

STATES OF JERSEY



COMMITTEE OF INQUIRY: STATES OWNED OR CONTROLLED UTILITIES

**Lodged au Greffe on 24th February 2011
by Senator A. Breckon**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that a Committee of Inquiry should be established in accordance with Standing Order 146 to inquire into a definite matter of public importance, namely the nature of the relationship between the States of Jersey and the 4 utility companies that are owned or controlled by the States and the governance arrangements in place for the 4 companies, namely –
 - (i) Jersey Post,
 - (ii) Jersey Telecom,
 - (iii) Jersey Electricity Company,
 - (iv) Jersey Water;
- (b) to agree that the terms of reference of the Committee of Inquiry should be –

To investigate –

- (i) the nature of the relationship between the Minister for Treasury and Resources as representative of the shareholder and Jersey Post, Jersey Telecom, the Jersey Electricity Company and Jersey Water (“the 4 utility companies”);
- (ii) the nature of the relationship between the Minister for Economic Development and the 4 utility companies and the interaction between the respective roles of the Minister and the Jersey Competition Regulatory Authority (JCRA) in relation to the companies;
- (iii) the reporting, accounting and governance structure of the 4 utility companies;
- (iv) the trading practices and relationships of the 4 utility companies with each other and their subsidiaries;
- (v) the levels of remuneration, benefits, bonuses, consultancy fees or severance and pension payments that have been paid to, or agreed with –
 - (A) senior executives and staff of the 4 utility companies,
 - (B) Board members of the companies;
- (vi) whether any overlap of responsibilities or any personal relationships existed between Directors, Officers and advisers of the 4 utility companies and their subsidiaries or Companies in which any of the 4 companies have invested, or with the Board Members and Officers of the JCRA, and, if so, to determine and report upon the nature of these relationships

and whether any of them may have caused a conflict of interest or improperly influenced or prejudiced any investment, management or investigatory decisions;

- (vii) the regulation of the 4 utility companies undertaken by the Jersey Competition Regulatory Authority with particular reference to the cost and effectiveness of the regulation, the appropriateness of the charges on the 4 companies and the measurable evidence of any consumer benefit;
- (c) to request the Chief Minister to take the necessary steps to select a suitable Chairman and members to undertake the Inquiry and to bring forward to the States for approval the necessary proposition relating to their appointment.

SENATOR A. BRECKON

REPORT

In June 2010, I received a copy of a Report prepared by Deloitte for the States of Jersey titled –

“STATES OF JERSEY OWNED UTILITIES GOVERNANCE REVIEW” –
Key Findings Report.

In general terms, the Report questioned the existing situation and stated –

“This document, which has been prepared by Deloitte for the sole purpose of providing a discussion document to the Client on the progress of our work in relation to the States’ governance and ownership arrangements of the States’ owned Utilities.

The information contained in this document has been compiled by Deloitte from information provided by the States and discussions with members of the Boards of the Utilities: Jersey Post International Limited, JT Group Limited, The Jersey New Waterworks Company Limited and The Jersey Electricity Company Limited. This document also contains confidential material proprietary to Deloitte.”.

The publication of the above Report in June 2010 led me to look a little closer at the companies wholly or by majority owned by the States, and start asking a few questions. It is true to say that I was more than a little concerned about what I found out – therefore I believe it will be well worthwhile having a Committee of Inquiry, so that matters can become transparent and the public can be assured that all is well – or otherwise – rather than being left in the dark.

The States’ “interest” has been of concern to me for some time because I can see a very clear CONFLICT between the shareholder, the public interest and the consumer. There are some grey areas – the general public have on more than one occasion asked a number of questions –

- Why do they have to charge so much if the company belongs to us?
- What is the benefit of a Competition Regulator when there is no competition?
- What is the point of having a Board of Directors, and are they –
 - (i) cost-effective – worth the money?
 - (ii) accountable to anyone?
 - (iii) and who decides how much they get paid and what perks they get?
- Who decides how much the senior managers get paid and what their package of benefits is?
- Why don’t the States get more involved if the companies, or the majority shareholding, belong to us?

