

**ANTI-INFLATION STRATEGY (P.125/2000): FOURTH AMENDMENTS**

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**Lodged au Greffe on 29th August 2000  
by Senator S. Syvret**

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**STATES OF JERSEY**

**STATES GREFFE**

180

2000

P.153

Price code: B

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- (1) *In paragraph (a) of the proposition after the word community add -*
- whilst accepting the continuing strategic importance of limiting population growth:
- (2) *delete paragraph (g) of the proposition and replace with the following -*
- to charge the Industries Committee to develop policies for the creation of a more competitive commercial environment in the Island and to this end to bring forward proposals for a competition policy which shall include specific measures to -
- (a) monitor and regulate monopolistic practices;
  - (b) monitor and regulate restrictive trade practices;
  - (c) monitor and regulate restrictive agreements;

(d) monitor and regulate anti-competitive practices;

(e) monitor and regulate mergers;

(f) monitor and regulate cartels;

and to bring forward draft legislation for this purpose by the end of 2001; and

SENATOR S. SYVRET

## REPORT

### Amendment 1

The particular wording of paragraph (a) of the proposition allows far too much ambiguity. I do not believe it can be regarded as satisfactory to simply state that combating inflation is “a very high strategic priority” without any attempt to view alongside this setting of priority other highly important strategic priorities. Of very high strategic importance to the Island is the need to limit population growth.

It has been argued by some that inflation will be effectively combated simply through the device of relaxing measures to restrict population growth and thus allowing more labour into the Island. Such a measure - even if it worked - would be unlikely to have anything other than a momentary, short-term effect. Population growth is itself a cause of inflation with the ever-increasing demand for goods, services and, in particular, accommodation driving prices ever higher. Population inflation is, and will remain for the foreseeable future, a serious problem for the Island. Whilst I agree that we should take all reasonable measures to tackle inflation I do not believe that relaxing the Island’s population policy can be countenanced.

We are at the beginning of a major strategy to combat inflation. It is the duty of the States to decide quite clearly at the outset what the parameters of that strategy should be. We should make it plain now that we continue to regard limiting population growth as being of strategic importance: otherwise it may be claimed in future - given the ambiguity of paragraph (a)- that in agreeing to it we have somehow agreed population restraint should be a lesser priority.

### Amendment 2

A core component in any strategy which seeks to combat inflation must be a robust competition policy. The governments of modern democratic states have long recognised the fact that a legislative framework is needed to protect and promote the anti-inflationary effects of genuine market competition. Such policies have been so widely accepted and for so long that it is nothing less than startling that the Island should be without such a policy and the attendant legislation necessary to protect consumers from exploitation and ensure that society benefits from the effects of genuine market competition.

It will of course be argued that, given the size of the market, a small island like Jersey could not introduce robust competition laws. However, upon examination of the detail and deployment of competition laws by other jurisdictions such arguments can be seen to be quite specious.

#### Monopolies

We tend to think of monopolies as being the sole supplier to a particular market but it is more common to find a situation where a company or group of companies dominate a particular market to such an extent that uncompetitive effects arise. Where a group of companies act together in a way that adversely affects competition, the practice may be defined as a “complex monopoly”.

Where a company or group of companies has market power there exists the potential for the abuse of that power. Poor levels of service and quality, and excessive prices are all effects of an uncompetitive environment which acts to the detriment of consumers.

It may be argued that the size of the Island’s market just could not support, for example, more than one newspaper or more than one bus company. That *might* be the case. There are some situations where, due to the nature of the product or the market, a monopoly situation inevitably arises. This fact is commonly accepted in the legislation of other jurisdictions. It is accepted even in a market the size of the United Kingdom that some monopolistic situations will exist. There is no assumption in the United Kingdom legislation that monopolies are wrong in themselves. Instead it is recognised that where a monopoly situation arises there exists the potential for the exercising of market power in a manner that is contrary to the public good. In such a case the conduct of the monopoly is monitored and if necessary regulated.

#### Restrictive agreements

It is in the nature of commerce that companies will make a wide range of agreements between themselves in the course of conducting their business. However, certain types of agreement can have an uncompetitive and inflationary effect. Examples of such agreements might include an agreement not to poach customers, not to bid for certain types of work, not to supply, or only to supply at an inflated price, a product to another company’s competitors and agreements not to enter particular markets.

The United Kingdom legislation does not take the view that agreements between companies are necessarily wrong. Instead it

recognises that certain types of agreement have the potential to harm genuine competition and cause inflation. Where the public good may be at risk in this way the law seeks to monitor and regulate such practices.

#### Restrictive trade practices

Businesses inevitably make agreements or come to arrangements or understandings with one another. However, it is possible that commitments between businesses can have the inflationary effect of restricting competition and acting against the public interest. Examples of restrictive trade practices might include restrictions on prices or charges, market sharing and restrictive terms and conditions. In the United Kingdom the public interest is protected in this field by the Restrictive Trade Practices Act 1976.

#### Anti-competitive practices

Competition in a given market ought to produce a public benefit through causing businesses to seek competitive advantages. The drive for such advantages leads to improved efficiency, greater price competition, innovation, and improved levels of service and quality.

However, companies may seek to generate market advantage for themselves in a way that owes little to genuine competition and efficiency. Companies may engage in selective price reductions aimed at preventing competitors from entering the market, or distribute to selected retailers only. If a company or group of companies has sufficient market power they can engage in practices that have the effect of restricting, distorting or preventing competition in given markets. Such outcomes are recognised as having the potential to be contrary to the public good. In the United Kingdom such practices are regulated under the Competition Act 1980.

#### Mergers

Mergers occur fairly frequently in the commercial world. The merger of companies can produce benefits for all; increased efficiencies and greater profitability for the shareholders, and consumers can benefit from the innovation and improvement in services that may arise from the pooling of expertise and resources. But mergers have the potential to produce economically undesirable effects, for example reducing price competition and consumer choice.

A merger is not necessarily the uniting of two large undertakings. The United Kingdom Fair Trading Act 1973 defines a merger as being when two or more companies "cease to be distinct". For example a merger could be said to occur with the purchase of even a minority stake in a company that enabled the purchaser to influence the policy of that company. Such influence could be used to artificially restrict competition and thus run counter to the public good. As with monopolies, the United Kingdom legislation does not take the view that mergers are bad in themselves. Instead the law seeks to monitor and, if appropriate, regulate such mergers.

#### Cartels

There are two basic types of cartel: the price-fixing cartel and the market-sharing cartel. A price-fixing cartel generally seeks to ensure that its members are able to exploit the market through charging higher prices than if genuine competition existed between them. A market-sharing cartel will have agreements between its members as to how a particular market should be divided up, or who should get particular contracts. The effects of cartelisation upon particular markets are generally inflationary and contrary to the public good.

#### **Conclusion**

I have restricted the amendment to simply describing the type of practices that need regulation. It will be for the Industries Committee to decide how such regulation should be achieved. They will have at their disposal the relevant United Kingdom fair trade laws which may serve as a template for suitably adapted legislation in the Island. Upon consultation and research it may be decided that we need a number of laws like the United Kingdom or it may be decided that a single all-encompassing fair trade law will suffice. As long as consumers and less powerful businesses in the Island get protection from the abuse of the practices described in the amendment and the resultant inflationary lack of true competition. The fact that such legislation does not exist in Jersey is a glaring omission that cries out to be dealt with.