

Economic Affairs Scrutiny Panel

The Role and Funding of Jersey Finance

Jersey Finance Supplemental Response

The Economic Affairs Scrutiny panel after two years of operation decided in November 2007 to undertake a review of the role and funding of Jersey Finance.

The following general observations are made in respect of the review and findings and should be read in conjunction with the detailed responses to the draft report which are appended.

General Observations

1. Bearing in mind that the Jersey finance industry generates approximately two thirds of the States of Jersey revenues, its continuing success is vital to the future prosperity of the Island.
2. Consideration of a major topic relating to the finance industry by the Economic Affairs Scrutiny panel was arguably overdue, with a number of other Scrutiny reviews on finance related subjects already completed by other panels or underway.
3. Notwithstanding the above shortly prior to the review Jersey Finance along with a number of other institutions was asked for suggestions as to what topics the Economic Affairs panel might scrutinise in connection with the finance industry.
4. After careful reflection it was not felt that any topics should be put forward. This was due to the considerable number of scrutiny reviews with which Jersey Finance was already cooperating; and also it was not felt appropriate that suggestions of this nature should be made by an independent commercial organisation such as Jersey Finance.
5. Shortly after declining the request for topics to be reviewed, Jersey Finance itself was notified that it was to be the subject of a review by the Economic Affairs Scrutiny panel.
6. It is clear that due to a combination of external economic pressures, the credit crunch, intensifying competition with more than 50 identified international finance centres, and close examination from a range of external bodies such as the IMF, OECD, EU, FATF and others that Jersey is facing more challenging times.
7. In the light of this backdrop it is disappointing to note the narrow focus of the Economic Affairs Scrutiny panel, placed on an organisation which is seeking to promote the Islands finance industry, in the face of these intensifying pressures.
8. It is even more disappointing and indeed surprising, that the focus of the review has largely been on events and debates which took place over 5 years ago.
9. In this respect an opportunity has been missed to look at the bigger picture, and to consider the more strategic aspects of the future of Jersey as a finance centre as highlighted by Jersey Finance and others in the London Business School report.

The Review Process

Before addressing the report specific observations regarding process are made as follows:-

1. Jersey Finance has co operated fully with the panel review and spent a considerable amount of time in order to ensure the panel was in possession of full and comprehensive information.
2. In the light of this cooperation and the considerable workload involved in providing comprehensive evidence of effective governance and management of Jersey Finance by its board and executive, it is disappointing to note the bulk of the report focuses on historic events.
3. The primary focus of the report is the formation and inception of Jersey Finance. The report seeks to portray exploratory discussions and concepts as decided facts and has ignored or discounted evidence surrounding the formation of the company and its funding model.
4. Key witnesses who could have given a detailed account of historical matters including the previous Director of International Finance and the previous Chief Executive of Jersey Finance were not called by the panel.
5. Current management, governance and related issues, together with the approval of funding levels pertaining to the Jersey Finance grant by government, were belatedly considered in any depth, only as a result of the Minister for Economic Development, and the Director for International Finance protesting at not being called as witnesses by the panel.
6. There were no negative submissions to the panel despite these being solicited through advertisements and direct approaches to special interest groups.
7. No substantive or detailed reference is made in the report to the many positive submissions made by a range of parties in support of Jersey Finance. Nor is there mention of support regarding its current range of activities, structure and funding, neither is there mention of a significant number of witnesses who could have been called and were ready and able to stand and give testimony in this respect.
8. Despite substantive and detailed responses to the points made in the draft report, no material change has been made to the final document which is disappointing given the factual and robust nature of the evidence provided.

Response to Key Findings and Recommendations

Key Finding

The Panel has not been able to find evidence of a clear decision as to how Promoco (JFL) was to be funded.

Response - Rejected

This finding has already been addressed in our response to the draft report. Comprehensive information has already been provided on this point and a significant audit trail over the last 8 years exists to account for JFL funding which at all times has been found to be in accordance with generally accepted accounting practices.

Key Finding

Despite the presence of a Partnership Agreement there remains a lack of clarity in respect of the level of resources which JFL is committing to delivering its core promotional objective.

Response - Rejected

This finding has already been addressed in our response to the draft report in some detail. JFL accounting conforms to accepted accounting practices and has been the subject of regular external audit by a leading accountancy practice. In addition internal management information available to States of Jersey representatives on the Jersey Finance board gives full and detailed account of expenditure both fixed and discretionary. An artificial separation by departmental function makes no sense and the technical work undertaken by JFL is a major contributor to its marketing activity. Without the combined activity of these functions Jersey Finance would be a much less effective body than it is today.

Key finding

The Panel notes that issues of lobbying and influence over what is considered to be in the public interest on the part of JFL have not been resolved.

Response - Rejected

This finding has already been addressed in our response to the draft report. Occasional and infrequent use of the word lobbying over a period of years has been artificially extrapolated into a substantive activity with negative connotations which are portrayed as being against the public interest. This perception promulgated in the report has no substance in fact and no meaningful evidence has been forthcoming to substantiate it. Jersey Finance seeks to represent the views of the finance industry to all stakeholders including community, government and regulator in order that key decisions and decision makers are well informed.

Key Finding

The Panel is very supportive of the concept of 'pound-for-pound' matched funding. The Panel notes that this has been identified as the only achievable saving to be made by the Economic Development Department at this point.