The above issues, very rightly I believe, concern the public – there is a cost but what is the quantifiable benefit?

This concern is compounded when the Minister for Treasury and Resources and the Minister for Economic Development repeatedly fail to answer questions about these companies and matters of legitimate concern to other States Members, employees of the companies or the general public – as shareholders. This evasiveness is not helpful when it looks as if jobs have been created for the boys – with big pay-days, bonuses and pay-offs for some, and misery for others. I am not convinced that the full cost of this has seen the light of day – again another very good reason to “inquire” (samples of questions not fully answered in the States of Jersey are attached).

On many occasions recently I have heard pay comparisons being made between managers of the above companies who are receiving more than the Prime Minister, or President of the United States of America – if this is accurate – the question then is –

“Is what are they doing worth what they are being paid and do they REALLY deserve such terms and conditions in the current economic climate?”

More recently, I believe that there are some issues and people that are inter-related between the companies and also that they have “trading relationships” with each other and other associated companies. This leads me to question who is looking after the public interest, it is not obvious to me.

Jersey Post and Newtel

If the Minister for Treasury and Resources (or Officers) REALLY does get consulted, (as the shareholder) on issues of policy, the question then is –

“Why have both the JEC and Jersey Post spent time money investing in telephone companies and services when the States of Jersey own 100% of Jersey Telecom?”

For example, the former Managing-Director of the JEC is now Chairman of Jersey Post. A former Director of Jersey Post had a senior post at Newtel at the same time that Me-Mo – a mobile phone operator – was established by Jersey Post.

The Jersey Post International Limited Business Review for 2009 (as published on the Jersey Post website) contains the following at page 24 –

“The remuneration of Directors of the JPIL group of companies for the financial year ended 31 December 2009 is set out opposite. Gary Whipp was a Non-Executive director up to the 25 June 2009 and received fees of £7,000 (2008: £15,000). During 2009 he also received consultancy fees of £177,000 (2008: £nil). Gary Whipp ceased his consultancy arrangements with the Group on the 3 June 2010, following his resignation as an interim Executive Director on 12 May 2010.

The Board has not complied with Principle B1.4 of the Code as the remuneration received by Gary Whipp in his role of Director on the boards of various other companies has not been declared. The Board is satisfied that all its Directors have declared all their business interests, that no conflicts of interests have arisen and that the additional positions held by Gary Whipp have not impacted on his ability to perform his role as an interim Executive

Director of the company. During 2008 and 2009 Gary Whipp received consultancy and other fees.

I would like to know what other fees – this is public money being spent against the background of a struggling postal service.

On Tuesday 18th January 2011, Deputy R.G. Le Hérissier of St. Saviour asked an oral question of the Minister for Treasury and Resources about the above: the transcript is set out below –

“5.5 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding the application of the code of Remuneration for Board Members by Jersey Post International Limited:

Why, as reported in Jersey Post International Limited’s Business Review 2009, was Principle B1.4 of the Code of Remuneration for Board Members not applied in respect in one member’s declaration of his role as a director of the boards of various other companies?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

The Business Review is a matter for the board of Jersey Post, it is not a document that the Treasury drafts or approves. What I can say is Principle B1.4 refers to the disclosure of directors’ remuneration from other sources. I am advised that the board satisfied itself that other non-Jersey Post positions held by the director did not conflict with or impact on his ability to perform in his role as interim executive director of Jersey Post. The board disclosed this fact and considered it was not necessary to make a more detailed disclosure in this case. I am advised that the statement in the company’s Business Review explains this matter and complies with the standard reporting requirements.

5.5.1 Deputy R.G. Le Hérissier:

Would the Minister not think that given there was a lot of contention in regard to the board member that it would have been much more transparent had all this been published? There is absolutely no earthly reason why it should not be published so that Members should not gain the full picture.

Senator P.F.C. Ozouf:

I do not think I can really add much more than I have said in my answer. This is a matter for the board themselves, in terms of their disclosure. I require all States-owned companies, and companies that the States has a shareholding in to adhere to the high standard of governance, and I am satisfied that there has been no issue in terms of governance or lacking in standards in relation to the reporting of Jersey Post. Deputy Le Hérissier is entitled to his own view in relation to some matters, but as far as reporting requirements, I am satisfied.

