

# STATES OF JERSEY



## FULFILMENT INDUSTRY POLICY (P.152/2006): COMMENTS

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Presented to the States on 26th January 2007  
by the Minister for Economic Development

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STATES GREFFE

## COMMENTS

The Minister generally agrees with part (a)(i) of the proposition in that the Island can benefit from the appointment of a dedicated post for e-commerce. A post for an e-commerce Manager within the Economic Development Department had already been agreed in the 2006 Business Planning process and is currently undergoing evaluation. It is anticipated that recruitment will take place in March 2007 (see attached Job Specification). However, the remit for this person will be much wider than just online retailing and will encompass promotion and diversification of a growing e-commerce sector which the Minister believes has significant potential.

In respect of part (a)(ii), the Minister is firmly of the belief that the fulfilment industry has been reviewed thoroughly. The attached documents provide evidence that full and comprehensive reviews have been undertaken. In addition, the Economic Affairs Scrutiny Panel has already itself reviewed the industry as part of the scrutiny process and produced 2 reports in May and October 2006. The current and potential role of the industry in the Island's economy is well understood and the existing policy is both appropriate and in the Island's best interests. Online retailing and fulfilment policy is being kept under constant review because of the sensitivity and potentially changing nature of developments outside of the Island. The Minister does not therefore agree that any further review be undertaken.

The Minister does not believe that he should direct the Jersey Competition Regulatory Authority to investigate any potential cross-subsidy between Jersey Post International Limited and Offshore Solutions Limited, as requested in part (a)(iii). It is a licence condition that cross-subsidy is not permitted and it is for the Jersey Competition Regulatory Authority, as the Island's independent and expert regulatory authority, to ensure that licence conditions are adhered to and enforced.

In respect of part (b) of the proposition, the Minister does not consider that there is a need to introduce a standard code of practice for dealing with appeals against ministerial decisions. The Council of Ministers will however be considering the matter and issuing its own comment. In respect of the Regulation of Undertakings and Development (Jersey) Law referred to in the report, a robust and fair appeals process is in place and is publicly available. The Minister recognised the Panel's comments concerning the documentation of the appeals process and it is now documented (see attached document).

## **JOB DESCRIPTION**

**JOB TITLE:** E-Commerce Manager  
**DEPARTMENT:** Economic Development  
**REPORTS TO:** Director – Regulatory Services  
**POSTHOLDER:** New Post  
**JOB NO:**

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### **JOB PURPOSE**

Develop and implement an e-commerce strategy for Jersey, based on detailed examination of the present and future business requirements of existing and developing industry sectors, in order to –

- improve productivity of existing businesses;
- encourage entrepreneurship and the establishment of new business; and
- enhance Jersey’s reputation as a world-class business centre.

### **PRINCIPAL ACCOUNTABILITIES**

1. Examine the entire process of global-reach online retail ability in order to optimise the effectiveness of the supply chain from online checkout through to customer fulfilment.
2. Work with ICT providers to ensure that services are always sufficiently robust to allow for fully effective business-to-business and business-to-customer transactions.
3. Develop, in close co-operation with all industry sectors, a robust security risk management strategy to ensure business continuity.
4. Benchmark Jersey’s e-commerce performance against that of its global competitors, and best-in-class industry standards, in order to ensure that Jersey reaches and remains at the forefront of international e-commerce business.
5. Ensure that the e-commerce strategy, when implemented, contributes significantly to economic growth (as measured by GVA), evidenced by increased business activity and profitability across all interactive media.
6. Provide professional, specialist advice on e-commerce to the Director of Regulatory Services to ensure that the departmental Business Plan takes full account of the contribution of this aspect of the Island’s economy.
7. Advise and work actively with the Department’s Enterprise and Business Development unit and the Regulation of Undertakings and Development section of the Population Office in the assessment of business cases for relevant online initiatives and proposed business start-ups.
8. Manage the process relating to all aspects of communications legislation, including broadcasting and wireless telegraphy, acting as Jersey’s liaison officer in this respect with Ofcom and the JCRA.

### **DIMENSIONS**

Department staff	63.58 FTE
Department Budget	£15m
Budget (Regulatory Services)	£2.5m
Individual Budget	£100,000

The E-Commerce Manager role impacts particularly on the finance, fulfilment, telecommunications and retail industries, but is also vital in protecting the Island’s international reputation as a safe, responsible and welcoming jurisdiction in which to undertake business.

Finance Industry £1580 million GVA  
Wholesale and Retail £209 million GVA  
Fulfilment £100 million GVA (estimated)  
Technology and Telecommunications Sectors £75 million GVA (estimated)

The Economic Development Department's mandate is to develop and implement an integrated economic and industrial strategy for Jersey through the Plan for Economic Growth. The E-Commerce Manager is responsible for ensuring that the strategic goals of the Department, particularly sustainable economic growth and diversification, are met in allocated areas of policy responsibility.

Vitality, the postholder will have to work closely with the Economic Adviser, the Regulation of Undertakings team and the Enterprise and Business Development unit. A strong positive relationship with business leaders will be essential and the postholder will take on the role of e-business champion across the States, thereby ensuring that their strategy and plans are fit for purpose.

The postholder thus has a direct effect upon the sustainability and growth of the above sectors and on the economy more generally.

### **KNOWLEDGE AND EXPERIENCE REQUIRED**

Given the importance of e-commerce to the achievement of the States' policy on economic growth, the postholder will have –

- a. a first degree in management/business administration or information and communications technology and, preferably, a higher degree and/or professional qualification from a recognised institution;
- b. at least 10 years' experience in an e-commerce environment, 5 years of which will have been at management level, including the development and implementation of e-commerce business strategy;
- c. highly-developed skills and experience in project management, business analysis, information systems.
- d. a proven track record in delivering e-commerce architecture solutions, preferably in large organisations requiring deep knowledge of e-marketplaces, exchanges, e-procurement, web portals, intranet, extranet, auctions etc.;
- e. strong analytical and conceptual skills with highly developed, confident presentational techniques;
- f. excellent communication, facilitation and influencing skills and ideally experience of dealing with the media and press;
- g. business and financial planning expertise and experience within a rapidly moving technical environment.

### **JOB CONTEXT**

This will be a high profile role with close scrutiny by the press, politicians and industry leaders. For this reason the postholder must have total credibility based upon a background of success and delivery. E-commerce has been widely considered as a neglected area of the economy and the E-Commerce Manager must have the personal gravitas to turn this around.

E-commerce is not just e-retail or delivery through the fulfilment industry. It is a method of doing business that is both invaluable and far-reaching, impacting upon every industry sector in the Island as well as the general public.

Working without day to day supervision, the postholder will have regular contact with the Ministry team, Chief Officers and senior officers of other Departments, industry and business leaders. The postholder will be required to participate in boards, advisory groups, and working parties, both on behalf of the Department and the States, as well as constructing effective relationships with individuals.

Delivering the policy objectives of the Economic Development Department often takes place within settings where the post holder has no authority over others who have a significant impact on delivery. The post holder, therefore, needs to persuade, influence and negotiate with the Minister's and Assistant Minister's stakeholders to achieve the Department's objectives.

The E-Commerce Manager will actively engage the private sector to:

- harness their creativity into the development of States strategy; and vitally

- develop industries' understanding of States' policies.

The E-Commerce Manager is responsible for advising the Director of Regulatory Services on the suitability and longevity of all relevant legislation to ensure that it is kept relevant and up to date.

Joining up policy and relationships is a vital element of the role.

**ORGANISATION CHART**

See attached Chart.

**VERIFICATION**

I confirm that this is an accurate description of the job of E-Commerce Manager.

Signed: .....  
Director of Regulatory Services

Date: .....

Signed: .....  
Executive Director

Date: .....

Signed: .....  
Chief Executive Officer

Date: .....

The background of the page features a light blue gradient. In the center, there is a white silhouette of a human head in profile, facing right. Inside the head, several interlocking gears of various sizes are visible. Additionally, there are larger, faint gears in the background, some of which are partially obscured by the text.

# What is the contribution of the fulfilment industry to Jersey's economy?

An economic growth plan  
sectoral study

Report prepared for  
States of Jersey

April 12th 2005

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# 1 Introduction

This report looks at the economic impact of the fulfilment industry in Jersey and developments that could potentially reduce the attractiveness of Jersey as a location for this industry. The report draws on information provided by the States of Jersey Statistics Unit, which undertook a recent survey of the fulfilment industry to inform this report.<sup>1</sup>

Section 1 provides background information on the fulfilment industry, and the reasons why it is located in Jersey. Section 2 outlines the contribution of the industry to the wider Jersey economy in terms of economic output, the labour market, tax revenue and its potential impact on transport links. Section 3 investigates potential developments that may constrain the growth of the industry, or reduce its profitability and competitiveness. Section 4 explores areas where there may be potential scope for government intervention, and section 5 summarises and concludes.

