

# **STATES OF JERSEY**



## **COMMITTEE OF INQUIRY: MOBILE TELECOMMUNICATIONS (P.144/2006) – COMMENTS**

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**Presented to the States on 21st November 2006  
by the Council of Ministers**

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**STATES GREFFE**

## COMMENTS

Deputy Ryan has asked the States to establish a Committee of Inquiry in order to investigate –

- (i) *the health risks associated with the emissions from mobile network antennae and dishes; and*
- (ii) *the environmental impact of the proliferation of multiple network infrastructures’.*

The Council of Ministers has given detailed consideration to this matter, and it believes that a Committee of Inquiry would be wholly inappropriate. Deputy Ryan has highlighted 2 main areas of potential concern, namely the health implications and the environmental impact of mobile phone masts, and the Council’s comments on these 2 areas are given below–

### **(a) The health implications**

The Council of Ministers is mindful that members of the public and some States members have been concerned at alarmist but spurious reports about the alleged “health risks” of mobile phone masts. The effect of these has been to generate sincerely held, but nonetheless misguided, fears and concerns.

It has been suggested, for example, that mobile phone masts are responsible for a wide range of medical conditions, including the increased incidence of Alzheimer’s Disease, Motor Neurone Disease, epilepsy, sleep disorders, throat infections, hyperactivity, and cancer. In support of such claims, reference is made to articles which have been published in magazines and on the internet.

The States needs to be cautioned that there are countless mischievous, reckless and irresponsible opinions and pseudo-scientific articles which abound on this subject. They include articles published on the internet that are so presented as to give the misleading impression that the authors are sponsored by august scientific bodies, or indeed by international or governmental agencies.

The Council believes that the States should continue to abide by and accept the impartial, peer-reviewed scientific evidence and advice which is provided by accredited governmental and scientific bodies. These are the bodies which the States of Jersey has been guided by over the years in the field of health-related science and technology. These bodies have self-evidently served Jersey well. It would be ill-advised and dangerous for the States of Jersey to depart from them on the matter of mobile telephony.

They include the World Health Organisation (WHO), the U.K. Independent Expert Group on Mobile Phones (IEGMP), the U.K.’s Health Protection Agency (HPA) and the International Commission on Non-Ionising Radiation Protection (ICNIRP). The work of these bodies is on-going and the Health Protection Team maintain a very active “watching brief” on their work. The Medical Officer of Health has stated that *“the evidence and judgment of these bodies is that public exposure to lower levels of radio waves – below the accepted international standard – from mobile telephones and base stations are not likely to damage human health”*.

There is no likelihood of adverse health impacts in the field of cancer, Alzheimer’s, sleep disorders, hyperactivity, “non-specific distress”, hearing loss, or epilepsy. This is both the consistent, considered and contemporaneous judgement made by the scientific authorities referred to above.

The levels of mobile telephony emissions are far lower than radio and television emissions with these latter emissions contributing a significant proportion of the “background” radio frequencies which the public are exposed to. As to “highly localised” emissions, the proliferation of such commonplace household devices as microwave ovens, TV remote controls, light dimmer switches, wireless toys, baby monitors and other such products is now increasing the proportion of personal exposure to radio frequencies.

The “health risks” associated with mobile telephony are very clear. The first order health risk is for a person to use a mobile phone while driving a vehicle (an illegal act in Jersey but nonetheless prevalent). The second order health risk is for a person to use a mobile phone by placing it next to one’s ear. Far, far below these risks comes radio frequency emissions from mobile telephony. Thus, if we acted on the basis of ‘risk’, we would abandon our

use of mobile phones.

Further, we need to understand just how low actual radio emissions from mobile telephony are in Jersey. The International Commission on Non-Ionising Radiation Protection (ICNIRP) has set the universally accepted international standard on such emissions. This is the standard which has been derived from observing the effects of such emissions on human tissue. This cautionary standard has a “precautionary margin of safety” built in. The mobile telephony installations in Jersey, *even when operating at the maximum of their output, are typically 200 times lower than this ICNIRP standard.* Thus prudence, caution and a huge margin of safety are characteristic of mobile telephony on the Island.