5.5.2 Deputy R.G. Le Hérissier:

Would the Minister not concede that the full circumstances and the full monitoring arrangements upon which the said director left should be

publicised in order that people can make their own assessment, after all the Minister has been defending Jersey Post, as has his Economic Development colleague, for some time and there have been serious concerns raised about the financial viability of projects launched by that said organisation?

Senator P.F.C. Ozouf:

That is a new issue. That is not related to the question the Deputy raised, which is about disclosure in the annual report. First of all, I am the one that defends Jersey Post, the Minister for Economic Development is responsible for the regulator and there will be natural tensions between us. I do not think that he is defending Jersey Post at all. Certainly there were issues in relation to the diversification strategy that Jersey Post was pursuing. I suppose that it could be the case that when you are taking risks in terms of growing a business some things will fail and some things will succeed. I am satisfied that Jersey Post has succeeded in more than it has failed in terms of diversification, and I am absolutely supportive of Jersey Post's focus on delivering a postal service within a competitive environment in a world in which letter deliveries are falling significantly, and that is Jersey Post's focus, certainly for the next 12 months and I have a meeting with the board next week in order to discuss this strategy.

5.5.3 Senator A. Breckon:

Is the Minister aware he is referring to postal services, but I understand the executive director concerned had an interest in a mobile telephone company and Jersey Post set one up as well; is he aware of that?

Senator P.F.C. Ozouf:

I am aware of it. I refer the Senator to the answer that I gave earlier, which is that in fact disclosures for the board members and the executive director are a matter for the board and not for me.”.

I think that the above demonstrates that Ministers are not prepared to examine issues of governance in more detail – it is the public's money and service we are talking about – Ministers should not hide behind Boards and use it as an excuse. Similarly, this is demonstrated by the question and answer below.

**“WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY T.M. PITMAN OF ST. HELIER
ANSWER TO BE TABLED ON MONDAY 13TH SEPTEMBER 2010**

Question

Will the Minister advise, as representative of the shareholder, whether the remuneration of the CEO, HR and Finance Directors of Jersey Post are in excess of their counterparts in the U.S. postal service, one of the largest postal services in the world?

Answer

Remuneration of executive directors is a matter for the company's Remuneration Committee.

The company's Remuneration Committee sets the framework for the remuneration of the Company's Executive Directors. The Committee comprises at least three independent non-Executive. The Committee produces an annual report of the Company's remuneration policy and practices which will form part of the Company's annual report."

And yet again, from another question from myself below –

**“WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND
RESOURCES
BY SENATOR A. BRECKON
ANSWER TO BE TABLED ON 6TH JULY 2010**

Question

“Can the Minister provide details of salaries above £70,000 that have been paid to existing and former employees of Jersey Post and Jersey Telecom in the two years prior to (and each of the years following) incorporation up to 2009?

Can the Minister provide details of any bonus payments and incentive payments that have been paid to existing and former employees of Jersey Post and Jersey Telecom in the two years prior to and each of the years following incorporation up to 2009?

Can the Minister provide details of the cost any severance or redundancy packages that have been paid to existing and former employees of Jersey Post and Jersey Telecom in the two years prior to and each of the years following incorporation up to 2009?

Can the Minister provide details of salaries above £70,000 that have been paid to existing and former executive or non-executive directors of Jersey Post or Jersey Telecom in the two years prior to and each of the years following incorporation up to 2009?”

Answer

The States of Jersey is the sole shareholder in Jersey Post and Jersey Telecom and the Board's shareholder relationship is set up under a Memorandum of Understanding. The Treasury Minister does not directly control employee remuneration.

Under the terms of the Memorandum of Understanding, in accordance with UK best practice, the annual Remuneration Report of the companies is voted on by the shareholder (i.e. the States of Jersey representatives) at the Annual General meeting. Any changes in remuneration for non-executive directors should be agreed in advance by the Minister for Treasury & Resources.