## 1.1 Background information

### 1.1.1 What does the fulfilment industry do?

The fulfilment industry is part of a retailing function that takes place outside of retail premises. The end-to-end service consists of orders being taken remotely, financial transaction processing, wholesale acquisition of goods, order matching and dispatch of goods against order. Remote order taking can be via the telephone or, increasingly, over the Internet. For reasons set out below, the dispatch element of the fulfilment industry in Jersey is largely or wholly via Jersey Post.

In Jersey, the fulfilment industry consists, broadly speaking, of two types of company.

- *Companies that provide the service of taking the wholesale goods as an input and dispatching the goods in smaller packets against the retail order to the end-customer*—the service provider does not take the financial risk of owning the goods, but purely acts as service provider for the retailer that deals with both the wholesale acquisition of the goods and the payments from end-customers. Such firms are categorised as third-party service providers (3PSs). The principals—ie, the companies for which orders are processed by fulfilment service providers—in the transaction are often established retailers and are typically not Jersey-based.
- *Companies that provide the end-to-end service to customers*—in addition to supplying the services provided by 3PSs, these ‘whole chain companies’ (WCCs) deal directly with end-customers and take the financial risks of purchasing the goods in the wholesale market on their own account.

Both 3PSs and WCCs have a physical presence in Jersey, since legislation requires that the dispatch of the goods to end-customers must take place in Jersey.

### 1.1.2 Why does the industry locate in Jersey?

The principal reason for the industry to locate in Jersey is that goods of relatively low value, such as CDs and DVDs, are exempt from having VAT levied on the purchaser when shipped

<sup>1</sup> States of Jersey, Statistics Unit (2005)

from Jersey to the UK or other destinations in the EU. This contrasts with the same goods dispatched from within the EU where the VAT applicable would be that of the country from which the goods were dispatched.<sup>2</sup> This exemption is legislated by an EU ruling often referred to as the low-value consignment relief (LVCR) scheme. Under this ruling, goods<sup>3</sup> with an intrinsic value of £18 (or €22) or less that are sent from certain jurisdictions outside the EU—including Jersey—are not subject to VAT.<sup>4</sup>

The result of the LVCR is that goods dispatched from Jersey (or equivalent jurisdictions) can be sold to EU residents at prices excluding VAT. This gives companies that make use of the LVCR ruling a potential price advantage compared with a similar retail operation set up within the EU. Where goods can be sold remotely, and competition between retailers takes place purely based on price, goods despatched from Jersey can be more competitive, notwithstanding that some other elements of the end-to-end chain may be more expensive.

There are, however, restrictions relating to this advantage that are set by the limit on the LVCR. Specifically, the maximum possible cost advantage that companies utilising the LVCR rule to their advantage have over retailers in the UK is £3.15 if the cost of the item is £18. (The UK is likely to be the largest market for the Jersey fulfilment industry and has to charge 17.5% of VAT.) For items worth less than £18, the savings are proportionally lower.

To remain competitive in the retail market, the tax savings must be more than sufficient to offset any additional costs incurred by locating the physical fulfilment processes in Jersey, compared with a location where VAT would be charged (eg, in most cases, in the UK). The actual possible savings are in practice reduced by any additional direct costs of providing the fulfilment in Jersey (eg, additional transport costs to the Island and any additional postage costs), which UK-based companies do not incur. In addition, there may be differences in employment and other operating costs that may have an impact on the relative cost advantage of Jersey fulfilment providers over EU retailers or competing jurisdictions.

Hence the location of the fulfilment industry in Jersey depends on companies in this industry making use of an opportunity of tax arbitrage—ie, a cost advantage. Any developments that would reduce this cost saving would reduce the advantage of the Jersey fulfilment industry over retailers within the EU (and fulfilment service providers in other jurisdictions). If the LVCR were abolished, and the UK were to levy UK VAT on the goods, the companies may leave Jersey altogether, since the possible gains from the tax arbitrage would be lost.

There are several possible developments, within and outside of Jersey, which in isolation or in conjunction may lead to a reduction (or elimination) of the relative cost advantage of the fulfilment industry in Jersey. These are analysed in detail in section 3. However, before examining the potential sources of upward pressure on costs, the next section outlines the main contribution of the fulfilment industry to the Jersey economy and provides some indication of its possible contribution in future.

<sup>2</sup> Under EU VAT rules, imports for personal consumption are taxed according to the 'origin principle'—ie, at the rate of the country from which goods are sent; therefore, the tax is paid to the country of origin.

<sup>3</sup> Certain goods such as tobacco products, perfume or toilet waters are excluded from LVCR.

<sup>4</sup> The intrinsic value refers to the actual value of the goods, excluding costs such as postage and packing.

## 2 The fulfilment industry's contribution to the economy

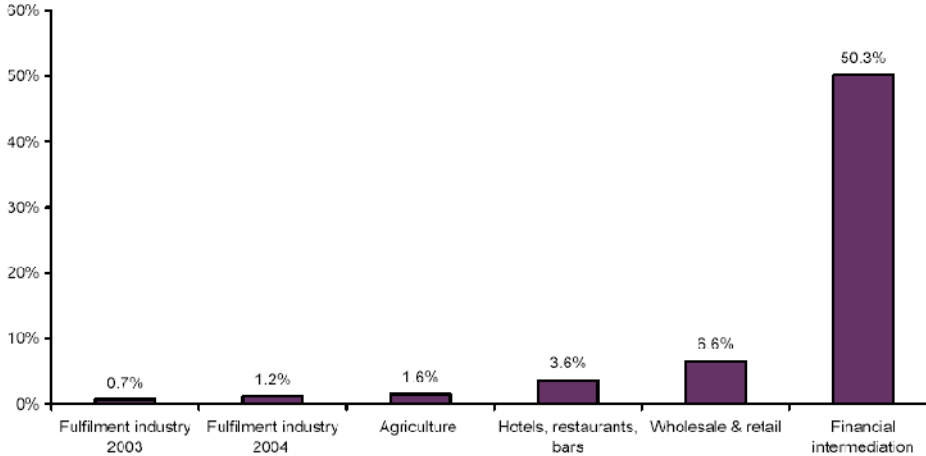
This section outlines the contribution of the fulfilment industry to the Jersey economy in terms of its economic output (gross value added, GVA), its contribution to the labour market by offering employment opportunities to Jersey citizens, and the tax revenue resulting from the economic activity generated by the sector. This section also provides details about underlying economic processes that may lead to changes to the level of contribution. Wherever possible, the section draws on the results from the fulfilment industry survey to provide insights concerning the future prospects of the industry.

### 2.1 Economic output

One method of quantifying the contribution of an industry in terms of the wider economy is by the use of an aggregate measure of economic output such as GDP, GVA or GVA per employee (GVA/FTE), and comparing this with other industries.

Figure 2.1 illustrates the importance of the fulfilment industry and other sectors in terms of their relative contribution to Jersey's economic output as measured by GVA. GVA is compensation of employees (including earnings, bonuses, and employer contribution to social security and pensions), and gross operating surplus (ie, gross profits). Thus, higher figures of GVA indicate that, on average, employees receive larger wage compensations and/or generate higher profits than those where the GVA is lower. While GVA does not capture non-monetary contributions of an industry to the wider economy (eg, beneficial or harmful effects on the environment), the higher GVA is a useful indicator of greater value to the economy.

