

STATEMENT TO BE MADE BY THE MINISTER FOR ECONOMIC DEVELOPMENT ON MONDAY 27th JUNE 2011

Under the Postal Services (Jersey) Law, the Economic Development Minister has an obligation to ensure that postal services are provided, both within Jersey and between Jersey and the rest of the world.

In order for Jersey Post to fulfil its obligations it is important to ensure that it has sufficient financial resources available.

In recent weeks and months a material threat to Jersey Post revenues has emerged with the potential to impact on these obligations.

Members will be aware that, in his budget statement on 23rd March of this year, the UK Chancellor of the Exchequer announced changes to VAT Low Value Consignment Relief, more commonly known as "LVCR".

Under the current LVCR arrangements, items imported into the UK from non-EU jurisdictions, with a value of less than £18, do not attract UK VAT currently levied at 20%.

The Chancellor announced that, with effect from November 2011, the limit would be reduced to £15 and that furthermore, HM Treasury would be consulting the EU with regards to further changes to LVCR aimed at reducing or eliminating VAT losses.

The particular focus of the UK Chancellor's action was the import of goods such as CDs and DVDs from the Jersey and Guernsey online retail or "fulfilment" sector at prices below the LVCR threshold that generated what the UK Treasury consider to be significant VAT losses.

Jersey's fulfilment sector is an important contributor to the economy which we must seek to protect. The sector directly employs approximately 1000 staff, the majority of whom are locally qualified.

Since 2005, when the issue of VAT losses to the UK became a prominent issue in the UK my department has been in active discussion with the UK Treasury and has taken action to ensure that abuse of LVCR is not a facet of the Island's fulfilment sector.

Since the Chancellor's speech we have worked closely with Senator Cohen in his new 'external relations' role which has opened up valuable access to UK Ministers and senior officials.

In addition, the Channel Islands Brussels Office is working at EU level to ensure that EU officials have a thorough and accurate understanding of the fulfilment sector in both Jersey and Guernsey before any decision is made on action that could have a detrimental impact on the fulfilment sector in both islands.

However despite our best efforts, there is still a material risk that the UK Treasury and the EU will take action that could threaten the sustainability of the sector in its current form.

If this were to happen it could result in a significant loss of revenue to Jersey Post.

This is a complex area which, at least in part, is impacted by factors over which we have no direct control, however in the area of postal regulation I do have the power to act.

I am determined that, in discharging their role as postal regulator, the JCRA has a fully developed view of the current and future market, indeed given the role of postal services within our community, I consider it in the public interest.

Therefore, under Article 9(1) of the Postal Services Law, I have today issued a direction to the Jersey Competition and Regulatory Authority to undertake a full review of the current and future market conditions that may impact on Jersey Post given recent changes and future risks to the market that I have outlined to Members

My overriding objective in issuing this direction and the review is to determine whether as Minister I am meeting my obligations under Article 8 of the Law.

In directing the JCRA in this manner I understand that this will restrict the JCRA's ability to award any further Class 1 postal licences until the review is complete.

Economic Development Department

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Mr Mark Boleat
Chairman
Jersey Competition Regulatory Authority
2nd Floor, Salisbury House
1-9 Union Street
St Helier
JE2 3RF

27th June 2011

Dear Mark

Re: Direction Under Article 9 of the Postal Services (Jersey) Law 2004.

Under Article 9(1) of the Postal Services (Jersey) Law, I direct the Authority to undertake a full review of current and future market conditions given recent changes in the external environment as described below.