The Minister presents all the four Utility Company's Annual Accounts to the States. The accounts include disclosure of Director's remuneration, which includes disclosure of Directors salary/fees and their bonuses. On 21st June Utility Accounts for 2009 for Jersey Post International Limited; the Jersey New Waterworks Company Limited and Jersey Electricity Company were presented to the States. (R.C.78/2010, 79/2010 and 80/2010). The accounts for JT Group Limited will be presented shortly following their Annual General Meeting being held on 30th June 2010."

So in general terms I do not believe that questions are being answered in full. While there may be some matters that are of commercial confidence, there are others that should, I believe, be in the public domain. An overall inquiry would bring fresh minds to the subject.

Jersey Post – a few facts and figures

It is rather ironic that the people of Jersey were recently being asked their opinion about postal services, and whether they would prefer deliveries 5 or 6 days a fortnight – because apparently when Jersey Post had money coming out of their ears, no-one did so.

They may also have had a view **in 2005** when Executive Officers at Jersey Post were worth the money when they were salaried as follows –

- 1 Executive Officer is paid between £170,000 and £189,999
- 4 Executive Officers are paid between £110,000 and £129,999
- 1 Executive Officer is paid in the region of £90,000 and £109,999
- 1 Executive Officer is paid between £70,000 and £89,999.

These figures include pension benefits, and in total they add up to quite a few stamps needing to be sold! If they were all on the minimum amount – above – it equals £770,000 per annum, and on the maximum pay it equates to £910,000 per annum.

Similarly in 2009 Jersey Post accounts for director's salaries were –

- Managing Director: £133,000 plus £46,000 bonus equals £179,000 (2008: £153,000)
 - Finance Director: £128,000 plus £34,000 bonus equals £162,000 (2008: £154,000)
 - HR Director: £123,000 plus £42,000 bonus equals £165,000 (2008: £140,000)
- Total salaries for 3 members of staff: £506,000.

It would be fair and reasonable to make assumptions that similar amounts were being paid in 2006 and 2007. Therefore, between 2005 and 2009 inclusive (5 financial years) about £800,000 per year on average has been paid to Executive Officers – this equals £4 million – added to this, a Board of Directors have been paid instead of a Committee of (unpaid) politicians – this equates to about £100,000 per annum.

Also, at least one director has been paid “consultancy fees” that exceed £177,000.

It is understood that most of the Executive Officers who were in post in 2005 have now left and received 'severance packages' and that this may equate to at least another £1 million. Also, their 'severance' has left a future 'drain' on the pension fund. So it is fairly safe to say that inflated salaries over the past 5 years for Executive Officers and their severance packages, combined with the cost of having a Board of Directors, totals more than £7 million, with some further unquantified costs of future pension provisions.

Added to this is the cost of regulation by the JCRA, and this begs the question –

What actual benefit has there been to the public and postal users from the above?

I believe that it would be helpful if someone could answer this – most appropriately a Committee of Inquiry.

Jersey Electricity Company and Phone Company – Newtel

The JEC also have financial interest in Newtel – a look through the JEC's Reports and Accounts indicates that millions of pounds have been invested in Newtel; this had been written off as lost – shown in the following statement –

“Losses at Newtel our associated telecommunications company increased from £0.3m to £0.4m as it struggled to raise sufficient funding to overcome entry obstacles in the newly liberated, local telecoms market. It appears likely that it has now secured external funding to develop the business further but we continued our prudent policy of reviewing investments in our balance sheet, by writing down the £1.5m carrying value of our 41% equity investment and loans in Newtel, which is shown as an exceptional cost in the period.

20th May 2004

Notes to the financial statements for the period ended 31 March 2004.

3 exceptional items

An impairment of investment in associate

The exceptional item of £1,521,000 in the 6 months to 31 March 2004 relates to the write-down of the group investment in our associate Newtel Holdings Limited.”.

However, in May 2010 the JEC 2010 Report dated 13th May 2010 –

“Our remaining business units produced profits of £1.3m which included £1m received from our associate Newtel for the fibre optic lease rentals and the part repayment of a loan written off in 2004 when the investment value was reduced to zero. These additional revenues are largely non-recurring and were associated with the distribution of funds raised by Newtel from the sale of its data centre assets in Guernsey.

