J.C.R.A. with appropriate guidance in relation to mobile phone matters. That view is well documented. My views on that are known. The sub-committee dealing with that did not provide the J.C.R.A. with the appropriate guidance and Article 9 of the law is clear, I expect. It is not my job because he is doing it but I am confident that he has got the right advice and I know that there are appropriate tensions between the Minister and the J.C.R.A. They have appropriate discussions just as I have appropriate discussions with Jersey Post, which are testing but supportive. I am clear about what my job is in relation to that.

**The Deputy of St. Mary:**

So in answer to my question ...

**The Minister for Treasury and Resources:**

All those answers are really a commentator on the law. You are not my ... I do not know whether that is helpful to you.

**The Deputy of St. Mary:**

If the J.C.R.A., as I said, did something that threatened the survival of Jersey Post and Jersey Post knew they could take it to court as happened in Guernsey ... I am pretty sure there was a law suit of parallel that the O.U.R. (Office of Utilities Regulation) were taken to court by Guernsey Post or threatened with it.

**The Minister for Treasury and Resources:**

There is a lot of subtlety. If you read the law carefully, there are many issues in relation to matters that the Minister can do, and I know the Minister has taken advice about what his powers are in relation to competition. No doubt you have tested him on those issues.

**The Deputy of St. Mary:**

Yes, and the last question I suppose is the States and the U.S.O. Would you think it is appropriate that the States takes any decision or has a debate on the nature of the U.S.O. inclusion after the consultation has been digested and so on? You could always duck the question.

**The Minister for Treasury and Resources:**

The law is clear about the ability for the States in certain circumstances to make regulations.

**Deputy M. Tadier:**

I am starting to feel we have got the A.G. (Attorney General) in with us and not the Minister for Treasury and Resources.

**The Minister for Treasury and Resources:**

I know the law pretty well because I did it but the law can be ...

**The Deputy of St. Mary:**

So the idea is the States could tweak what was in the law if they were so minded?

**The Minister for Treasury and Resources:**

No, no, you ... of course the States can change the law if they want. If they do not like the postal law, they can change it but the States can under certain circumstances make regulations in relation to matters ...

**Deputy M. Tadier:**

The question was a political one, was it not, should the States ...

**The Deputy of St. Mary:**

Debate the U.S.O.

**Deputy M. Tadier:**

Debate the U.S.O.?

**The Deputy of St. Mary:**

Following the consultation.

**The Minister for Treasury and Resources:**

I do not think the States should debate. Should the Minister consult States Members and get States Members' views on options for the U.S.O.? Absolutely. I cannot remember what Article it is the U.S.O. is given under. The U.S.O. is ...



**Deputy M. Tadier:**

It is basically a political question that should the States be ... is it something that we should debate, is it something that is of significant importance but in public interest and warrant a debate? Is a debate useful?

**The Minister for Treasury and Resources:**

It depends whether or not a debate is a debate with a decision. Should the States decide upon the U.S.O., that is a matter for the Minister but the Minister should certainly take advice, consult, take the views of the States in it.

**The Deputy of St. Mary:**

Okay. Darren, have we missed anything vital? Thank you very much all for coming. Have a good weekend.

[16:35]