**Figure 2.1 Sectoral contribution to total Jersey GVA (% of total GVA)**



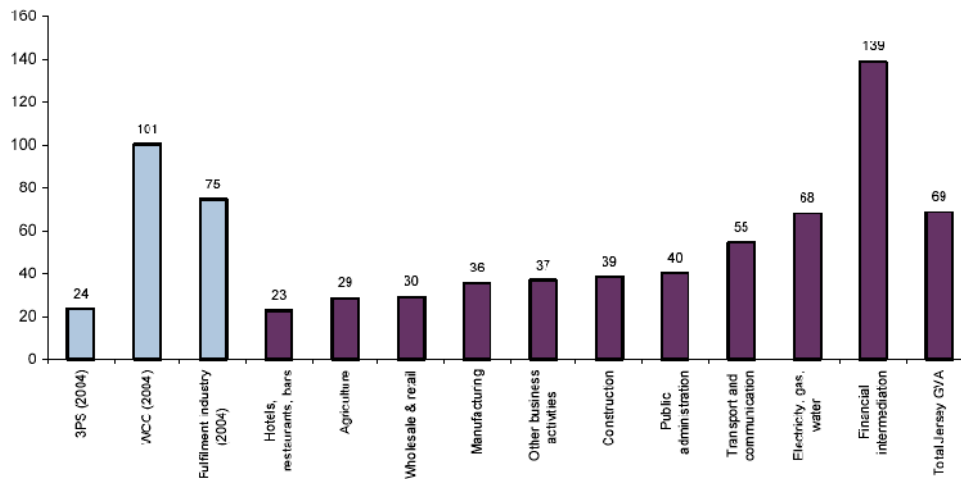
Notes: The fulfilment industry is a subsector of the wholesale and retail industry. Figures are for 2003, except the fulfilment industry GVA for 2004 which is expressed in 2003 prices using the Jersey RPI(X).  
Sources: States of Jersey Statistics Unit; States of Jersey Statistics Unit (2005), 'Jersey Economic Digest 2004'; and Oxera calculations.

In 2003, the fulfilment industry contributed approximately 0.7% to the total GVA of the economy, amounting to a total of £21m. It contributed around 10% to the output of the

wholesale and retail sector, of which the fulfilment industry forms a subcategory, which in turn represented 6.6% of total GVA. In 2004, the fulfilment industry's GVA increased considerably to almost £38m (in 2003 prices), which constitutes an increase of more than 50% compared with the previous year. 2004 GVA figures for sectors other than the fulfilment industry are currently not available; however, given that, between 2001 and 2003, total Jersey GVA has fallen in real terms, it is likely that the fulfilment sector has grown substantially faster than the rest of the economy. As a result, its share in GVA is likely to have increased to at least 1.2% of total GVA.<sup>5</sup>

An alternative way of measuring the contribution of an industry to an economy is in terms of GVA/FTE, which is shown in Figure 2.2.<sup>6</sup> On the basis of the definition of GVA above, it follows that industries with a higher GVA/FTE contribute relatively more to personal income tax take and/or corporate income tax payment than industries with a lower GVA/FTE ratio.

**Figure 2.2 GVA/FTE (£000)**



Notes: The fulfilment industry is a subsector of the wholesale and retail industry. The figures for the fulfilment industry are from 2004, the remainder are from 2003. 2004 figures were expressed in 2003 prices using the Jersey RPI(X).

Sources: States of Jersey Statistics Unit; States of Jersey Statistics Unit (2005), 'Jersey Economic Digest 2004'; and Oxera calculations.

For the fulfilment industry as a whole, the GVA/FTE of £73,000 is somewhat higher than the average GVA/FTE for the economy as a whole (£69,000).<sup>7</sup> However, a closer assessment of the composition of the GVA/FTE in the fulfilment industry reveals that the relatively high figures are attributable to the high GVA/FTE of the WCCs. While the WCCs have a GVA/FTE of over £100,000—the second-highest economy-wide after the finance industry—the respective figure for 3PSs is around £24,000—ie, only somewhat higher than in the hospitality industry and less than in agriculture.

<sup>5</sup> Jersey economy-wide and sectoral GVA figures for the economy are only available up to 2003. Figures for the fulfilment industry were derived by the Statistics Unit from the fulfilment survey statistics. Statistics Unit 2003 GVA/GNI figures; Statistics Unit (2005), op. cit.; and Oxera calculations.

<sup>6</sup> The definition of employment used is full-time equivalent (FTE).

<sup>7</sup> The figures for the whole economy and other industries are from 2003 whereas figures for the fulfilment industry are from 2004 and expressed in 2003 prices using the Jersey RPI.



Moreover, a large majority of GVA is generated by a single WCC; as such, the high GVA/FTE of the WCC and the fulfilment industry as a whole is mainly attributable to this company. In addition, this company held a large proportion of the market share of the Jersey fulfilment industry, both in terms of the total number of orders and total revenue share.

There are a number of possible explanations for this pattern. First, this suggests that GVA/FTE increases with the size of the fulfilment operations—ie, the industry exhibits economies of scale in operating costs.<sup>8</sup> This is most likely due to the more effective use of technology when operating at larger scales, which allows for the more intensive use of automated processes and relies less on labour input.

The survey showed that both WCCs and 3PSs rate their current intensity of use of automation technology within their organisation as fairly low, indicating that there is substantial scope for using automated processes more intensively.<sup>9</sup> Going forward, under this explanation, to the extent that other companies grow in scale and increasingly adopt more automated processes, GVA/FTE may increase.

A second explanation is that the WCCs can capture some of the tax arbitrage as profits; these profits are unavailable to 3PSs because they are currently attached to those providing the direct link to the end-customer and who supply the capital required to own the goods during the transaction process. Under this scenario, 3PS operations will not acquire the profitability of WCCs regardless of how large they grow. This explanation would be consistent with the 3SPs being dependent on large UK retailers that have a number of choices as to where they can locate their fulfilment operations; hence competition in the supply of the *service* of fulfilment in areas that can take advantage of LVCR is quite strong.

From the data available, it is not possible to determine which explanation dominates. It is, however, likely that both play some part in creating the current pattern of economic output.

However, irrespective of the actual cause of the currently observed high levels of GVA/FTE for the largest fulfilment service provider, there is some doubt as to whether this outcome can also be enjoyed by other fulfilment providers in future. Competition between providers of goods taking advantage of the LVCR through both the 3PS and WCC channels may reduce the overall profitability of this activity—profitability that currently ends up in either the WCCs' profit levels or the profits of the UK retailers using 3SPs. This largest fulfilment service provider may have gained first-mover advantages and thus enjoyed relatively high profit margins. Going forward, increased competition may reduce the available margins.

Whether such competition between firms and jurisdictions is likely to constitute a threat to the potentially high profitability of certain companies in the fulfilment industry in Jersey depends on the dynamics of the retail market in the UK (and other EU countries). If the total market being supplied from LVCR jurisdictions is small compared with the total retail market, prices in the market exploiting the LVCR are more likely to be set relative to the normal (ie, VAT-paid) market. As long as any additional costs of taking advantage of the LVCR are significantly less than the tax saved, there is scope for significant profits to be earned on this activity. However, if the market utilising the LVCR becomes large in itself, or competition within this sector becomes fierce, then prices in this market are more likely to be set with

<sup>8</sup> While the industry is likely to exhibit economies of scale in *operating costs*, this may not be the case in terms of *total costs*. The productivity measure employed in this report (GVA/FTE employee) does not take into account capital input per employee, which is likely to differ between 3PS and WCCs. If a measure of total factor productivity that takes into account both capital and labour intensity was employed, the differences in productivity between the sectors would be likely to be significantly lower.

<sup>9</sup> WCCs assessed their use of technology at 4 and 3PSs at 5 out of possible maximum score 10, where 1 represents 'least developed' and 10 'limit of existing technology'. This measure is subjective and should only be used to indicate as reference to the existing technology of which the company is aware rather than an absolute possible level of automation or relative to other companies.

reference to the actual costs of the LVCR business. Under these circumstances, the current high levels of GVA/FTE in the WCC operation may come under pressure unless underpinned by commensurate levels of capital employed per FTE.

Section 3 examines in detail the processes that, in addition to potential competition from other companies and jurisdictions, may put an upward pressure on cost and thus the profitability of the company.

#### **Future outlook**

The survey showed that, on average, companies expect their sales and revenue to increase in line with costs by at least 25% over the next two years. Assuming that GVA increases in proportion (ie, scale effects from a more intensive use of automation techniques and the possibility of new entrants are ignored) and taking into account differences in the amount by which 3PSs and WCCs are expected to grow, total GVA can be expected to increase to around £44m in 2005 and £59m in 2006. This will increase the contribution of the fulfilment industry to total GVA. However, given that 3PSs anticipate a substantially larger expansion than WCCs (and assuming that 3PSs continue to have lower GVA/FTE), GVA/FTE is likely to fall.

## **2.2 Employment, earnings and skills**

The States of Jersey Strategic Plan set out a number of objectives and criteria that future policies will aim to achieve.<sup>10</sup> In particular, it highlighted the objectives of:

- creating new and a greater variety of employment opportunities for local people within the Island;
- more focus on enhancing the skills base of the resident population, in particular equipping people with the skills that meet the demands of the market.

This section therefore looks at the contribution of the fulfilment industry in terms of these objectives. Reference is made to the type of employment offered by the industry and the type of skills demanded by the industry, and the earnings of the skills groups.

