

STATES OF JERSEY



PRICE CONTROL: INVESTIGATION (P.165/2011) – COMMENTS

Presented to the States on 31st October 2011
by the Minister for Economic Development

STATES GREFFE

COMMENTS

If accepted, this proposition would require me to investigate the possibility of controlling prices of goods in Jersey by regulation, and to report on this to the States by September 2012.

The Jersey Competition Regulatory Authority (JCRA) is the body most experienced in regulation and price control and therefore I have asked that it comment on the proposition.

The JCRA have responded as follows –

“The JCRA’s position on this proposition is clear. It is neither practical nor beneficial to attempt to regulate the entire Jersey market in this way. It would also be unprecedented in any developed economy that we are aware of. We also are not convinced, even if it was practical – which we do not think it is – that the outcome would be in the long term best interest of consumers. We would, in the strongest terms, advise the Minister that this proposal should not be considered for the reasons set out below.

- 1. Price regulation is normally undertaken where a firm has a dominant position in a market and possibly has incentives to abuse that dominance. In such circumstances the customers of the dominant provider have little or no alternative to but to take the service offered at the price and quality determined by the provider. It is for this reason that price controls are commonly used in regulating certain utility prices (such as some telecoms or postal prices in Jersey or like water and electricity charges in other jurisdictions). It is recognised that even if alternative service providers are available for these services there may be a cost involved in switching that makes it unlikely for the customer to do so. Therefore regulation offers a degree of protection for consumers that the market is not providing.*

Clearly in Jersey for the vast majority of services, there is no dominant provider and even where a local firm may occupy a position of some strength, consumers can generally source services or products from alternative markets. Therefore it is not immediately clear how price regulation would put the consumer in any better position than is currently the case.

- 2. Deputy Southern relies on the findings from the recent JCRA Road Fuels Market Study to support his call for regulation. However, that report has a very clear conclusion; that the JCRA does not believe direct price regulation is needed nor is it in consumers’ interest. The road fuel market has a large number of retail outlets selling fuel, with a wide range of prices on offer to consumers. Because of the size of the overall market, the number of participants in the wholesale market is less than one might find elsewhere. However that in itself is not evidence of market failure. The key issue with the road fuel market is the need to improve price transparency so that consumers can make an informed choice.*
- 3. However, even if one was minded to consider price regulation it needs to be borne in mind that to do so for all services in Jersey is a*

monumentally large task. Put simply the staffing resources required to even collect the information (never mind analyse it) would be huge.

To give an example, to put in place price regulation (or a price control as it is normally referred to) for Jersey Telecom requires the JCRA to have the company's business plans assessed and analysed, requires an efficiency review of the company to be undertaken to ensure services are being provided efficiently and to determine what its capital expenditure and cost of capital should be. Each of these steps requires experts in regulating the telecoms sector to form a judgement on what level of revenue the company needs over the period of a price control to deliver its services efficiently. Even with this level of oversight, the JCRA only directly regulates a small proportion of Jersey Telecom's business. The majority of Jersey Telecom's services (such as mobile telephony for example) are not directly price controlled. There is competition in the mobile market and we believe this is more effective longer term at delivering better prices, more innovative services and better quality than direct regulation.

- 4. Price regulation of utility services works because one normally has, in relative terms, fairly defined businesses with long term plans where an assessment can be made of the market and likely trends. These circumstances do not exist in the majority of consumer markets where the markets move at a faster pace and consumers' tastes and trends are more responsive to developments in the market outside Jersey.*
- 5. If the object of the proposition is to ensure consumers get better value and more competitively priced services, then it is the market structure that should be assessed rather than the price levels for any specific service. This is where Competition Law can be used, as was the case with the recent road fuels market study. This is the more proportionate tool to use and the tool that is more likely to deliver benefits for consumers longer term. By removing barriers to competition, by promoting greater transparency in the cost and quality of services and by taking action against those found to breach the competition law, consumers in Jersey will gain the benefits of a more dynamic competitive market.*
- 6. Price regulation on the other hand will come at a cost which the JCRA strongly believes would be disproportionate to the benefits likely to be gained, may stymie innovation and market activity (being increasing the risk of doing business in Jersey) and would position Jersey as an outlier to every major developed economy by imposing such direct control on business activity.*

Conclusion

The JCRA strongly cautions against this proposition. We would also suggest that the cost of even investigating this proposition fully is likely to be high and in our view not a valuable use of what is undoubtedly a scarce resource within the States of Jersey.

I fully endorse the position of the JCRA and urge members to reject this proposition.