Introduction

Article 8 of the Postal Services (Jersey) Law 2004 sets out the Minister's primary duties relating to the provision of postal services, specifically:

- To ensure that such postal services are provided, both within Jersey and between Jersey and the rest of the world, as satisfy all current and prospective demands for them, wherever arising;
- To ensure that Jersey Post has sufficient financial resources to discharge its liabilities;

Further duties specified in Article 8 (insofar as they are consistent with the above primary duties) include:

- To protect and further the short-term and long-term interests of users of postal services within Jersey and, where appropriate, by promoting competition among persons engaged in commercial activities connected with postal services in Jersey;
- To promote efficiency, economy and effectiveness in commercial activities connected with postal services in Jersey;
- To further the economic interests of Jersey;
- To impose a minimum of restrictions on persons engaged in commercial activities connected with postal services in Jersey;
- To ensure that persons engaged in commercial activities connected with postal services in Jersey have sufficient financial and other resources to conduct those activities; and

- To have regard to any special needs of persons who are disabled or have limited financial resources or have particular needs.

The Minister's primary and other duties under Article 8 of the Law are shared by the JCRA.

Under Article 9 of the Postal Services Law (2004) ('the Law') the Minister for Economic Development can provide written directions and guidance to the JCRA on matters relating to postal services if he considers that it is in the public interest to do so in respect of the principles, procedures or policies to be followed by the Authority in relation to the implementation of any social or environmental policies in respect of postal services or philatelic services.

In my previous letter, I described potential changes to UK VAT that could reduce or remove Low Value Consignment Relief (LVCR). The UK Budget speech included announcements by the UK Government that clarified the position. With effect from November 2011 the UK will reduce the LVCR threshold to £15 and beyond that potentially may reduce it further and may even remove LVCR. Such a change in the market may potentially impact on Jersey Post's ability to provide a universal postal service in Jersey and consequently impact on the provision of a key social service.

Given the changes in the market and having consulted with the JCRA and to ensure continuing fulfilment of his duties under Article 8 of the Law, as Minister for Economic Development I wish to make a direction under Article 9 (1) (a) of the Law.

Direction under Article 9 of the Law.

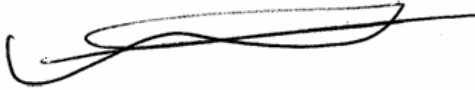
The Economic Development Minister directs the Authority to undertake a full review of the market which covers, but is not necessarily limited to, the following:

1. A strategic review of the postal sector in Jersey that has direct regard of the duties imposed on the Minister for Economic Development and the JCRA under Article 8 of the Law. The review should include evaluation and consideration of:
 - a) The current state of the market – including, but not limited to: volumes, competition, customer behaviour, supplier behaviour (including that of Royal Mail), drivers of demand for postal services, substitution of physical mail with electronic communications, funding of the USO and the ongoing financial viability of Jersey Post. This component of the review should also aim to assess the impact to date of liberalisation of the Jersey postal market on Jersey Post, alternative providers, consumers and customers.
 - b) The future state of the market – to explore trends in future market development and the likely impact of these on Jersey Post, alternative providers, consumers and customers. This should take account of the factors included in (a) above and the likely development of those factors in the future. This section should explicitly consider the impact of actual and proposed changes to the level of the LVCR and the impact on the financial position of Jersey Post.
 - c) Any other factors that the JCRA considers to be relevant including, but not limited to, whether a further review of the USO should be undertaken.

The strategic review should include consultation with all stakeholders to gather evidence and views to support the JCRA's analysis.

My overriding objective in issuing this Direction and the review is to determine whether as Minister I am meeting my obligations under Article 8 of the Law. In directing the JCRA in this manner I understand that this will restrict the JCRA's ability to award any further Class 1 postal licences until the review is complete.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Alan Maclean', written in a cursive style.

Senator Alan Maclean
Minister for Economic Development

cc: John Curran, Chief Executive, JCRA

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

1. Statement by the Minister for Economic Development regarding Jersey Post The Bailiff:

Now, before we return to the Island Plan, the Minister for Economic Development has given notice under Standing Orders that he would like to make a statement and it seems this would be a convenient moment to do it before we recommence. Minister, would you wish to make your statement?