### **2.2.1 Employment and skills**

In 2004, the fulfilment industry employed 517 workers (FTE), two-thirds of whom were employed by the WCCs and the rest by 3PSs. 28% of the employees in the industry were working part-time, one of the highest proportions in the private sector economy.<sup>11</sup> In addition, the majority of the workforce is classified as 'elementary' (eg, packers). Out of a total of 600 jobs, 85% of jobs belonged to this category, with workers receiving on average a wage of £6.60 per hour.<sup>12</sup> This suggests that the industry relies predominantly on relatively cheap workforce with a relative frequent use of flexible work practices such as part-time work. This is particularly important since, due to the seasonality of the retail sector, in times such as during December, the industry is likely to temporarily increase its labour demand for short-term, full-time workers.

Unlike other industries such as tourism and agriculture, most employees in the industry (95%) are locally qualified and thus do not rely on the import of immigrant labour. As such, the industry does diversify the economy in that it offers employment outside the traditional

<sup>10</sup> States of Jersey (2004), 'Strategic Plan 2005–2010'.

<sup>11</sup> Only miscellaneous business activities (40%) and 'education, health and other services' (51%) have a higher share of part-time employees. However, within these broad classifications, industries may also rely on comparatively more part-time work. Sources: Statistics Unit (2004), Report on the Manpower Survey (Private Sector) June 2004, October, and Oxera calculations.

<sup>12</sup> This is based on a standardised working week of 40 hours.

industries of finance, tourism and agriculture, the last two of which have been in decline over recent years. However, while the industry creates employment opportunities for Jersey residents, the majority of these are categorised as 'elementary' and thus, the industry is unlikely to significantly contribute to enhancing the skills base of the resident population.

A further benefit of the fulfilment industry arises due to its demand for third-party services. While, as a pure export industry, this demand is likely to be relatively small compared with its size, it is likely to create demand from other industries such as the building industry (for building new warehouses), legal services (legal advice to set up fulfilment operations) and other service providers.

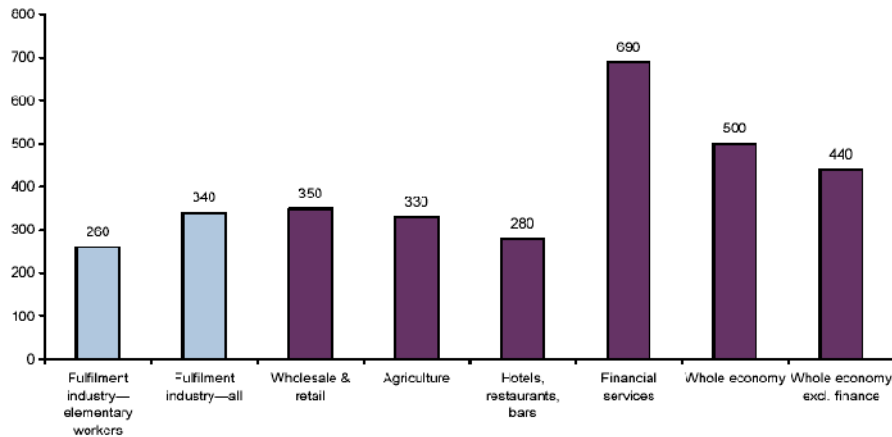
**Future outlook**

Over the next two years, firms in the fulfilment industry predict a considerable increase in employment from the current 517 (FTE) to 735 in 2005 and 1,049 in 2006. The largest share of employment growth was anticipated by 3PSs (95% in 2005 and 73% in 2006). It is likely that most of the employment growth will be in elementary jobs. Section 3 looks at whether this increase in labour demand may have an adverse impact on the competitiveness of the fulfilment industry.

**2.2.2 Earnings**

As indicated above, the majority of the jobs in the industry are relatively low paid, with 85% of all jobs paying on average £6.60 per hour or £264 per week.<sup>13</sup> For the industry as a whole, average earnings were around £340 per week. Figure 2.3 shows a selection of average weekly earnings

**Figure 2.3 Average earnings per week by industry, 2004 (£)**



Source: States of Jersey Statistics Unit (2005), 'Jersey Economic Digest 2004', except figures for the fulfilment industry; States of Jersey Statistics; and Oxera calculations

Average earnings are higher in the fulfilment industry than in the lowest paying industry in the Jersey— 'hotels, bars and restaurants', a significant component of the tourism industry—and the second-lowest paying, 'agriculture'. However, average earnings are lower than in the third-lowest paying industry 'wholesale and retail' of which the fulfilment industry is part. This

<sup>13</sup> The median earnings for elementary workers (the midpoint value in the whole range of earnings) is £271 per week.

is principally due to the large proportion of low-paying elementary jobs in the fulfilment industry.<sup>14</sup>

The economic contribution of the industry to the wider economy can also be judged by the tax revenues generated as a result of its activity. This is considered in the next section.

## 2.3 Contribution to tax revenues

### 2.3.1 Personal income tax revenue

An accurate estimate of the total tax take from personal income is difficult to quantify since this depends on the personal circumstances of the taxpayer, information which is not available. In addition, the earnings data from the survey is highly aggregated. As a result, the tax estimates provided should only be interpreted as the best approximation given the available data, rather than actual figures. Nonetheless, as a starting point, it is justifiable to assume that the fulfilment industry is characterised by a similarly composed workforce as the economy overall. The average personal income tax rate for Jersey as a whole is 10%. Based on the total estimated annual earnings in 2004, this yields a personal tax take of approximately £800,000 directly from the fulfilment industry.<sup>15</sup> However, if the personal circumstances of employees are similar to those in the rest of the economy, this is likely to be an overestimate of the actual revenue, given that average earnings in the industry are substantially lower compared with the economy as a whole (£340 versus £500 per week).<sup>16</sup>

#### Future outlook

Employment in the fulfilment industry is anticipated to grow by around 40% during both 2005 and 2006. Under the assumption that tax revenues increase correspondingly, the tax take is predicted to increase to £1.2m in 2005 and £1.6m in 2006.

### 2.3.2 Corporate income tax

The fulfilment study estimated that, in 2004, corporate income tax revenue from activity in the fulfilment industry was in the order of £4m.<sup>17</sup> An additional significant source of Jersey revenue is Jersey Post, which is used by the fulfilment service providers for all deliveries and which is a fulfilment provider itself.

#### Future outlook

Assuming that revenues and costs grow by the same proportions of around 25%, corporate income tax revenues will increase to £5m and £6.25m in 2005 and 2006 respectively. However, these constitute strong assumptions given the considerable uncertainty attached to the revenue and cost forecasts. In practice, profits often vary considerably on a year-to-year basis due to various factors, often unrelated to revenue.

The transition to 0/10 corporation tax regime in 2008 is could have an impact on tax revenues. Under the rules of the LVCR, although the fulfilment companies must have a permanent place of establishment in Jersey the ownership of the companies is

<sup>14</sup> The fulfilment industry figures are a subset of the wholesale and retail industry. Other industries are also likely to display a variation in earnings at a more disaggregated industry level. However, the comparisons show that a significant proportion of jobs are low paying compared with the rest of the economy.

<sup>15</sup> Oxera calculations and Statistics Unit fulfilment survey.

<sup>16</sup> As indicated, the exact amount of personal tax paid depends on the personal circumstances of the employees. For example, if the incomes of all employees were second incomes in the household, the average tax rate on these incomes may be higher than 10%. If, on however, these incomes are the primary incomes for households, the average tax rate may be considerably less than 10%—indeed, it could be as low as 0% as the tax-free income exemptions and allowances for a couple are likely to exceed earnings for an elementary worker.

<sup>17</sup> The study cautions that some uncertainty should be attached to this figure due to the difficulties in its calculation.



unconstrained. As a result there is a potential loss of the current corporate tax income where the fulfilment companies (both WCCs and 3SPs) are owned by non Jersey residents. (Where owners are Jersey residents although the company will be liable for paying 0% profits tax, the company shareholders will pay 20% personal income tax on their share of the profits.)

### 2.3.3 Assessment of overall tax revenue

The economic activity in the fulfilment industry generates a relatively large amount of tax revenue for the States of Jersey. This is predicted to increase substantially over the next two years due to the growth in the industry. In 2004, the total tax revenue was estimated to be up to £4.8m. Under the assumptions made above, this may increase to £6.2m in 2005 and to £7.9m in 2006. In addition, some revenue is generated from the fulfilment-related activities by Jersey Post.<sup>18</sup>

Some companies surveyed were concerned about the introduction of fiscal change (ie, 0/10) and the introduction of a GST on exports. Under the current plans of the States of Jersey, the likely introduction of a GST in 2008 would have no effect on tax revenue from the fulfilment industry because exports would be exempt from GST.

