

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. Statement by the Vice Chairman of the Economic Affairs Scrutiny Panel regarding the proposed sale of Jersey Telecom

5.1 Deputy J.A. Martin (Vice-Chairman, Economic Affairs Scrutiny Panel):

On 9th October the Minister for Treasury and Resources lodged P.153/2007 - JT Group Limited ("Jersey Telecom"): proposed sale - for debate on 20th November. Members will be aware that as a consequence of Scrutiny Report S.R.5/2007, the Minister for Treasury and Resources agreed to set up a joint review steering group to address a number of issues raised by the panel. These included the conditions to be placed on the sale to ensure that J.T. (Jersey Telecom) does not become highly-g geared; the conditions to be placed on the sale to ensure that the level of competition is not reduced; the need to place conditions on future onward sales of the company; the retention of an appropriate skill base on the Island; the protection of the employees' terms and conditions; and a review of the effective regulation of the J.C.R.A. and resource requirements. The joint steering group attempted to deal with these points within the Oxera (Oxford Economic Research Associates) report of 20th July 2007. The agreed conclusions issued by the steering group contained a range of recommendations to be considered prior to a sale. Consequently, the Minister for Treasury and Resources has given a large number of assurances about the principles and the process of the sale within P.153/2007 and its accompanying report. However, what is not clear, is how the Minister intends to deliver the assurances made. In order to have a proper debate on this proposition, these assurances need to be tested. The sub-panel is currently seeking legal and other advice to ascertain how robust these assurances are on gearing and contracts, in order that the debate is better informed. In addition, further clarification needs to be obtained on whether the Regulation of Undertakings and Development Law or other conditions can indeed ensure the maintenance of an appropriate skill base and employment opportunities that exist at present. In addition, on 6th March 2007, the panel's report to the States on the privatisation of Jersey Telecom clearly recommended that there should be an immediate review of the J.C.R.A.'s skill base, resources and legal powers. Such a review should be part of any privatisation planning and be completed before the States is asked to decide whether to sell. However, to date, the terms of reference for the review - to be commissioned by the Chief Minister and the Minister for Economic Development - are still in draft form and can be seen on page 292 of P.153/2007. The panel are concerned that the draft terms of reference do not specifically address the effectiveness of the J.C.R.A. as a regulator of telecoms; nor does it address the level of resources required in the case of potential litigation. The panel does not consider that the statutory minimum 6-week lodging period allows sufficient time for Members and Scrutiny to do justice to the 292 page document, nor does it feel that it is wise to debate the sale of such a fundamental utility prior to the completion of a full review into the skills base, resources and legal powers available to regulators to ensure that a privatised telecom communications can be effective and efficiently regulated. The panel has requested the Minister for Treasury and Resources to defer the debate to allow time for these issues to be addressed but, so far, he has indicated that he will not do so. The panel therefore feels it must ask the States to defer this debate to allow it to analyse the proposals, to address the concerns expressed above and to allow the Minister to receive the panel's work. At the appropriate time, Sir, in the arrangement of business, I will be asking for a deferral of the debate until at least January 2008.

The Deputy Bailiff:

Does anyone wish to ask a question?

5.1.1 Senator T.A. Le Sueur:

I take note of what the vice-chairman and the panel has said and I think the time to decide on the debate of the meeting would be in 2 weeks' time when we meet to fix business for the subsequent meeting. I have a question for the vice-chairman because this looks to me

suspiciously like delaying tactics. I would ask whether the vice-chairman would confirm that the concerns of the panel over the J.C.R.A. are now the only outstanding matter concerning the panel? It strikes me there is a danger that having resolved this one they will then come up with another excuse to delay, so can the chairman confirm that this is the only matter now outstanding?

Deputy J.A. Martin:

No, Sir. For those who sit on the panel, we all have different varying concerns. My one is about the J.C.R.A. I would put that at the top of my list. But, as I said, there were many assurances in P.153 and I sent a letter around yesterday, for all people who had not noticed, to even read page 46 and 47, which is referred to in the proposition. We have assurances about maintaining skill bases in the Island, used in the Regulation of Undertakings. I need to know how it will be done, or the panel needs to know. In fact, the Island needs to know, Sir. Then we have the rights of the employees and the other assurance is the best possible basis is provided for long-term growth and development of Jersey Telecom. Once all these 3 are achieved, the Minister will get the best price obtained for Jersey Telecom. Well, we find, on the panel, if the first 3 are arrived at and are do-able, that 4 will be a very high price, if at all. So this is why we are asking for the delay, that we can test some of the assurances given, outlined by the Minister, and it is certainly not just the powers of the J.C.R.A. But I will add, Sir, on that, that there is a review. The terms of reference are on the back - 9 terms of reference and none of them cover the resources needed for the J.C.R.A. if they have to fight limiting competition because the money for that does not come under regulatory powers, it comes from the States. These are very real concerns and I do not think it is a matter of business for 2 weeks' time. I think that the States and the panel who are doing the work on looking at these assurances need not to know now that we have more than 4 weeks to carry out this work.

5.1.2 Senator T.A. Le Sueur:

Would the vice-chairman like to confirm that she understands the proposition is a sale process in 2 stages and it is at the second stage of the process, later next year, that the decision will finally be made?

Deputy J.A. Martin:

Yes, Sir, I do understand. I think I have been in the States long enough to see that when a proposition says: "To agree in principle", that the States... then I have to read 292 pages. I will say, Sir, and being on the sub-panel, I have obviously seen a lot of this document before. But I am thinking of other Members and I am thinking of the questions we need to ask. We need to interview the Minister for Economic Development. I need to know how he is going to work the Regulation of Undertakings and Development Law to make sure we maintain a skill base for Jersey Telecom - or Telecom's work as part of a Jersey workforce. From my knowledge when one of the incumbent mobile operators came to Jersey, no local skills were used; they imported all their skill bases from wherever, and they were put up in hotels and guest houses to erect all the telephone masts and everything else. There are a lot of questions that need to be asked. I say again, the Minister for Treasury gives us assurance it is an in principle sale, and he will come back after he has the answer to a lot of these questions. Basically, the J.C.R.A. one is, the U.K. National Audit Office is carrying out a review that will be ready by the end of January, supposedly, and then the Minister will then come back to the States and consider this review before we have a sale. Again, Sir, I say this is putting the cart before the horse. It is not putting off the sale, it is definitely not delaying tactics; it is assurances. This is not just Telecom; this is strategic to our finance industry. We need to know, Sir, that everything that is promised in this 292 pages is deliverable before we as a States can sell-off one of these main utilities that is essential to the Island.

The Deputy Bailiff:

Any other questions of the vice-chairman? Then we come to Public Business.