#### **(b) Environmental impact**

In the report accompanying his proposition, Deputy Ryan states that attention should be given to the ‘visual environmental effects’ of mobile phone masts.

In considering this issue, it is important that there should be a clear understanding of the current position. Three companies have been granted consent by the Jersey Competition Regulatory Authority to operate a mobile telephone service in Jersey, namely Jersey Telecom, Cable and Wireless, and Jersey Airtel Limited (Airtel). The networks of the first 2 of these companies are now almost complete (*i.e. mobile phone masts, antennae, and associated equipment*), whilst Jersey Airtel have approximately 30% of their network already approved.

The anticipated total for the 3 mobile phone companies is approximately 150 installations. Over 100 are already erected and the Planning Department considers that the visual impact of the current installations is minimal. Of the total of 150 installations, 70-80 will be wooden-clad replica telegraph pole designs, approximately 40 of which are already in place. The remainder are installations on existing infrastructure and roof-top sites.

All existing infrastructure that can support additional equipment is currently being shared by 2 or more companies. The only way more mast-sharing is possible would be by building large lattice masts like those at Five Oaks and Les Platons. These structures are considered to be more detrimental to the landscape than the smaller telegraph pole designs.

Every planning application is individually assessed in order to minimise its impact on visual amenity. In some instances, the Planning Department has requested that installations are relocated or they are not permitted. The Minister for Planning and Environment has insisted that the design for individual sites be a wooden-clad replica telegraph pole with as much equipment as possible hidden inside the structure. It is considered that these poles reflect the character of Jersey more appropriately than any other style available on the telecommunication market.

#### **(c) Economic implications of a Committee of Inquiry**

In bringing forward his proposals for a Committee of Inquiry, Deputy Ryan has proposed that the Minister for Planning and Environment should ‘*suspend consideration of all new and existing planning applications involving the mobile telecommunications network pending the results of this investigation.*’ It is indicated in the report that the Committee of Inquiry would need about 6 months to carry out its work.

The Council of Ministers believes that a 6-month moratorium on all new and existing planning applications will have adverse economic implications. In particular, the moratorium would prevent the third telecoms operator (Airtel Limited) from entering the market for 6 months or more, pending the outcome of the work of the Committee of Inquiry. In this connection, the Council considers it is important that there should be a level playing field for all 3 mobile phone operators, thereby enabling all of them to operate in accordance with their licence conditions and offer greater consumer choice to Islanders.

The economic consequences of a decision to appoint a Committee of Inquiry are summarised in the letter dated from the Jersey Competition Regulatory Authority, which is attached as an appendix. The comments of the JCRA are endorsed by the Minister for Economic Development.

#### **(d) Conclusion**

In conclusion, the Council believes that a decision to appoint a Committee of Inquiry would be highly undesirable. Mobile phone masts are not considered by accredited governmental and scientific bodies to pose a health hazard, whilst their impact on the landscape is considered to be minimal. Should the States agree to a 6-month moratorium on all new and existing planning implications, this could have significant economic implications.

The Council of Ministers recommends therefore that the proposition be rejected.



BB/hcm

20 November 2006

Senator Philip Ozouf  
Minister for Economic Development  
Economic Development Department  
Liberation Square  
St Helier  
JE1 1BB

Dear Philip

**Proposed Committee of Inquiry on Mobile Communications**

You asked for the JCRA's comments on the proposition which has been lodged before the States by Deputy Patrick Ryan for debate tomorrow, together with the accompanying report, as well as the report which appeared in the Jersey Evening Post of 15 November on this issue.

The States will no doubt wish to have a fully informed debate on a proposition which would, in the JCRA's view, have significant adverse economic effects if accepted. We do recognize that there may be occasions when the States may choose to place other interests above competition and economic growth, but we would like to assist you in ensuring that the States is fully informed, if and when it decides whether such a choice needs to be made, and if so how it should be resolved. This letter therefore sets out what we see as the competition effects of approving the proposition, how health issues are addressed under Jersey's telecommunications regime, and the respective roles of the JCRA and the Minister in environmental matters. Before doing so, we would like to clarify certain inaccuracies or misunderstandings which appear to have arisen as to the number of actual and prospective mobile operators in Jersey, and which may have unnecessarily exacerbated public concern.