To the extent that CDs or DVDs supplied by Jersey fulfilment providers are cheaper than in retail outlets, residents may choose to purchase these from the former. This would provide a source of GST, which is likely to be counteracted by a corresponding fall in GST revenue due to lower retail sales elsewhere.

## 2.4 Transport links

An additional area on which the fulfilment industry may have a positive impact relates to transport links. By generating substantial amounts of transport demand, the frequency of ferry or plane connections may increase, which may benefit other sectors such as tourism that rely on frequently serviced transport links.

Companies that deliver to both the UK and EU stated that transport links were considerably better between Jersey and the UK than those between Jersey and the rest of the EU markets. This is a consequence of the UK being Jersey's single largest trading partner. Although the volume of mail created by the fulfilment industry is likely to be substantial, the resulting transport demand (for ferry capacity or air transport) is likely to be small compared with total transport demand. Hence the industry would have to grow considerably before having a significant impact on the frequency or timing of transport links.

<sup>18</sup> Nonetheless, substantial uncertainties are attached to these figures. In particular, personal income tax revenues are likely to be overestimates of the actual revenue, whereas the actual corporate income tax take may be over- or underestimated.

## 3 Potential sources of cost increases in the industry

So far it has been shown that the fulfilment industry is becoming a more significant contributor to the wider Jersey economy. As already highlighted in section 1, however, the location of the fulfilment industry in Jersey depends crucially on its competitiveness, which in turn principally depends on a tax arbitrage opportunity arising from the LVCR ruling. Thus, any developments that would reduce the possible gains from the arbitrage would diminish the business case for locating fulfilment operations in Jersey. In practice, this means that any development that would put an upward pressure on business costs would be likely to decrease the competitiveness of the industry and thus its ability to contribute to the wider economy. The most important developments that this report identifies as a potential source of cost or price pressure are:

- wage inflation arising due to general inflation or resulting from an excess demand for labour;
- the scarcity of land resources;
- the possibility of an increase in delivery charges imposed on Jersey Post by other postal operators;
- competition from other jurisdictions;
- the abolishing or reduction of the LVCR.

In addition, any general rise in transport costs relative to other activities in the economy (for example, if the price of fuel were to increase significantly) would be likely to have a negative impact on the economics of the LVCR because, in general, use of the LVCR will involve longer distribution journeys.

### 3.1 Wage inflation

Wage inflation has two effects on cost and thus companies' competitiveness:

- it reduces the *absolute* cost advantage, thereby reducing profitability;
- it reduces the *relative* cost advantage compared with competing jurisdictions if wage inflation is faster in Jersey than elsewhere.

This section considers the sources of wage inflation, and explores their effect on absolute and relative wage inflation.

#### 3.1.1 General wage inflation

The maximum saving that a company in the fulfilment industry can make from providing fulfilment services is effectively fixed by the threshold of the LVCR.<sup>19</sup> Given that a significant proportion of its input costs are composed of employment costs, if wages increase at a fast rate compared with wages in the jurisdictions that would result in paying VAT (eg, locating the fulfilment activity in the UK), these savings are gradually eroded. Hence, the profitability of the fulfilment operation taking advantage of the LVCR falls and the ability of the company to set prices lower than elsewhere is reduced.

<sup>19</sup> WCCs also have additional revenues from retail operations. However, in absence of the LVCR, their operation in Jersey are unlikely to be profitable since their retail margins are likely to crucially depend on the LVCR.

In addition, if wages in Jersey increase faster than those in other jurisdictions that can take advantage of the LVCR, the economic rationale for locating in *Jersey* is reduced—higher profits can be made by locating in an alternate jurisdiction.

High wage inflation may not only occur as a result of generally high levels of inflation but also due to market forces specific to the fulfilment industry. This issue is examined below.

### 3.1.2 Wage inflation as a result of excess labour demand

As outlined in section 2.2.1, employment in the fulfilment industry is expected to increase considerably over the next two years, and, based on current employment patterns, most of the new employees will likely be recruited for elementary jobs. Given that labour supply in Jersey is finite,<sup>20</sup> there are circumstances where the increase in employment would be beneficial and those that may lead to excess labour demand and wage inflation.

If the current and additional labour demand created by growth in the industry is met mainly by workers not employed elsewhere, the outcome would be beneficial. This may arise by employing workers that become available as a result of the decline in other industries. Alternatively, the availability of flexible or part-time work may incite certain workers who would not have participated in the labour market otherwise to join the workforce and to seek employment in the fulfilment industry. It may give short- or medium-term employment to workers experiencing a temporary spell of unemployment and provide students with relatively short-term work opportunities. Given the large proportion of elementary jobs in the industry, it may also offer opportunities for less skilled workers who would not find jobs elsewhere for a wage at which they would be willing to work. Hence, if employment in the industry helps in reducing the excess supply of workers, inflationary wage pressures would not develop.

However, if the fulfilment industry is competing with other industries to recruit workers, fulfilment companies have to pay wages at least as high as other industries, to recruit and retain workers. Thus, as the labour market tightens, the ability to attract workers at a given wage falls, as higher paid alternatives to working in the fulfilment industry become available. This market process may lead to inflationary wage pressures, and Jersey may become less competitive and less attractive as a location for the fulfilment industry.

The crucial issue is whether the fulfilment industry and its expansion competes for resources from other sectors or uses idle resources. If the industry is in competition with other industries for labour resources, the outcome is that, depending on the degree of competition, inflationary wage pressures may arise. Given that a large proportion of employment is concentrated in the market segment of less skilled workers, this is where most wage pressure would develop.

The results from the fulfilment survey show that high staff turnover, staff availability and employment cost are of some concern to the industry. While it cannot be established whether the activity of the industry is indeed creating excess demand, this indicates that fulfilment companies are competing at least to some extent with other industries for the available labour resources.

Moreover, if the industry succeeds in attracting labour resources that would otherwise have been employed in other industries, it would need to be established whether the alternative activity that the fulfilment industry is displacing is more or less valuable than that of the fulfilment industry. Given the finite labour resources available in Jersey, the market thus faces a trade-off. If the activity of the fulfilment industry reduces the resources available to

<sup>20</sup> As highlighted above, virtually all employees in the industry are residents. Moreover, given the reliance on relatively low-pay levels of the industry around the year rather than by season, importing labour may not be possible and, as outlined in the Strategic Plan, not desirable.

other industries or replaces other activities, and its activity is overall less valuable (eg, measured by total tax revenue), the economy would suffer a net loss in terms of output and tax revenue.

### 3.2 Availability of commercial land

Due to the nature of the activity, the industry requires land on which to build large warehouses. In 2004, the declared floor space of the warehouses was 37,200m<sup>2</sup>, and is expected to increase to 45,000m<sup>2</sup> and 51,000m<sup>2</sup> in 2005 and 2006 respectively.<sup>21</sup> While this represents a considerable expansion, it is unlikely to lead to a shortage of commercial building land and potentially inflationary pressures. This is due to a gradual decline in agricultural activity and the resulting freeing up of agricultural land for building purposes.

However, while it is likely that sufficient land is available for the growth of the industry, the expansion may only be possible if the Jersey Planning Department ensures that sufficient land is reclassified as building land for commercial purposes (or allows the redevelopment of existing buildings). If the planning processes fail to ensure that demand matches supply, the growth of the industry may be restricted, and, depending on the overall demand for commercial building land, inflationary pressures may arise.

### 3.3 International postal arrangements

All (or virtually all) of the fulfilments are handled at least once by Jersey Post at the stage when the fulfilment is 'exported' to its destination. Thus, all fulfilment providers have to incur the price that Jersey Post charges for postal deliveries. As such, any development that would increase the postal charge would be likely to increase the cost to fulfilment providers, thereby reducing their profits and, potentially, the competitiveness of the industry.

One source of risk arises if other EU postal operators, in particular UK Royal Mail, which handles the largest volume of Jersey deliveries, were to increase their 'terminal dues'. These are charges payable by foreign postal operators to national postal operators for delivering mail to the final customer. In the case of UK Royal Mail, this is a fixed proportion of the domestic equivalent of the delivery price. If this charge increases, Jersey Post would likely to be forced to increase its postal charges to fulfilment operators (and charges for mail to the UK in general), thereby reducing their profitability. However, this would only affect Jersey's absolute competitive position (ie, with respect to retailers based in the UK) rather than its competitive position relative to other fulfilment jurisdictions. This is due to international postal agreements that rule out the discrimination of terminal dues by origin so that all countries would face the same price increase.