1.1 Senator A.J.H. Maclean (The Minister for Economic Development):

Under the Postal Services (Jersey) Law, the Minister for Economic Development has an obligation to ensure that postal services are provided both within Jersey and between Jersey and the rest of the world. In order for Jersey Post to fulfil its obligations, it is important to ensure that it has sufficient financial resources available. In recent weeks and months, a material threat to Jersey Post revenues has emerged with the potential to impact on these obligations. Members will be aware that in his budget statement on 23rd March this year, the U.K. (United Kingdom) Chancellor of the Exchequer announced changes to V.A.T. (Value Added Tax) Low Value Consignment Relief, more commonly known as L.V.C.R. Under the current L.V.C.R. arrangements, items imported into the U.K. from non-E.U. (European Union) jurisdictions with a value of less than £18 do not attract U.K. V.A.T. currently levied at 20 per cent. The Chancellor announced that with effect from November 2011, the limit would be reduced to £15 and that furthermore, Her Majesty's Treasury would be consulting the E.U. with regard to further changes to L.V.C.R. aimed at reducing or eliminating V.A.T. losses. The particular focus of the U.K. Chancellor's action was the import of goods such as CDs and DVDs from the Jersey and Guernsey online retail or fulfilment sector at prices below the L.V.C.R. threshold that generated what the U.K. Treasury consider to be significant V.A.T. losses. Jersey's fulfilment sector is an important contributor to the economy which we must seek to protect. The sector directly employs approximately 1,000 staff, the majority of whom are locally qualified. Since 2005 when the issue of V.A.T. losses to the U.K. became a prominent issue in the U.K., my department has been in active discussion with the U.K. Treasury and has taken action to ensure that abuse of L.V.C.R. is not a facet of the Island's fulfilment sector. Since the Chancellor's speech, we have worked closely with Senator Cohen in his new external relations role which has opened up valuable access to U.K. Ministers and senior officials. In addition, the Channel Islands Brussels Office is working at E.U. level to ensure that E.U. officials have a thorough and accurate understanding of the fulfilment sector in both Jersey and Guernsey before any decision is made on action that could have a detrimental impact on the fulfilment sector in both Islands. However, despite our best efforts, there is still a material risk that the U.K. Treasury and the E.U. will take action that could threaten the sustainability of the sector in its current form. If this were to happen, it could result in a significant loss of revenue to Jersey Post. This is a complex area which, at least in part, is impacted by factors over which we have no direct control. However, in the area of postal regulation, I do have the power to act. I am determined that in discharging their role as postal regulator, the J.C.R.A. (Jersey Competition Regulatory Authority) has a fully developed view of the current and future market. Indeed, given the role of postal services within our community, I consider it in the public interest. Therefore, under Article 9(1) of the Postal Services Law, I have today issued a direction to the Jersey Competition and Regulatory Authority to undertake a full review of the current and future market conditions that may impact on Jersey Post, given recent changes and future risks to the market that I have outlined to Members. My overriding objective in issuing this direction and the review is to determine whether, as Minister, I am meeting my obligations under Article 8 of the law. In directing the J.C.R.A. in this manner, I understand that

this will restrict the J.C.R.A.'s ability to award any further Class 1 postal licences until the review is complete.

The Bailiff:

Does any Member wish to ask any questions of the Minister?

1.1.1 Deputy R.G. Le Hérissier of St. Saviour:

Would the Minister not accept that there is a total contradiction in that he was warned, the J.C.R.A. were warned, that to allow this business to be tendered for, let alone to allow the business to exist, was going to pose considerable problems? Does he not feel that his apparent defence of Jersey Post at the moment is rather hollow?

Senator A.J.H. Maclean:

No, I do not agree with the Deputy at all. It is certainly not hollow. It is meeting obligations that I believe under the Jersey Postal Services Law that I have. I do not think it removes the threat of competition at all. I do not think it removes the need for Jersey Post to ensure that they are efficiently operated and drive through efficiency changes that are absolutely necessary and review their business model. I think it is absolutely essential that those things continue to happen. Nevertheless, I think it is right at this stage that this action is taken.