Number of mobile operators in Jersey

As you know, in accordance with our duties under the Telecommunications Law, and after following the statutory public consultation process, we granted a telecommunications licence to Jersey Airtel Limited (Airtel) in January this year. This licence would (subject to obtaining all other necessary approvals) authorize it to implement its plan to offer mobile services in Jersey in competition with Jersey Telecom (JT) and Cable & Wireless.

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There appears to be an assumption in the fifth paragraph of the Report ('this situation was likely to be repeated for all new operators') that further mobile operators will be entering the market in Jersey, in addition to JT, Cable & Wireless and Airtel. There have also been comments in the press questioning the wisdom of a decision to license 'four' operators in Jersey. The reality is that no decision has been taken by the JCRA to license a fourth (or further operators) on the Island. It is true that Ofcom has granted a spectrum licence to Colt Telecommunications plc (Colt), which would be a prerequisite if Colt were to provide a mobile service in Jersey. But in order to provide such a service Colt would also need to obtain a telecommunications licence from the JCRA. As mentioned above, no such licence has been issued. The situation was explained in detail recently to the Scrutiny Panel on the proposed sale of JT (see page 9 of the transcript of the JCRA's evidence on 25 September 2006).

There are a number of other small jurisdictions around the world with three (or more) mobile operators and Jersey is not unique in this respect: indeed the Guernsey regulator has recently issued Airtel with a licence to provide mobile services in competition with Cable & Wireless and Wave (a subsidiary of JT).

#### Economic Effects of the Proposition (if accepted)

If the States were to accept the proposition, the following effects would flow from that decision:

1. Airtel would be prevented, at least for a substantial period, from entering the Jersey telecommunications market in competition with JT and Cable & Wireless. We remain confident that the entry of Airtel would have a positive impact on the Jersey economy, in that it would promote competition, one of the main objectives of the Telecommunications Law. Competition would potentially increase quality, choice and value for money for both consumers and business users - including the financial services industry on which Jersey so much depends. It would also be likely to create other economic benefits through investment and job creation. The proposition which is to be debated tomorrow will, if carried, prevent these benefits from being realised for at least six months and probably longer (always assuming Airtel remained willing to invest further in Jersey).
2. Such a decision could delay the implementation of mobile number portability in Jersey (the ability to keep one's mobile number when switching to a different mobile operator). JT, Cable & Wireless and Airtel are under a legal commitment to introduce MNP by 31 March next year. Research commissioned by the JCRA demonstrated a high demand for MNP from consumers and businesses: indeed over 50% of them went as far as to say they would not change supplier if they had to change their number. It would be difficult to see how the JCRA could reasonably insist that Airtel comply with its commitment to introduce MNP with the other operators, in circumstances where there is uncertainty as to whether and when it will be able to enter the market. The result of accepting the proposition may therefore be to deny the benefits of MNP to Jersey users, thereby making it

more difficult for the other operators to compete on a fair basis with JT, and reinforcing JT's market dominance, in conflict with the States' objective of promoting competition.

3. Depending on the length of time any Committee of Inquiry would take to complete its deliberations and for decisions to be taken, the acceptance of the proposition may prevent JT and Cable & Wireless from introducing advanced mobile services (third generation and above) to Jersey consumers and businesses.

These are the main effects we would foresee from the competition/economic point of view, but we imagine you may also have other concerns, such as the signal such a decision might send to other businesses who may be contemplating investing in Jersey.