Another issue is of potentially greater concern and may lead to a reduction in competitiveness compared with other jurisdictions: anecdotal evidence suggests that due to relatively stricter regulation and price controls, Jersey Post charges less for postal deliveries of up to 10% or 20% for certain items compared with Guernsey Post.<sup>22</sup> However, to verify this, further investigation would be required.

### 3.4 Competition from other jurisdictions and abolition of the LVCR

As highlighted in section 2.1, growing competition from other jurisdictions may lead to pressure for Jersey fulfilment companies to reduce their prices as new companies enter the

<sup>21</sup> Some uncertainties are attached to these figures.

<sup>22</sup> *Fulfilment and e.logistics* (2005), 'You Can Save If You Do it in Jersey (But Don't Tell Anyone)', January.

worldwide market for fulfilment services.<sup>23</sup> This is likely to be a particular concern once the market becomes more crowded and reaches its maximum volume. In principle, any country with a suitable tax regime can establish a fulfilment industry, including Guernsey, the Isle of Man or more distant locations such as Hong Kong.<sup>24</sup>

The matter of most importance cited by the industry was the potential for the LVCR to cause a decrease in the threshold or be abolished altogether. A number of companies stated that the association of some 3PSs with high-profile UK-based companies raised the profile of the industry. The increased attention by the media and EU governments, and the future growth of the worldwide fulfilment industry, may thus increase the risk of a withdrawal of the scheme.

However, despite the losses to the UK government in terms of forgone VAT receipts, it has been argued that, currently, the cost of enforcing payments would be greater than the resulting revenue.<sup>25</sup> If the costs of enforcement relate directly to the number of postal items processed, the risk of withdrawal is likely to be low. If, however, enforcement costs grow at a slower rate than the number of items processed as the total volume shipped by the fulfilment industry increases, the risk of withdrawal may increase.

<sup>23</sup> The growth of the fulfilment industry elsewhere was raised as a concern by respondents to the fulfilment industry survey.

<sup>24</sup> *Fulfilment and e.logistics* (2005), op. cit.

<sup>25</sup> *Fulfilment and e.logistics* (2005), op. cit.



## 4 Role for government?

The analysis above sets out the position of the fulfilment industry in the economy of Jersey. A question inevitably arises as to whether the government of Jersey should intervene in some way to protect, encourage or, possibly, hinder, the industry. In what follows, a series of questions around what government intervention might achieve is explored.

### 4.1 Diversity of employment

The fulfilment industry provides some additional diversity of employment opportunity, although much of this employment is at the unskilled and low-paid end of the employment spectrum. A crucial determinant of the overall economic impact of the industry is whether this employment opportunity is in addition to, or a substitute for, existing employment. If this additional diversity can utilise labour that would otherwise be unemployed or non-employed, there will be an unambiguous benefit to the Island.

However, if the employment in this industry is largely displacing employment that would otherwise take place in other industries, the overall benefit to the Island may be more limited, and chiefly depends on the other benefits that flow from employment in fulfilment compared with the industries that are displaced.

In the absence of significant externalities, the market mechanism would be expected to distribute jobs to the most economically efficient industries and therefore take account of the benefits of diversity of employment. In other words, the fulfilment industry would be expected to continue to expand so long as no other sector of the economy was willing to remunerate those currently employed by the fulfilment industry with higher wages. The conditions under which government might intervene to give the fulfilment industry a particular advantage in securing the labour it required would be when the fulfilment industry itself had a significant positive externality compared with the industries from which it could expect to acquire labour.

The conditions under which the government might intervene to *discourage* the fulfilment industry is where the labour used may instead be acquired from an industry which produces significantly *more* positive externalities than those produced by the fulfilment industry.

Hence, the questions that need to be answered are:

- does employment in the fulfilment industry use spare labour resources?
- if not, does the fulfilment industry provide greater external benefits than the industry from which it would acquire the labour?

### 4.2 Land use

In addition to labour resources, the fulfilment industry requires some land for warehousing. This market is likely to offer an important role for government, because of the existing control on land use. The analysis is similar to the above and the critical question relates to what *alternative* use would be made of the land that would otherwise be required by the fulfilment industry.

Where the land has no other alternative economic use, or the economic use is of a lower value, the market may be expected to allocate land efficiently. Where there are negative (or positive) externalities, the planning system could take these into account. Again, it is the *relative* externalities that could be evaluated between the use in the fulfilment industry and the current or likely alternative use.

In evaluating the externalities and deciding about the allocation of land, the planning system could take account of the benefits (both internal and external) arising from the use of the land (eg, creation of employment), particularly if the planning system is very prescriptive (ie, it assigns very specific allowed use of land or buildings). This is because, under these circumstances, market mechanisms may not be able to allocate land use to the most beneficial use even if there are no externalities.

### 4.3 Inflation

As set out above, the fulfilment industry that is taking advantage of the LVCR is both internationally competitive and requires that any additional costs of locating outside the consumer market is lower than the tax advantage. Hence wage/employment costs and land costs are an important factor in the location decisions and the overall economics of the industry. Relative inflation between Jersey and the UK, and between Jersey and competing jurisdictions is, therefore, likely to have a negative impact on the industry. Controlling this inflation is likely to be important to the continued success of the industry in Jersey.

Although the influence of the industry itself on inflation is likely to be low, there are some direct government interventions that could have a more direct impact on the industry. In particular, any artificial restriction on warehousing space is likely to have the effect of raising the price of this space and reducing the scope for expansion. This is unlikely to feed through into general inflation, but could nevertheless affect the fulfilment industry.

The other main element of any inflation is likely to be wage costs for the fulfilment industry. Again, the direct impact of the industry is unlikely to be significant at its present size. However, there could be a specific effect if the government intervened to protect any sector of the economy from where labour was being taken. If, as a result of market forces, labour is attracted to the fulfilment industry (and in the absence of externalities—see above); this represents a more efficient use of the current labour force. Intervention to stem that flow is likely to raise the cost of that labour (by increasing the demand).

### 4.4 International relations

As indicated, the economics of the current industry rely on the LVCR, an agreement that is outside the direct control of Jersey. Hence the industry relies on the tacit agreement of other jurisdictions that could, at least in theory, take unilateral action that would undermine the viability of the industry on Jersey.

From the perspective of the jurisdiction where the consumers reside, the LVCR represents a net loss of tax (ie, VAT) revenue, with little or no offsetting benefits. Given this fundamental feature of the industry, there is potential that these governments may seek to intervene to stem or mitigate these losses. However, the form of this intervention is likely to be unpredictable.

Any Jersey government intervention should ideally take into account the knock-on effect (if any) on the actions of governments in the consumer jurisdictions. This could be both positive and negative, in so far as action that could be seen to be limiting the impact on the tax loss in consumer jurisdictions might possibly reduce the probability of unilateral action that would undermine the viability of LVCR fulfilment. However, Jersey is not alone in this and the action of other LVCR jurisdictions may have an impact on Jersey (and vice versa).

## 5 Summary and conclusion

The findings in this report highlight the importance of the fulfilment industry in terms of its contribution to economic output, the labour market and tax revenues. The industry is contributing substantially to overall economic output and the strong anticipated growth in the industry means that its share of total GVA is likely to increase during this year and next. Currently, a significant proportion of GVA is generated by a single WCC company, which also produces the highest GVA/FTE. This is likely to be partly attributable to economies of scale and the wider use of automation technology, which reduces the reliance on labour input and allows processing of a larger number of orders by a given workforce, compared with smaller companies. However, there may also be first-mover advantages.

Although other companies in Jersey are likely to be able to grow in size and, through investment, increase their use of automation technology—thereby leading to a higher GVA/FTE—the existence of potentially high profits in the provision of fulfilment services making use of the LVCR makes it possible that these profits may be competed away by new entrants in Jersey, or new entrants in other jurisdictions that can equally well make use of the LVCR. Depending on the total size of the fulfilment market and the competitive dynamics within the target retail markets (eg, the UK), this may lead to an increase in competition both between and within jurisdictions with LVCR fulfilment industries.

The fulfilment industry employs over 500 FTE employees with a large proportion of elementary jobs that are relatively low paid and require relatively little skill. As a consequence, while the industry is likely to be important for providing employment to certain groups of the labour market of Jersey residents, it is unlikely to significantly contribute to enhancing the skills base of the Jersey population.

The fulfilment industry's contribution to the economy in terms of the tax generated is estimated to be up to £4.8m in 2004. Due to the strong growth anticipated in the industry, this is expected to increase over the next two years. However, due to the large proportion of low-paid workers, personal income tax payments per FTE is likely to be substantially lower than in other, higher-paying industries.

