

# STATES OF JERSEY

## Economic Affairs Panel

### Telecoms Review Sub Panel

**FRIDAY, 17th NOVEMBER 2006**

**Panel:**

Deputy G.P. Southern of St. Helier (Chairman)  
Senator B.E. Shenton  
Deputy J.G. Reed of St. Ouen  
Deputy J.A. Martin of St. Helier  
Deputy G.C.L. Baudains of St. Clement  
Dr. D. Parker (Panel Adviser)  
Miss S. Power (Scrutiny Officer)

**Witnesses:**

Senator P.F.C. Ozouf, (Minister for Economic Development)

**Deputy G.P. Southern:**

Welcome then, Minister.

**Senator P.F.C. Ozouf (Minister for Economic Development):**

Good afternoon to you.

**Deputy G.P. Southern:**

I will not make any introductions around the table because I believe you know everybody here, except for our adviser on telecoms, Dr. David Parker, from Cranfield University.

**Senator P.F.C. Ozouf:**

Excellent.

**Deputy G.P. Southern:**

I will draw your attention to the notice in front of you about the conditions under which we meet which I believe you have been notified previously about anyway --

**Senator P.F.C. Ozouf:**

I think that is probably right.

**Deputy G.P. Southern:**

-- and start us off, start the ball rolling, with a simple question on the surface. In the consideration to privatising telecoms, first of all what has been your role and what do you see as your involvement and actions that you need to take?

**Senator P.F.C. Ozouf:**

I would start by saying that the essence of the new arrangements, the new Telecommunications (Jersey) Law 2002 brought in was, effectively, a separation of the respective responsibilities between operator, regulator and shareholder. It is absolutely right to say that it is the Treasury and Resources Minister in his capacity as shareholder who has started and promoted the proposal to consult on the issue of the ownership and a possible privatisation of Jersey Telecom, and so it must be regarded as the catalyst and rightly so. I have read as far as I have been able to fairly quickly the oral evidence that was given to you by the regulator, and the panel is well aware of the responsibilities of both the Economic Development Minister and the regulator insofar as economic and regulatory matters are concerned. There are certain reserve powers that the Minister has in respect of social and environmental matters and there are primary duties that are set out very clearly in the law. I see my role in the discussion of the proposed privatisation of Jersey Telecom as being the individual on the Council of Ministers who brings to the table the non-shareholder issues, the economic and competitive issues, to the Council of Ministers and eventually to, of course, the States in their decision because, of course, it will be the States to decide whether or not any decision is made to sell off Jersey Telecom. After having reviewed my obligations under the law and after having discussed the matter with the Treasury Minister and the JCRA (Jersey Competition Regulatory Authority), I thought it was in the best interests of everybody if I formalised a request to the JCRA to give me advice which I would then share with the Council of Ministers and then, I imagine, with the States as whole, as I fully intend to publish the advice that the JCRA gives me.

**Deputy G.P. Southern:**

Why did you feel it was necessary to do that?

**Senator P.F.C. Ozouf:**

There is a segregation of duties in respect of the arrangements for telecoms matters. The Treasury Minister looks after the shareholder interests and others are delegated to the largely independent JCRA matters of the regulatory framework, and I regard myself as being a key individual on the Council of Ministers as regards economic matters and the policies that the Council of Ministers should adopt in relation to economic growth. I regard the telecom sector as an absolutely vital component of the economy now and into the future. I think that we must ensure that the Island is as well served as we possibly can be with efficient, effective telecommunications and, effectively, any consideration of the sale of Jersey Telecom must have regard to a number of different matters. It must have regard to shareholder matters and economic and competition matters. It is effectively going to be a balanced

decision and there are tradeoffs and tensions between the respective positions.

**Deputy G.P. Southern:**

Is the Jersey Competition Regulatory Authority the best people to be asking for advice on, for example, one-off transitional costs of structural modifications and the efficiency losses from structurally separating a vertically-integrated business in the 5 options that you appear to have given them which include restructuring -- selling off the business in bits?