#### Health Issues

Health issues from mobile masts are already addressed by the telecommunications regime, under the licences which have been granted to JT, Cable & Wireless and Airtel. Condition 20.3 of the licences (which are enforceable by the JCRA) requires them to comply with the limits on emissions recommended by the International Commission on Non-ionizing Radiation Protection (ICNIRP), which is the generally-recognised authority on the question of emissions from mobile phone masts. Its members are 'independent experts in the scientific disciplines necessary for non-ionizing radio protection' ([www.icnirp.de](http://www.icnirp.de)). ICNIRP's principal aim is 'to disseminate information and advice on the potential health hazards of exposure to non-ionization radiation [including emissions from mobile phone masts] to those with an interest in the subject'. Airtel has assured the JCRA that the emission levels from its installations will comply with ICNIRP's limits, and that it expects them to be significantly below these limits. As noted above, the JCRA has the power to enforce compliance with these limits.

In April this year, a Report by Jersey's Department of Health and Social Services, which was published following similar concerns in connection with planning applications submitted by Cable & Wireless, supported compliance with ICNIRP's standards. It advised against the curtailment of the introduction of new mobile phone operators on uncertain health grounds as being 'at odds with the general principle of risk management and... certainly at variance with the view of the international community with regards to the use of mobile networks. This view would also throw into doubt the continued use of the existing mobile phone network on the Island'. Its understanding was that 'there is a far higher potential impact on an individual from the use of a mobile phone handset than there is from exposure to emission from a mobile phone base station'. It concluded that:

*There is consensus amongst all of the expert groups who have looked at the potential for adverse health effects that the balance of evidence to date suggests that 'exposure to Radio frequency radiation below NRPB and ICNIRP guidelines do not cause adverse health effects to the general population'. To that end it is incumbent upon the States to ensure that any operator fully complies with those international standards, and openly*

*shows compliance. The most appropriate way of ensuring this would be through the planning application process, which is subject to public scrutiny.*

We understand that the Planning and Environment Department do request information on compliance with these recommended safety limits as part of the approval process, but in any event, as noted above, compliance obligations are contained in the licences of each operator, which are enforceable by the JCRA.

In these circumstances, the reasons for a proposed Committee of Inquiry to examine health issues are unclear. Even if a Committee were to be tasked with looking at the issue, it is unclear how it could be expected to advance the state of scientific knowledge on this issue, certainly within a six-month period.

#### Environment / Mast Sharing

As regards the visual impact of the additional masts on the environment, this is clearly a matter for the Minister for Planning and Environment, not the JCRA. The JCRA's primary duty under the Telecommunications Law is to exercise its functions (including deciding whether to grant a new licence) in such a way as to satisfy all demands for telecommunications in so far as reasonably practicable. In making this assessment the JCRA has to have regard to price, quality and innovation. The JCRA decided that the grant of a licence to Airtel was compliant with its primary duty, and with its secondary duties, including the promotion of competition. The grant of a telecommunications licence by the JCRA does not remove the need to obtain any necessary planning permission from the Minister, nor does it prejudice in any way his decision. Cable & Wireless was clearly aware of this in submitting its planning permission applications and Airtel is also aware of it. Indeed, the licence of each operator expressly states that the licence is subject *inter alia* to 'all applicable laws, rules, regulations, ordinances and orders of the States of Jersey'.

There is a clear separation of responsibilities between the JCRA and the Minister as far as masts are concerned. According to the Planning and Environment website, one of the criteria for a successful application is that 'all practicable possibilities of sharing facilities have been fully explored and found to be unfeasible or unacceptable.' The JCRA has a complementary role in this context: under the licences it can intervene to impose mast-sharing arrangements where an operator seeks to share a mast with an operator, and the operators do not reach agreement. As the Report describes the process: 'it is up to the Planning Minister to refuse permission in order to force the two parties together into a sharing agreement before the JCRA can then in turn regulate for commercial fairness'. It is therefore unclear to us from the Report why there would be difficulties (if this is what is being suggested) in the Minister refusing planning permission in the absence of opportunities to share masts being fully utilised, especially if the Minister would be entitled (as we assume he would be) to withhold the grant of licences for six months pending an inquiry into health and safety and other issues. The States will no doubt have an opportunity to obtain any necessary clarification tomorrow.



Conclusion

I hope these comments are useful for the purpose of the States debate tomorrow. If you have any queries on the above please let me know.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Wm".

William Brown  
Executive Director