In addition, the report has considered a number of factors that may lead to an erosion of the absolute or relative cost advantage of the Jersey fulfilment industry. If the fulfilment industry mostly makes use of the spare capacity in the Jersey labour market and provides additional job opportunities, its activity is likely to have no impact on wage inflation. However, if the fulfilment industry competes with other industries for labour inputs, inflationary pressures may develop. This may lead to an increase in employment costs, thereby reducing the competitiveness of the industry and potentially the likelihood of the industry staying in Jersey. In addition, if the activity of the industry displaces other, potentially more valuable activities, the Jersey economy would suffer a net loss in terms of output and tax revenue.

The demand for commercial land to build warehouses is anticipated to grow significantly over the next two years. Given the availability of land due to the decline of the industry, the expansion of the industry and the pressure on land prices is likely to depend on whether the Planning Department will reclassify sufficient land as commercial building land to meet the increase in demand.

An increase in terminal dues that UK Royal Mail charges for delivering mail by Jersey Post would be likely to lead to a fall in savings accruing to fulfilment service providers in Jersey and in competing jurisdictions.



The most significant concern of the fulfilment industry is that the LVCR threshold may be reduced or removed altogether. While it has been suggested that, at current volumes, the enforcement costs would outweigh potential revenues, this may change if volumes were to increase. At what total volume of the market is uncertain; however, it is likely to be related to whether enforcement costs increase slower or in line with volume.

## POLICY FOR THE FULFILMENT INDUSTRY

### **Introduction**

1. Previous research on the nature of the fulfilment industry in the Island has thrown some light on the activity at a time when it is attracting some negative publicity which is in danger of undermining the Island's good international reputation and integrity. The negative publicity is focusing on existing UK companies that are switching the distribution of their DVDs/CDs through the Channel Islands to take advantage of the Low Value Consignment Relief (LVCR – the EU approved mechanism for VAT exemption).
2. This paper sets out a revised policy that can maximise the benefit of the fulfilment industry while at the same time not damage the Island's international reputation or integrity.

### **The Economic Benefits**

3. There are basically two types of activity within the fulfilment sector, although a number of companies operate as a hybrid of the two activities. Whole Chain Companies (WCC) physically buy in and own the stock and sell the goods to the final customers. Third Party Service Providers (3PS) on the other hand provide logistics or distribution services to other retailers. WCC receive revenues based on the total value of sales whilst 3PS only receive revenues based on the service they provide, with the sales revenue going to the retail company.
4. The Economic Growth Plan (EGP) has two key objectives: to generate £20m additional tax revenue and to create high value jobs for local people. On purely economic growth grounds the dichotomy within the industry means that the appropriateness of the two types of activity for the Island is significantly different. The high value added per employee and significant tax contribution of WCC activity means that it is fully complementary to the EGP and therefore should be supported by the States wherever possible.
5. 3PS activity contributes less significantly to either of the two key economic growth objectives and the States should therefore be much more cautious about this type of activity. Significant growth in employment in this sector poses two questions (assuming that licences will not be granted for significant non-local labour):
  - Where will this labour be drawn from – the unemployed/new labour market entrants or other industries/firms?
  - Could the labour be put to more productive uses?
6. The answer to the first question is that while some of the existing employees might have come from the unemployed or new labour market entrants there are greater concerns that further jobs growth will start to bid up wages in this area and therefore undermine activity of all firms in the sector and possibly other sectors such as tourism.
7. The very low value added per employee of 3PS activity also suggests that the labour could be put to better use in other areas such as tourism and retail.
8. On pure EGP grounds the conclusion should be to support WCC activity but not to allow further growth in 3PS activity, where it requires significantly more labour.

### **Jersey's Integrity in Financial and Commercial Matters**

9. The impact of the fulfilment industry does not however, stop here. EGP issues also have to be balanced with those surrounding the Island's international reputation.
10. The selling structure which is adopted by the retailer is little better than a sham. The vendor, or the vendor's parent company, and the purchaser are both located in the United Kingdom. The goods, or some of them,

come from the United Kingdom, and are shipped to Jersey for a “sale” before being shipped back to the United Kingdom for delivery to the customer. Jersey’s integrity in financial and commercial matters cannot but be damaged by the use of the Island as part of such a selling structure.

## **The policy**

11. The appropriate policy (for further details see notes below) that meets both the Economic Growth Plan and protects the Island’s international reputation and integrity is:
  - (i) Existing WCC should be supported, particularly those that are or have been majority beneficially owned by Jersey principals.
  - (ii) New WCC which are beneficially owned by Jersey principals will be supported.
  - (iii) With the exception of those companies trading in DVD/CDs into the UK market, high value hybrid companies should be supported, where they do not involve UK companies diverting current business through the Island.
  - (iv) There are some UK companies already operating in the DVD/CD market through 3PS. These companies should have applied for licences, and any which have not will be required to do so. Assuming that there is no ground for refusing a licence additional to those set out in this policy statement, such companies will be granted time limited licences to allow them gradually reduce and eventually to discontinue their activities.
  - (v) 3PS activities will be allowed to grow where they do not require significant additional labour and are consistent with the Economic Growth Plan.

## *Notes*

12. WCC are as previously defined – companies that physically buy and sell goods to final customers and receive revenues based on the total value of sales and are generally owned by locally qualified principals.
13. 3PS are as previously defined – they provide logistics or distribution services to other retailers and only receive revenues based on the service they provide, with the sales revenue going to the retail company.
14. Hybrids are fulfilment related companies that do not fit easily into either category but have a permanent establishment with some or all of their core activities in the Island such as a head office, finance, purchasing, marketing or customer service. Hybrids employ locally qualified people in high value jobs, make a significant local tax contribution and stock is owned and possibly held by the local business. Their pick and pack operations are likely to be carried out by a 3PS but could be done by the company itself. There could also be companies that operate as both WCC and 3PS.

## **Implementation**

15. For the policy to work:
  - The Chief Minister’s department will undertake any international relations work.
  - The Economic Development Minister will apply RUDL in the required manner\*.
  - Time limited consents will be issued for a maximum of 12 months from the date of this policy.
  - The Economic Development Minister will seek to ensure that Jersey Post will comply with this policy.

\*When considering any application, the Economic Development Minister is required under the Regulation of Undertakings and Development (Jersey) Law 1973 (“RUDL”) to have regard to the need to regulate and manage demand on the resources of the Island and to protect its integrity in commercial and financial matters. Furthermore, the Minister has particular regard for the Population & Immigration Policy recommendations adopted by the States in November 1997 and the States Strategic Plan 2005.

The Minister will make decisions in line with domestic legislation and policy. However, the Minister will monitor the fulfilment industry and seek to ensure that a level playing field is maintained with other jurisdictions.

February 2006

STATEMENT BY THE MINISTER FOR ECONOMIC DEVELOPMENT ON POLICY FOR THE  
FULFILMENT INDUSTRY

1. In the last week there has been a flurry of comments made on the fulfilment industry in Jersey, with varying degrees of accuracy. I want to inform members of the situation from Economic Development's perspective and make sure Members have accurate and correct information at their disposal.
2. At the outset, it is worth summarising exactly what current policy on the fulfilment industry is, recognising that it that has arisen out of decisions taken by me as Economic Development Minister and the previous Economic Development Committee.
3. In a nutshell, the current policy is to allow online retailing as whole to expand in the Island while at the same only granting time limited licences to UK companies that simply use Jersey as a post box and divert their business in CDs/DVDs through the Island. By February 2007 these firms will no longer be granted a licence to operate through Jersey.
4. It is worth explaining as to why policy focuses on curtailing the particular activity where UK retailers simply divert their business through the Island. There are basically three reasons:
  - (i) This type of activity is damaging the Island's reputation.
  - (ii) Such activity is increasing the probability that the UK will act to change LVCR to the extent that all our fulfilment businesses will be undermined.
  - (iii) The economic contribution of such activity is very low in terms of value added per person.
5. It is worth explaining these three reasons in a little more detail, as I believe it is important for members to appreciate why I believe the current fulfilment policy is the right and only response in the Island's best interests.
6. On the first point, where UK businesses are simply allowed to use the Island as a means of exploiting LVCR and avoiding VAT in the UK it does not portray the Island in the best light. We must endeavour to continue to ensure that the Island is seen internationally to conduct itself in a manner that has the highest integrity. Not to do so undermines the future prospects of all businesses and particularly those operating internationally in the Island.
7. On the second point, the greater the volume of CDs/DVDs that are shipped from Jersey to the UK the more likely it is that the UK will have to act to stem the loss of VAT. Where the increase in such volumes is due to UK companies diverting their current business through the Island the need for the UK government to act will only increase. Let me make it quite clear – if the UK does act then this will dramatically alter the fortunes of nearly all our on-line retailing and fulfilment businesses in the island.
8. Finally, the economic contribution of what are now called 3PS (companies that provide logistics or distribution services to other retailers) is very low – at £24,000 per FTE and equates to that of agriculture. WCCs (companies that physically buy and sell goods to final customers) on the other hand have a very high GVA/FTE of just over £100,000 – the highest in the Island outside the finance industry. Irrespective of any international concerns the low economic contribution of 3PS in itself would influence the way in which I apply RUDL to such businesses.
9. As Members can now plainly see there is clear justification for implementing the current policy and that doing so is in the Island's best interests both in terms of managing our economic resources and in maintaining our high international reputation.
10. I also want to address a number of the inaccuracies that have been put forward as a way to justify criticisms of the policy.
11. Firstly, there has been scaremongering suggesting that the current policy is costing jobs in the industry. The Scrutiny Panel Chairman has highlighted concern of one particular 3PS which has been affected by the policy

implementation. With respect to the Chairman that is only example and it would be wrong for members to gain the impression that this is representative of the whole sector.

