

Re Minister's Response to Public Consultation

Please find below further comment on the proposed incorporation of the Ports.

It should be noted that despite the Minister describing the White Paper as "short" (page 3) and wondered why there were not many responses, from memory, it was a very thick pile of paper that took several days to wade through.

Their conclusion that there is very little public interest, we feel, is clearly deluded.

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"There is no wish to unfairly penalise staff or to use the incorporation as an excuse for wage cuts or redundancies". Giving the government of Jersey the benefit of the doubt - this might be the case but we doubt this will be the actions of any private company that could take over the corporation, further down the line.

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"Any licence arrangements will be made only as an interim solution to allow the new company to operate the necessary assets while permanent arrangements are put in place. A permanent arrangement would see the relevant land assets transferred into the control of the Ports of Jersey Limited (PoJL), which would place them within the rates regime of the relevant parish."

– So the Jersey Government simply hands over publically owned assets to a private company! Not sells these assets but transfers the ownership and then starts charging rates which if you read on could be paid for out of subsidies from this self - same Government. Would Jersey just be providing some shareholders with a licence to print money?

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The intention in referring to potential future cross-subsidy is to ensure that government does not, by simple omission, reduce the strategic options available to it by excluding any future actions, including the introduction of cross-subsidy under some circumstances in the future. This does not mean that any cross-subsidy is planned. – I'm sure we will see in the fullness of time if this happens or not.

"Furthermore, in light of the issues raised the Minister considered that the unions required a detailed response from the Ports of Jersey itself".

"PoJ has made commitments that everyone has a job and everyone will get paid the same – ensuring retention of key skills. Further, the business case is based on 2013 staffing levels with no reductions in staffing numbers or costs to remain self-sustainable for the next 25 years".

"The unions offer only generic UK wide information, on historical figures rather than projecting forward and hence do not provide credible evidence upon which to construct a long term financial model". – It would appear that they have not read the response from Unite fully as it did contain information based on historical evidence of the performance of the global and passenger / freight flow through the airport and ports in Jersey. The UK wide information was to highlight what is happening in the aviation and maritime industry regarding the global market and given that flights from Jersey are heavily reliant on the UK aviation and maritime industry, the information provided is key to projecting forward the performance of the ports in Jersey.

The projections from their experts are based on what – the wind direction, a scattering of sacred bones, a crystal ball?

So much of the performance of any industry has to be based on historical evidence. Projections can account for changes in the world economy, eruptions of volcanos or unusual weather patterns etc. but the body making such projections can only go so far into the future based on history and computer modelling. Nobody can predict what will happen in reality as far forward as contained in the previous documents.

“A key objective in Incorporating the Ports is to avoid significant long term borrowing to fund the Capital Programme, hence borrowing itself is not an objective. Finally, the entire financial model has been validated independently. The unions have not offered any credible challenge to the financial model”. – the Unions did offer a credible model, one which has been proven over many years – keep it as it is! The Objective to avoid borrowing can only be possible if the Jersey Government and / or customers of these ports pay for infrastructure developments up front. And who will ultimately pay for these developments – the people of Jersey. And who will ultimately get all the benefits – the shareholders of the new company.

“Without Incorporation, the Ports would have to reduce costs and services and/or increase prices to cover the substantial short fall in cash as identified in the Case for Incorporation”. – so these economic experts have never figured out that governments can borrow money and get preferential interest rates to clear debts. Incorporation simply passes the buck to the Incorporation who would either have to borrow at commercial rates or cut costs. But wait didn't the Jersey Government suggest that they would not attack jobs, terms or conditions or make changes to the fees charged by the ports. – We get it the Jersey Government will use that magical money tree that they have hidden away. – Private investors will only put money in if they feel they will get more money out and the amount of return they will want will be even higher than they could get from bank interest.

“The Ports transfer policy is as good or better than UK TUPE legislation, and there is the additional safeguard that the key elements are underpinned in the Draft Air and Sea Ports (Incorporation) (Jersey) Law”. – Technically this is true as TUPE does not apply to the transfer of staff from a publically owned body to the private sector. That said given the discussions we have had on the subject, it sounds as though their draft legislation is far from perfect. The Jersey Government no doubt believe that as we now have this in black and white we will be able to use this to protect staff whose T's and C's come under attack. Frankly they are delusional.