1.1.2 Deputy D.J.A. Wimberley of St. Mary:

The problem is, Minister, that the licences have been issued. That is the problem. The Minister is going to restrict the J.C.R.A.'s ability to award any further Class 1 postal licences. Did the Minister and his department not see this coming?

Senator A.J.H. Maclean:

The Deputy is correct. Licences have been issued. There are indeed more under consideration, but this is very much more than just that. This is not just about issuing of licences. This is about fundamental changes to the postal market. This is also about changes that are driven from outside of Jersey over which we have little control. L.V.C.R. I have clearly mentioned and there are other changes which are impacting upon the viability and sustainability of postal services, not just in Jersey but around the world.

1.1.3 The Deputy of St. Mary:

A supplementary, if I may. The question was about the ability of his department to see things coming.

Senator A.J.H. Maclean:

Well, the department clearly does not have a crystal ball. Nevertheless, I believe that we have acted responsibly in this matter. Since 2005 when L.V.C.R. first became a significant issue, we have acted appropriately. We have introduced the film policy. We have sought to protect this particular sector and we will continue to seek to protect this sector so I believe the department has acted absolutely appropriately.

1.1.4 Deputy G.P. Southern of St. Helier:

Just for the sake of clarity, will the Minister state which rival companies do have a current Class 1 licence and which have their applications suspended? How many are we talking about?

Senator A.J.H. Maclean:

There is, aside obviously from Jersey Post, other Class 1 category licences, numbering 2 in total at the moment, and others are under consideration, as the Deputy is well aware.

1.1.5 Deputy G.P. Southern:

Okay, and to confirm, this is not the Dutch or German Post Office bids? This is the 2 small companies that are competing for fulfilment business effectively?

Senator A.J.H. Maclean:

No, it is not.

1.1.6 Deputy P.V.F. Le Claire of St. Helier:

The Minister has stated that this industry affects 1,000 people in relation to employment. Is that the total amount of people that are employed in this industry and if this industry is under threat, what active steps are being taken by his department to find those people alternative employment if their industry stops being?

Senator A.J.H. Maclean:

First of all, I think I should make it clear that no job losses have resulted at this stage. Simply we are forecasting that there are potential risks in the future and that is the purpose of the direction. So there have been no job losses.

[15:00]

Also, this is a Channel Island issue. We have been working closely with Guernsey and there are jobs of a similar nature, not quite as many, in Guernsey. If, in due course, job losses are likely to result from any structural changes, then, of course, the department will work together with other Ministers and other departments such as Social Security to address those issues and find work for those that may be affected.

1.1.7 Senator A. Breckon:

I wonder if the Minister could tell the Assembly regarding Low Value Consignment Relief whether £18 or the euro equivalent is a European Community thing and it cannot be changed unilaterally by the U.K.

Senator A.J.H. Maclean:

In fact, the U.K. can change down to as far as 10 euros but across the E.U., that is the minimum standard currently so the U.K. have some flexibility to reduce further L.V.C.R. Currently it has been reduced or will be reduced from November this year to £15. They could reduce it down to the equivalent of approximately £8, dependent on currency exchange.

1.1.8 Senator A. Breckon:

Can I follow that up and say that the Minister has just given a figure across the European Community. Is the U.K. proposing to do it across the European Community or to the Channel Islands?

Senator A.J.H. Maclean:

Yes, the U.K. can go across the European Community as far as their decision is concerned for imports into the U.K. They have latitude across the E.U. to do it as far as 10 euros.

1.1.9 Deputy M.R. Higgins of St. Helier:

Deputy Le Claire asked the main question I was going to ask, but the second one I was going to ask was again this has not come out of the blue. Will the Minister tell us what correspondence or

meetings he has had certainly in recent months with the U.K. Government on this issue? It has not come out of the blue, it has been going on for some time, but what are the most recent ones and what have they said?