12. Sir, I would like to give members some facts.
13. Since the introduction of the policy in February 2006, WCCs and 3PSs have continued to apply for staff. New applications for online retail undertakings have also continued to be made.
14. Excluding the time limited licences granted to Jersey registered companies with UK principals operating in the CD/DVD market and whose licenses expire in February 2007, a number of successful Regulation of Undertaking decisions have been made.
  - (i) There have been a number of new businesses, all with locally qualified principals, who have been granted licences with for the engagement of more staff.
  - (ii) A number of other WCCs and 3PSs have been granted additional locally qualified staff.
15. I believe that the current policy, for the reasons already outlined provides greater security for the 650 people that are currently employed in the industry as a whole.
16. Secondly, it has been asserted that the policy is based on incomplete data. The fact of the matter is that it is based on a thorough, objective and independent survey of the fulfilment industry conducted by the States of Jersey Statistics Unit. There can be little doubt that the policy has been based on sound evidence, with the appropriate attention to detail.
17. Thirdly, there has been a suggestion that the February 2006 policy has been an over reaction compared with the previous policy. There is in reality only a minor difference between the two. The original EDC policy froze UK volumes and the associated 3PS business at very low levels.
18. The February 2006 Policy which I announced tightened this approach by only granting time limited licences to UK companies that just use Jersey as a post box and divert their business in CDs/DVDs through the Island. It required companies which did not have a license to get one. It also re-stated a policy which I believe had not been strictly adhered to by the previous Economic Development Committee.
19. I felt strongly that this tightening was necessary if the policy was to meet the objectives I have already outlined. The previous EDC policy was designed in such a manner that UK businesses would be unable to expand business through Jersey from what were very low volumes and that this would mean they would stop diverting business through Jersey. This would clearly have impacted on a number of 3PSs even without the tightening of the policy.
20. Accusations have also been made that the policy is an overreaction to UK pressure and at the same time that it makes the Island appear to be weak internationally. Members will have seen the Hansard coverage of the recent Early Day Motion debate in the UK Parliament on the issue, which I circulated to members last week.
21. It is clear from the statements made by the UK Paymaster General that neither of these accusations made by Scrutiny and others can be correct. It is apparent the threat of action by the UK to change LVCR to the detriment of the Island is both clear and present and that if Jersey had failed to act in the manner it has with the current fulfilment policy that this threat would have been much greater.
22. Secondly, the policy does not make Jersey appear 'weak' internationally. The Paymaster General has made it clear that she would have liked sterner action by Jersey.
23. The current policy gets the balance right between acting to address international concerns but at the same time maintaining a policy that is supportive of genuine Jersey on-line retailing businesses that do not assist UK companies to avoid UK VAT. There is a minimal economic cost to the policy and at the same time it reduces the probability that the rug will be pulled from underneath the whole of our online retailing industry.

24. Finally, I would point out that despite a number of issues raised by the Economic Affairs Scrutiny Panel, some of which seem to be based on a complete misunderstanding of the situation, the Panel was unable to recommend any change to the current fulfilment policy or in fact a better way for policy to be implemented. I take this as further evidence that the current policy is both appropriate and clearly in the Island's best interests.
25. I can assure members that I continue to keep the matter of online retailing under review. The Chief Minister and I will continue to engage with Her Majesty's government in the United Kingdom to explain the actions we have taken locally and keep informed of their position.

## **Population Office, Regulation of Undertakings Decision-making and appeals process**

Subject to the provision of the Regulation of Undertakings and Development Law, unless granted a licence so to do, no person shall –

- (a) commence a new undertaking;
- (b) increase the number of persons engaged in an undertaking.

If an application is refused or a condition of a licence not accepted, the applicant has the following courses of action:

- If they consider a decision is unreasonable, they should set out in writing why they consider this to be the case with reference to the Regulation of Undertakings policy, and the Minister will normally be prepared to reconsider a decision.
- If they are able to provide additional relevant evidence to support the application, the Minister will normally be prepared to reconsider a decision, based on such additional information.

The applicant may also request a meeting with the Minister to discuss the application in person. In reconsidering, the Minister will normally seek the views of:

- Economic Development, Assistant Minister, and/or
- Chief Ministers' Department, Assistant Minister, and/or
- The Housing Minister.

The Minister will either maintain or amend his decision. The Minister will not reconsider a decision more than once.

Should an applicant wish to undertake either of the above courses of action, they should write, within 2 months of the date of the decision notice, to the Population Office, Regulation of Undertakings.

Should the applicant continue to be unsatisfied with the decision of the Minister once the above process is complete, the following courses of action remain open:

### **1. Hearing by a Board of Administrative Appeal**

An application can be made to the Greffier of the States for the matter to be reviewed by a Board of Administrative Appeal. This procedure can apply to a decision made by any Minister or Department of the States. It is provided by the Administrative Decisions (Review) (Jersey) Law 1982.

If the Greffier of the States, after consultation with the chairman of the Administrative Appeals Panel, considers the circumstances of the case justify a review by a Board then a hearing will be arranged. This will hear evidence from both the complainant and the Minister. These proceedings are usually relatively informal and although a complainant may wish to present his or her case with the help of an agent or adviser, this is not strictly necessary. After the hearing, the Board will report its findings. If it considers the Minister's decision to be unreasonable, the Board can request that the Minister reconsiders the decision. It should be noted that the findings of a Board are not binding on the Minister, although the Minister will be required to justify their decision if they decide not to follow the Board's recommendations.

### **2. Statutory Appeal**



Paragraph (7) of Article 6 of the Regulation of Undertakings and Development (Jersey) Law 1973 provides, so far as it is relevant, that any person aggrieved by the decision of the Minister to refuse the grant of a licence or by any condition attached to the licence, may appeal to the Royal Court. Such an appeal must be made within two months of the date of the notification of the Minister's decision in the matter, on the grounds that the decision of the Minister was unreasonable having regard to all the circumstances of the case.

### **3. Judicial Review**

If an applicant wishes to challenge the Minister's decision, they are entitled to apply for leave to bring judicial review proceedings. Whether an application would satisfy the judicial review criteria is one on which the applicant should obtain their own independent legal advice. There is no set time for the bringing of an application for leave to apply for judicial review, but an application must set out the grounds for any delay, and delay may be a ground for refusing leave to apply.

### **4. Subsequent Appeal**

A decision of the Royal Court is binding on the parties, subject to the bringing by them of any appeal, *doléance*, or other challenge. The determination by the Royal Court of a statutory appeal, or of an application for judicial review, are both subject to appeal to the Court of Appeal. Appeals against decisions of the Royal Court taken in administrative appeals are regulated by the Court of Appeal (Civil) Rules 1964. Appeals against decisions of the Royal Court taken in applications for judicial review are regulated by the Court of Appeal (Civil) (Judicial Review) Rules 2000.

Decisions of the Court of Appeal are subject to appeal to the Privy Council. Copies of all the enactments referred to are available on the Jersey Legal Information Board website [www.jerseylegalinfo.je](http://www.jerseylegalinfo.je) or from the States Bookshop, the contact details for which are as follows:

Address: Morier House,  
Halkett Place,  
St. Helier,  
JE1 1DD.  
Telephone: 00 44 (0) 1534 441020  
Fax number: 00 44 (0) 1534 441098  
E-mail: [statesgreffe@gov.je](mailto:statesgreffe@gov.je)

The opening hours are 09.00 to 16.30 Monday to Thursday and 09.00 to 16.00 on Fridays.