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“Incorporation is creating an entity wholly owned by States of Jersey” “in order for the assets to remain viable over the long term they require £420 million in investment by PoJ”. – So the Jersey Government has set up a corporation which will have to either cut costs, raise prices or borrow at commercial interest rates £420 million instead of the preferential and significantly lower rates offered to government. This will undoubtedly incur more costs to the people of the island. So what can the Government of Jersey then do – sell it off ? – This would appear to be their next step.

“Nevertheless, the consultation has revealed that there appears to be no significant reservoir of dissatisfaction about incorporation, as the issue was widely publicised enough that parties with deep-seated concerns had every opportunity to bring these forward”. – This reminds me of Hitchhikers Guide to the Galaxy and the scene below:-

Mr Prosser: But, Mr Dent, the plans have been available in the local planning office for the last nine months.

Arthur: Oh yes, well as soon as I heard I went straight round to see them, yesterday afternoon. You hadn't exactly gone out of your way to call attention to them had you? I mean like actually telling anybody or anything.

Mr Prosser: But the plans were on display...

Arthur: On display? I eventually had to go down to the cellar to find them.

Mr Prosser: That's the display department.

Arthur: With a torch.

Mr Prosser: The lights had probably gone out.

Arthur: So had the stairs.

Mr Prosser: But look, you found the notice, didn't you?

Arthur: Yes yes I did. It was on display at the bottom of a locked filing cabinet stuck in a disused lavatory with a sign on the door saying beware of the leopard.

On Page 30 the Jersey Government attempts to distinguish between incorporation in the UK and this process. But we have a similar situation in the UK in the form of Network Rail and what has happened there. They have had to borrow £35 billion from commercial sources to for fill their obligations at commercial rates resulting in them paying out more in interest than they do on maintaining the track. They also receive huge subsidies from the Government which in the end acts as indirect subsidies for the passenger and freight operating companies.

“We have been entirely open and consistent that this is not privatising the Ports, and that the States do not have any intention to privatise them in the future”. – then why incorporate? There is no earthly reason to do so other than to allow the private sector and shareholders of the bodies funding the corporate body to profit.

The reasons they quote are as follows “*The main benefit of the corporatisation of ports is that port authorities become more autonomous as the decision-making process devolves from the government to the company's directors.*

This more dynamic decision-making process fosters competitiveness, growth and transparency in the port authority's development, and business and customer satisfaction are given priority. The focus is also on sustainability and improved productivity, in order to encourage investment in the port authority's development. Overall, corporatisation of port authorities has in many cases led to increased economic profitability, enhanced employment opportunities in the port area and improved commercial flexibility.”

And with this hands off approach to the operation of the airport and ports, the directors aren't going to be removed from government control on the budget, nor will they be allowed to award themselves huge bonuses and salaries? What is worrying “*in order to encourage investment*”. So this is not an opportunity for the private sector to invest and receive substantial rewards to the detriment of the people of Jersey.

And do we have to go into the merits or otherwise of Transfer of Public Sector Employees (TOPSE).

“Whilst we understand many of the concerns raised in the unions' responses, but in our view they are based on UK outsourcing and privatisation experience with little acknowledgement of what we are trying to achieve in Jersey with the Ports Incorporation”. We believe that they realise that the unions see through the plans to eventually privatise the ports in the same way as Jersey Telecom but are using this to smooth the transition by constructing some highly transparent story – that being, they need to incorporate to raise the revenue.

“The references they make to privatisations in the UK bear little resemblance to Incorporation of the Ports in a Jersey context. It appears that the Union's research and comparisons to the UK did not spend sufficient time understanding the significant safeguards enshrined in the Air and Sea Ports (Incorporation) (Jersey) Law 201- that are specifically designed for the comfort of the public of Jersey, the customers of the Ports and our employees”. – Contra to these views, we spent days going through this and feel that the level of so called protection is in no way sufficient to provide any lasting protection from redundancies, hence the tone of this response.

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