Senator A.J.H. Maclean:

It has not come out of the blue. As I have said a moment ago, we have known about the issue of L.V.C.R. and the threat since 2005. There was a fulfilment policy put in place at that stage. There were 16 or 17 companies who were misusing the U.K. tax system who were expelled from Jersey as a direct result, so it is not unknown. In recent times, we have had, since the budget speech and prior to that, contact at ministerial level and with senior officials in the U.K. and we will continue to do so in order to fight Jersey's corner, make sure that our proposition is well understood and that we support our local fulfilment industry, which is greatly valued.

1.1.10 Deputy M.R. Higgins:

A supplementary. Can the Minister tell us whether those meetings were taking place before we allowed the J.C.R.A. to issue the first set of licences that were issued?

Senator A.J.H. Maclean:

I think I have made it plain that this is not an issue just in relation to competition. This is an issue in regard to the change in market dynamics. Conversations have been going on with regard to L.V.C.R. since 2005 with Treasury officials and they will continue to go on. More recently, they have been stepped up as the matter has changed and accelerated from a political point of view in the U.K.

1.1.11 Senator F. du H. Le Gresley:

As the review will include a review of the ongoing financial viability of Jersey Post, does the Minister envisage that we may have to have States funding to keep Jersey Post going?

Senator A.J.H. Maclean:

That is a matter to date that the Minister for Treasury and Resources has made clear, that subsidies would not be made available to Jersey Post. Clearly, in the future, that may well come to a position where it might have to be a decision of this Assembly as to whether or not that was deemed to be an appropriate future course.

1.1.12 Connétable G.F. Butcher of St. John:

Given that the J.C.R.A. have given licences to other operators with a view to trying to drive down prices for the general public, does the Minister's department monitor the fulfilment industry as to whether their prices have dropped?

Senator A.J.H. Maclean:

I am not sure what prices the Connétable is referring to. Is he referring to the retail price of products being sold or indeed postal charges?

1.1.13 The Connétable of St. John:

No, it is the postal and delivery charges because I buy a certain amount on line and I have seen no change at all.

Senator A.J.H. Maclean:

All I would say is that the success of the fulfilment industry demonstrates, and the fact that we have the companies we do operating out of Jersey, the revenues that they are generating, that the postal costs are acceptable and have supported a growing sector.

1.1.14 Deputy P.J. Rondel of St. John:

Given the J.C.R.A.'s costs are covered by the various operators and having gone down the road of breaking up our postal services the way we have, is the Minister happy that, shall we say, the millions or the hundreds of thousands it costs to run the J.C.R.A. is good value for money? Would he consider returning us back to a single operator? I know it is probably not possible.

Senator A.J.H. Maclean:

In reverse order and simply, no. Yes, I do believe the J.C.R.A. have done a splendid job in the Island. They have adapted to the Island economy and I think they have delivered incredible value for consumers in terms of driving down prices generally. So I think we should continue to support them and we will continue to support them.

1.1.15 The Deputy of St. John:

Supplementary. In supporting them, it is costing each and every one of the people who have letters, et cetera, additional funding to keep the J.C.R.A. in place by the fees they charge.

Senator A.J.H. Maclean:

Yes, clearly there is a cost to regulation and that is fully understood but the cost in terms of stamps, which I think the Deputy is alluding to, is driven by far more factors than just the J.C.R.A. and that must be borne in mind.

1.1.16 Senator S.C. Ferguson:

Given that the U.K. industry and the U.K. Government appear to have overlooked changes in the market, is there not a conflict for Economic Development supporting changes in the market when these will adversely affect Jersey Post in the long run?

Senator A.J.H. Maclean:

Changes are occurring in the market from external forces outside of Jersey. That is the first point that I would make. Secondly, I think it is absolutely right Economic Development to get the balance right in terms of supporting businesses and supporting sectors. Jersey Post have to run a sustainable financial model that has long-term sustainability and I certainly believe that they have started the process in terms of driving efficiencies, but clearly it appears that there is a great deal more work to be done to meet the challenges as we move forward in the future.