Response - Rejected

This point has already been addressed in our response to the draft report. The concept of matched funding was an historic discussion point and never agreed as the basis for an enduring arrangement. Successive administrations over many years have approved comprehensive and detailed annual business plans with explicit funding arrangements. The implicit action in the recommendation by the panel is that Jersey Finance funding is reduced as a saving is implied. At a point where there is a serious danger of a slowing global economy, where Jersey could be faced with challenges to the security of its significant revenue streams from finance, it is remarkable and surprising that the panel are recommending a review, with an implied cutting back of investment which currently stands at just 0.3% of finance revenues received.

Recommendation 1

The Panel finds that the absence of the appropriate Committee Minutes makes it impossible to establish a clear audit trail for the formation of JFL. The Panel calls on the Council of Ministers to:

- (a) investigate and report on how such errors could have occurred, and
- (b) take steps to ensure that such unaudited expenditure of public money could not happen under new Ministerial protocols.

Response - Rejected

This point has already been fully addressed in our response to the draft report. We do not accept this finding as clear and credible explanations have been provided which evidence satisfactory governance in respect of states expenditure which has been fully accounted for in accordance with established accounting practices and audited on an annual basis by KPMG, a global accountancy firm. In addition the Economic Development accounting officer is provided with quarterly management accounts upon which questions may be raised. The Minister for Economic Development will no doubt provide his own response to the requests made.

Recommendation 2

The Economic Development Minister should work with JFL to examine ways to increase the accountability of expended public funds.

Response - Rejected

This point has been fully addressed in our response to the draft report. The accounting of JFL funds meets accepted modern best practice standards and is completely transparent. The Minister for Economic Development has regular access to comprehensive and detailed management and accounting information through the two states representatives on the Jersey Finance board. The board itself has been the subject of an independent board effectiveness review and has been approved as meeting modern corporate governance standards.

Recommendation 3

The Economic Development Minister should review the Partnership Agreement to ensure that tax payers are getting value for money in delivering its core activity of promoting Jersey's image and the benefits of Jersey as an International Finance Centre.

Response - Accepted

As point 2 above with respect to effectiveness and evidencing of spend. Jersey Finance has agreed with the Minister for Economic development in the light recommendations made by Jersey Finance designed to safeguard the future of finance, and its contribution to the States of Jersey to undertake a review of activities, and financing, including a review of the partnership agreement and this will now take place. As with all such agreements, good corporate governance requires that they are reviewed on a regular basis to adapt to changing circumstances of the parties involved.

Recommendation 4

The Economic Development Minister should update the Partnership Agreement in the light of Financial Code of Direction 5.4.

Response - Accepted

This point was addressed in our response to the draft report. We would contend that our activities are already fully compliant with the Code of direction 5.4 but continuing compliance will be a requirement for any review of the partnership agreement.

Recommendation 5

The Minister for Economic Development should investigate the formation of an

overall promotional body for Jersey, to include all aspects of our economy.

Response - Rejected

It is not for Jersey Finance to comment on overall management of the economy. However, informal cooperation already exists with other bodies such as Jersey Tourism or the Business Enterprise Team. Jersey Finance sees no reason to create a new layer of administration or oversight over what is an independent company, which is focused and targeted in a highly specialised and complex area, and would see this as an unnecessary distraction consuming more scarce time and resource. In addition, the target audiences for tourism, agriculture and finance are dramatically different causing significant marketing challenges. It is for the Minister to answer but for our part we do not accept this recommendation.

Recommendation 6

The Economic Development Minister should explore the separation of the technical division of JFL into a new entity.

Response - Rejected

This point was fully addressed in our response to the draft report. With respect it is not for either Scrutiny or the Minister to determine the organisation of an independently constituted company. This is a matter for its board and shareholders. The Minister's views can of course be represented by the two states members on the board. The panel has persisted in portraying the provision to government of informed comment by Jersey Finance as lobbying when it is in fact simply the provision of sound information on which government can make better decisions. The only concrete example offered is a provision for the taxing of estates which would have caused serious damage to the trust industry and its contribution to states finances. This has been a theme throughout the review where members of the panel apparently hold the view that anything which might maintain or increase profits for the finance industry must be against the public interest. In an economy where two thirds of government revenue flows from finance we find this outdated assumption to be flawed and misplaced. We assert the position of Jersey Finance as an independent company which is not a part of government, nor is it subject to government direction or control. Government can provide financial support to Jersey Finance or not as the case may be dependent on the merits of its business plans, activity and performance on an annual basis. It has no further management control or remit beyond this position.

Recommendation 7

The Economic Development Minister should take steps to restore the principle of pound-for-pound matched funding for JFL.

Response- Rejected

Already addressed in our response to the draft report and above. Reference is made to recommendations by the Comptroller and Auditor General (CAG) to the effect a funding review is recommended. In fact the position is that the report highlighted this as an area for consideration by EDD and made reference to balancing direct and 'In Kind' funding (including Member professional time and editorial coverage). As the 'In Kind' funding is currently in excess of £2m this would imply a significant increase in grant aid to Jersey Finance, a point which the panel has repeatedly chosen to ignore in its report.

Recommendation 8

The development of a permanent presence in China or India should be subject to careful consideration by the Economic Development Minister and supported by a detailed Business Plan.

Response – Accepted, but already being undertaken

All Jersey Finance expenditure is subject either to detailed reference in the annual business planning process or is the subject of detailed individual business cases where market events or opportunities require a subject to be addressed outside the usual planning cycle. Any such expenditure is subject to a significant evidencing and proving process which is in the first instance scrutinised by the Jersey Finance Board before being referred to the Minister for Economic development. Thus the recommendation is already a matter of current practice and any new market entry proposals will be subject to this process.

G Cook
Chief Executive
Jersey Finance
16 July 2008