6(d) The Company has a 34% shareholding in Newtel Holdings Limited (Newtel). During the six months to 31st March 2010 the company made electricity sales of £16,000 (2009: £14,000) and received other income of £1,033,000 (2009:£25,000). Newtel made sales of £2,000 (2009: £1,000) to the company for the six months ended 31st March 2010.”.

Note, in 2007, the JEC had stated in their “Operations Review” that they had a 41% shareholding in Newtel. I cannot find any information that demonstrates how the reduction was achieved. Information about Newtel Holdings Limited is NOT readily available.

Questions to the Chairman of the JEC

There are some questions about Newtel’s line of credit with the JEC – apparently they did not pay fibre optical lease rentals for a number of years – a bit like not paying your electricity bill.

Below is a list of questions I attached to a letter I sent to the Chairman of the JEC on 13th September 2010 (see Appendix 1). The JEC has not answered these questions. On Tuesday 1st February 2011, I asked similar questions of the Minister for Treasury and Resources, who has shareholder responsibility – the answers are pretty useless; that is why I believe an Inquiry is needed to establish the facts. At the moment I believe that we have smoke and mirrors!

Questions I asked of the JEC

- “1. When did JEC invest in Newtel?
2. What was the shareholding?
3. What was the justification for this?
4. Why did the JEC believe it needed an associate telecoms company?
5. When did the JEC Board agree this?
6. What were the future business and financial forecast for Newtel Holdings and did the JEC receive Newtel’s Annual Report and Accounts?
7. How – if at all – was the investment overseen e.g. was the JEC represented on Newtel Holdings Board?
8. How much was the initial investment?
9. How much further investment and funding was giving to Newtel and in what form:
 - (a) Loans?
 - (b) Extension of commercial/ contract credit?

10. What were conditions if any attached to 9(a) and 9(b) above and how was it to be repaid?
11. How much, attributable to Newtel, was included in the JEC Annual Report and Accounts as a loss on either "Investment on joint venture" or "share of (loss) profit of joint venture", since the original share holding was acquired?
12.
 - (a) What is the current position with the share holding, outstanding loans and any commercial arrangement with Newtel Holdings?
 - (b) What is in place for recovery of 12(a) above?
13. What proceeds, if any, has the JEC received from the sale of Newtel's Guernsey business?
14. What is the JEC's inter alia relationship with Newtel Holdings and any of their companies and Utilico?
15. Why has Utilico received preference of repayments of debt/loans before JEC?
16. Can you supply any other relevant information not included in (1) to (15) above with regard to the JEC shareholding, business, financial and contractual arrangements with Newtel holdings?

I look forward to receipt of full answers to the above questions at your earliest convenience.

Many thanks
Alan Breckon 13th September 2010."

Since asking these questions and getting no meaningful response, a press release was issued by the JEC on 17th December 2010, and the following extracts are taken from it.

"A £1 million windfall from associated telecommunications company Newtel following the disposal of the company's Guernsey interests."

"The company proposes to pay shareholders a final net dividend of £1.24, which is a 5% increase on the previous year, plus an additional special dividend of 65p net from the proceeds of the Newtel 'windfall' payment. As the States of Jersey are the JEC's majority shareholder, owning 62% of the Company, they can expect to receive £1.8m on 31 March 2011."

The distribution of this 'windfall' is interesting, because apparently over 60% was for an arrears payment for use of the cable network system.

Newtel for sale

I understand that Newtel were under some considerable financial pressure to continue operating. They sold their Guernsey operation to Jersey Telecom for £11 million, which allowed them to get their head above water again, but having to clear considerable debts from the proceeds. The main beneficiaries from this were Utilico and the JEC. The value of Newtel's Guernsey operation is based on e-gaming traffic. On 7th February 2011, the JCRA had the following advertisement in the Jersey Evening Post:

NOTICE OF APPLICATION FOR APPROVAL OF AN ACQUISITION	
Applicants:	1. Financial Media Holdings Limited ("FMHL") 2. The shareholders in Newtel Holdings Limited ("Newtel")
Proposed Acquisition:	FMHL proposes to acquire control of Newtel.
Industries Involved:	Telecommunications industry (Private Circuits, Internet Access, Application Services and Support)
The JCRA invites any comments regarding the proposed acquisition. The deadline for comments is 2pm Monday 21 February 2011. Please make your comments by letter marked for the attention of Rob van der Laan, Senior Case Officer at the address below, or by e-mail to r.vanderlaan@jcra.je . A public version of the application form is available on request.	

