STATES OF JERSEY

COMMITTEE OF INQUIRY: STATES OWNED OR CONTROLLED UTILITIES (P.31/2011) – COMMENTS

Presented to the States on 4th April 2011
by the Council of Ministers

STATES GREFFE

COMMENTS

The Council of Ministers recognises and agrees that the relationship between the States and the companies that it owns is very important and that clear and strong accountability, supported by appropriate oversight and scrutiny, is essential.

In planned amendments to the Public Finances Law the Minister for Treasury and Resources will be bringing forward, before the summer recess, an amendment providing for the Comptroller and Auditor General to exercise similar functions in relation to the non-publicly quoted States owned companies as those he exercises in relation to States funded bodies. This will allow individual States members to alert him to any concerns which he would then be able to investigate as appropriate.

The existing States' Scrutiny Panels have the ability to scrutinise matters of public interest by examining policy decisions and reviewing both new and existing policies and their development. For example, there has recently been scrutiny review of 'Jersey Post and Competition' undertaken by a sub-panel of the Economic Affairs Scrutiny Panel, this panel called and heard evidence from the Chairman and Chief Executive of Jersey Post and the Ministers for Treasury and Resources and Economic Development.

The proposed Committee of Inquiry with such wide ranging terms of reference would be very costly, take a long time to complete, and may duplicate existing scrutiny and audit processes. If a member has a specific concern it may be more appropriate to consider a more specific review.

States owned companies and their regulation is a subject that the Assembly has considered in the past on several occasions, for example: P.90/2000 on the incorporation of Jersey Post and Jersey Telecoms; P.103/2001 on the Telecoms Law; P.24/2004 on the Postal Services Law; and P.41/2009 on the JEC tariff rise.

The Comptroller and Auditor General reported on States owned companies – accountability in 2008. The recommendation in his report has been implemented, with the States owned companies' accounts now being presented to members every year.

Upon taking office the Minister for Treasury and Resources made it clear that the oversight and accountability of these companies was an area that he intended to focus on and bring about change and improvement.

The Treasury commissioned an independent review of States shareholdings; with the purpose of identifying how best it could exercise this oversight and hold the boards of the companies to account. This review (R.C.76/2010), published to members last year, considered best practice across the world and made a number of recommendations on how to exercise appropriate oversight and accountability, including –

- Establishment of a dedicated resource in the Treasury to oversee the States owned companies.
- Ensuring that the companies adhere to the UK Corporate Governance Code.
- Appointment of company Chairmen and composition of the boards.
- Participation in setting company objectives and agreement of strategy
- Performance monitoring and intervention.

- Consultation of executive directors’ remuneration.
- Consultation in determining an appropriate capital structure and dividend policy.
- Approval of major transactions.

The Minister for Treasury and Resources expects the States to be a strong, fair but challenging shareholder with high expectations of its companies.

A fundamental principle of good governance is that there is a clear demarcation of roles and responsibilities; this is in place –

- The Minister for Treasury and Resources fulfils the role of shareholder and is responsible for agreeing / considering company strategy and the oversight of the companies.
- The Minister for Economic Development is responsible for regulatory oversight via the JCRA.
- The JCRA as regulator is responsible for promoting competition and consumer interests.
- The Boards of the companies are responsible and accountable for managing operations and delivering their strategy, consistent with the shareholders’ objectives.

This is the basis on which good governance and strong accountability has been built and will continue to be developed.

The very wide ranging proposed Committee of Inquiry would take a long time to complete and be very expensive; £250,000 is estimated in P.31/2011, and potentially more. This cannot be funded without consequence; all dividend receipts whether past, present or forecast are already committed to contribute toward to cost of providing key public services. Standing Order 150 provides for the Minister for Treasury and Resources to state how a Committee of Inquiry is to be funded. If approved the Minister has indicated that the Committee of Inquiry would have to be funded by reprioritisation of existing budgets across States departments.

The Council of Ministers is committed to appropriate governance and accountability. If a member has a specific concern it would be more appropriately dealt with through a specific review through an existing Scrutiny Panel or the proposed powers of the Comptroller and Auditor General. This would be more expedient, better value from money and more focussed way to address any specific concerns.

The Council of Ministers urges members to reject this proposition and support the framework that they themselves have put in place through previous decisions.