

2.5 Deputy G.P. Southern of the Assistant Minister for Economic Development regarding Jersey Competition Regulatory Authority powers and their enforcement following a sell-off of Jersey Telecom:

What further work, if any, has been done in conjunction with the Jersey Competition Regulatory Authority to ensure that any reservations the Authority has over its powers and the means to enforce them, in the absence of a structural separation of Jersey Telecom, are met following a sell-off of the company?

Deputy A.J.H. Maclean of St. Helier (Assistant Minister for Economic Development):

At both political and senior officer level there has been regular and open dialogue with the board and executive of the J.C.R.A. (Jersey Competition Regulatory Authority). To date, no suggestion has been made by the J.C.R.A. that they lack any powers or resource necessary to protect consumers or to undertake their statutory duties. The Minister for Economic Development has no additional evidence to suggest that there is an issue to address. However, the Minister has asked the department, in conjunction with the J.C.R.A., to arrange some briefings outlining how the Telecoms and Competition Law would apply to Jersey Telecom if it was sold to a large overseas corporation. I would urge Members who have any concerns to attend one of these briefings and seek reassurance and further information.

2.5.1 Deputy G.P. Southern:

It is interesting to hear that denial when I have in front of me evidence that the J.C.R.A. has reservations about its ability to regulate, and I will just briefly summarise. The J.C.R.A.'s position reflects its difficulty in regulating Jersey Telecom so as to facilitate access competition. In essence the report is an admission that regulating a dominant incumbent, so far as to promote competition, is extremely difficult as other regulators - including the U.K. regulator - have discovered. It took 20 years for the competition regulator in the U.K. to achieve proper competition - full competition - in the telecoms market. Why should it be any easier here?

Deputy A.J.H. Maclean:

I do not think there is any suggestion that it is going to be easy, but I think that the record that the J.C.R.A. has had to date in the Island has, without any shadow of doubt, benefited consumers in a number of different areas and I think it is fair to say, although this will be difficult, we have confidence in the J.C.R.A. and their ability to fulfil their obligations.

2.5.2 Deputy G.P. Southern:

Does he not accept that such confidence is misplaced because the J.C.R.A., in their own submission to the Scrutiny Panel on telecoms privatisation, admits that there are shortcomings in their powers?

Deputy A.J.H. Maclean:

I think it is fair that there are always areas where improvement can be reached. As the Deputy pointed out, it took a number of years in the U.K. for the regulator to, indeed, get into a position where it was effectively creating effective competition and I think a similar situation has been evolving in Jersey and will continue to do so as the market develops and matures.

2.5.3 Deputy G.P. Southern:

If I may, Sir, a supplementary? I am talking now about the means to enforce their powers and I quote again the J.C.R.A.'s executive director: "In principle, our costs under the Telecoms Law are borne by the operators through licence fees" so that is how expenses under the Telecoms Law are funded. Whereas, under the Competition Law the money comes from the States. Will the Economic Development Assistant Minister tell us how big the pot of money is to ensure that under Competition Law the J.C.R.A. can effectively promote competition?

Deputy A.J.H. Maclean:

The J.C.R.A. are funded to the tune of £600,000 currently. In the future it is accepted that that burden may, indeed, increase and I think at that particular point a review would be necessary to see what further funding, if any, is required to ensure - and this is the important point - to ensure fair and reasonable competition and that is exactly what we would intend to do.

2.5.4 Deputy S.C. Ferguson:

Would the Assistant Minister perhaps like to expand on this because I believe there are fees which are collected - licence fees - from the companies which are also used in the regulation of that particular industry?

Deputy A.J.H. Maclean:

That is absolutely correct. In fact, under the Jersey Telecoms Law 2002 there is a provision for additional regulation and requirements for the J.C.R.A., from a resource perspective, that the operators would fund, but that is certainly different to the competition issue: that is a regulatory issue.