I do not know how long ago this sale was planned; which gives grounds for both the JEC and Newtel to protect any position or market share that they may have from competition – something the JCRA should ensure does NOT happen.

Clear Mobitel Jersey (CMJ)

I organised a "Telecoms Fair" on Saturday 20th March 2010, and I was introduced to Directors of Clear Mobitel Jersey, who are licensed by the JCRA and are seeking to establish wireless broadband across the Channel Islands alongside other telephone services. I have kept in touch because I was interested in this development, but aware that nothing has happened, certainly publicly, since.

I am advised of the following in regard to Clear Mobitel –

- They have negotiated and bought access to the JEC's undersea cables between France and Jersey.
- They have not been able to purchase access to the JEC's undersea cables between Jersey and Guernsey.
- In July 2010, after months of unsuccessful negotiations, CMJ made a formal complaint to the JCRA about being denied access to links between Jersey and Guernsey.
- CMJ allege that the JEC and Newtel were in breach of the Jersey Competition Law by denying them access between Jersey and Guernsey.
- The JCRA have, in February 2011, set aside CMJ's complaint, but are investigating sea-cable capacity and availability between Jersey and Guernsey.
- CMJ are to appeal the decision of the JCRA but maintain their position.
- The sale of Newtel would frustrate CMJ access to remedy.
- CMJ do not believe that the JCRA have acted as an impartial Competition Regulator in dealing with their complaint.

The information from the Jersey Competition Regulatory Authority (JCRA) says –

- To provide formal and informal guide to businesses on their obligations under the competition law.
- To investigate suspected abuse by undertakings with a dominant position in particular markets.
- To investigate suspected anticompetitive arrangements between undertakings.
- To administer applications for exemption.
- To investigate suspected failures to obtain JCRA approval for mergers and acquisitions when this is required.
- To advise on existing or proposed States legislation in respect of the effects on competition.

Jersey Telecom was set adrift from the public sector a few years ago; however, now may be a good time to re-visit the relationship with the shareholder and see what this brave new world of the marketplace and competition has brought by way of benefits to the ordinary person.

Also, Jersey Telecom has a salary structure and workforce profile that has changed – is it appropriate? – who decides?

Who made decisions about bonuses and severance packages – I believe that these issues are worth looking at, as in the cost of regulation; how much does it cost in time and money and who benefits and how, what has competition done for the ordinary person, how if at all, has the States, as 100% shareholder, been affected?

Jersey Water

To my knowledge there are no present issues between the shareholder and Jersey Water; however I believe that they should be included in any Inquiry because there may be common issues that arise, about which their involvement and contribution will assist.

Appendices

I have also attached as Appendices –

1. Letter to JEC Chairman dated 13th September 2010.
2. Questions I asked of the Minister for Treasury and Resources on 1st February 2011 concerning JEC and Newtel and the reply received.
3. Questions I asked of the Minister for Economic Development on 1st February 2011 concerning a complaint to JCRA from Clear Mobitel Jersey about JEC and Newtel and the reply received.

Financial and manpower implications

Standing Order 150 states that it is the Minister for Treasury and Resources who has to give directions on how much a Committee of Inquiry can spend and where that money should come from, so it is a matter for him. My own assessment is that this is quite a major Inquiry, where expertise on accountancy, etc., would be needed, and I think realistic costs would be in the region of £250,000. My own opinion is that this should be found equally by using dividend income from the 4 utilities and the Minister may need to procure an additional dividend to do this. It is common practice for a regulator when investigating a situation to pass the cost on to those being investigated – to me this is similar. Standing Order 150 is in the following terms –

150 Committee of inquiry: remuneration and expenses

The Minister for Treasury and Resources may give directions as to –

- (a) the remuneration (if any) of a member of a committee of inquiry;
- (b) the expenses that a committee of inquiry may incur; and
- (c) how such remuneration and expenses are to be funded.

APPENDIX 1

(..)
Chairman
Jersey Electricity Co
The Powerhouse
P.O Box 45
Queens Rd
St Helier
JE4 8NY

13th September 2010

Dear [*Chairman*],

As I am sure you are aware on 10th June 2010 a report was produced by Deloitte titled;

States of Jersey Owned Utilities Governance Review (key finding report)

In the main this Report looked at existing methods of communicating with the States of Jersey as majority shareholder, through the Treasury Department officers and the Treasury Minister.

This led me to look more closely at other information available including the Annual Reports and Accounts of the JEC.

I have some concern about what was contained therein and I have attached a number of questions and I would be grateful to receive your response at your earliest convenience.

Many Thanks.

Yours sincerely

Alan Breckon

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND
RESOURCES
BY SENATOR A. BRECKON
ANSWER TO BE TABLED ON TUESDAY 1st FEBRUARY 2011**

Question

Can the Minister as representative of the shareholders confirm the financial position and business arrangements between the Jersey Electricity Company (JEC) and Newtel Holdings and, in particular, can the Minister state –

- (a) how much was invested in Newtel Holdings and in what year?
- (b) how much of this was written off and in what year?
- (c) whether the JEC extended a line of credit for services provided to Newtel and, if so, for how long?
- (d) was there an outstanding amount and, if so, why was this allowed to happen?
- (e) was any money repaid and if so, what amount and how?
- (f) for what purpose was the credit extended?

Does the Minister consider that there is a chance of recovering any of the outstanding monies invested in Newtel and, if so, how and when?

Answer

I have corresponded with the JEC on this matter and received the following answer:

“We are limited in the access we have to information pertaining to Newtel as it is a private company with minority shareholders – even if this was available we would need to be careful not to prejudice minority shareholders, as further transactional activity may be in progress. Historical information that is available can be sourced via the Jersey Electricity published accounts over the last 13 years or so.

What we can say is that the JEC’s investment in Newtel was an important catalyst for the installation of fibre optic within the CIEG electricity grid which was put in place in 2000. This has benefited Jersey Telecom and other telecom operators who have either directly or indirectly used the cable for the benefit of consumers. We can also confirm that the JEC has a long-term agreement with Newtel to provide access to the fibre optic network and annual payments are made by Newtel.”

**WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC
DEVELOPMENT
BY SENATOR A. BRECKON
ANSWER TO BE TABLED ON TUESDAY 1st FEBRUARY 2011**

Question

Can the Minister advise whether a formal complaint has been made to the Jersey Competition Regulatory Authority (JCRA) by Clear Mobitel about the anti-competitive behaviour of the Jersey Electricity Company and Newtel Holdings and, if so –

- (a) when was the formal complaint made?
- (b) why has the JCRA not made this matter public?
- (c) is the complaint still being investigated and, if so, by whom and within what timescale?

Does the Minister have confidence in the JCRA as an independent body that will investigate all matters without fear or favour?

Answer

It would be inappropriate to comment on any specific complaint before the JCRA which has been set up by the States of Jersey as an independent competition and regulatory body to investigate such matters independently. However, I understand that –

- (a) Clear Mobitel announced on 16th December 2010 that it had lodged a complaint with the JCRA in regard to Jersey Electricity Company and Newtel Holdings.
- (b) The JCRA does not as a rule publicise or comment upon complaints received. By their nature the majority of complaints require the JCRA to investigate matters which are commercially confidential and may involve mediation between parties which may not be helped by publication of any details.
- (c) While I understand that this complaint is still being considered by the JCRA, it is a matter for the JCRA to consider the timeframe within which such investigations are carried out. I have every confidence that the JCRA will seek to resolve any issues in a timely and effective manner.

I also have every confidence that the JCRA will investigate this matter to the extent required in accordance with the powers available to it under the Law and take whatever action that might be necessary arising from its investigation without fear or favour.