**Senator P.F.C. Ozouf:**

The first thing to say is I think they are questions that should be asked and I think that colleague Council Members and States' Members would expect every single possible question on the future structure of our important telecom sector to be asked and the States needs to be provided with answers. I do not prejudge the answers that may be given by the JRCA but I know the questions should be asked. As to the question as to whether or not the JCRA is the best body to do that, well, they are the lead runner in terms of being the best option that we have. They are the expert authority that has all the information or as good as information as anybody independently about the telecoms market. They have shown themselves to be diligent in the way that they have, in my view, regulated and are regulating the market and issuing licences and their views matter. That is not to say that they have the monopoly on the information and advice for telecoms and that is why, in conjunction with the Article 6 (4) request, I am also in discussion with the Economic Adviser and I have had discussions with the Chief Minister's Department to ensure that we are all joined up. I think that I can say with some degree of confidence that the Treasury Minister welcomes this additional input by the JCRA and there is going to be some further input by the Economic Adviser. No doubt he will want to interpret for the Council of the Ministers the advice that the JCRA gives us. This is an important matter if we are talking about a change in the structure of the telecoms market. This is a once in a lifetime opportunity to make a decision and get that decision and make a correct decision, so we need as much quality, good, impartial information as possible.

**Deputy G.P. Southern:**

What do you see as advantages of selling the business off in parts, if any?

**Senator P.F.C. Ozouf:**

I would repeat what I said a few moments ago. The telecoms market matters for Jersey; it matters for us as individuals, as individual consumers; it matters for businesses. We all know that telecoms matters in our daily lives now, but I would suggest that telecoms is going to matter even more in future. There is an interesting publication, which I meant to bring with me, which is the very interesting report by the OECD (Organisation for Economic Co-operation and Development) on the future of infrastructure of telecoms water and electricity. They paint a picture of the absolute importance of the telecoms service and network for, for example, the future of telemedicine: people being treated in their own homes by

being wired up and having their hearts monitored remotely; physicians being at the end of a video phone giving consultations. That is just one area where telecommunications matters. I have a fast internet broadband access at home. I think the Island is very well served by JT (Jersey Telecom), I wish to say at this point, in terms of the quality of service but clearly the market is changing and I could see a situation in 10 or 20 years time when almost there is no difference between the way we get as an Island community, for example, media. The panel will be aware of the changeover from analogue to digital TV signals for example. We have a particular issue about bandwidth for television signal to Jersey because of the proximity with France. In central Paris you get your TV signal through your copper wire for your telephone wire. Large parts of St. Helier are served through cable television. Technology is going to move on in terms of being able to deliver media and television through, effectively, the copper wire and what we are talking about here is the future of the fixed line business. That is, not exclusively, one of my major concerns and in any question of the sale of Jersey Telecom we need to make sure that that network is structured in such a way to deliver those important services because we may well be relying on it even more than we have ever thought possible in the future.

**Deputy G.P. Southern:**

We are aware of the changes to the nature of the telecoms market. What do you think is the advantages of privatising Jersey Telecom in those circumstances? What particular advantages does that give a new set up?

**Senator P.F.C. Ozouf:**

One has to look at the world and I do not believe that any jurisdiction, let alone Jersey, need not learn from the experience of other places. The experience of other places is very clearly that it is becoming more unusual for a national government to own their dominant telecom provider and governments large and small have made the decision to dispose of their telecoms businesses for good competition reasons, to ensure their telecoms operator is plugged into a larger telecom conglomerate that can deliver economies of scale, better services. I can see that there is merit in having an informed debate about what is right for the consumers of Jersey, for the economy of Jersey and for the States as a shareholder. I agree basically with the premise that it is probably in the best interests of Jersey for Jersey Telecom to be sold to another partner which is going to deliver them additional benefit in terms of economies of scale, buying power and all the rest of it. Jersey Telecom is a very small operator in a very big globalised world.

**Deputy G.P. Southern:**

I will have one more before I let Gerard in. You referred to economies of scale. Would you like to define what you mean by economies of scale? This is something we have heard time and time again but not received any detail on.

**Senator P.F.C. Ozouf:**

If one takes it at its extreme, the United Kingdom, I think, has a population of some 65 million customers and British Telecom (BT) remains the dominant provider of fixed line businesses, as far as I understand it. That is a massive business compared to the very small business of a telco which is effectively serving a community of 90,000 and there is going to be a lower cost for a large telco on a unit cost provision compared to a large one. In very simple terms, that is what I mean by economies of scale. In terms of buying power, I note that when Mr. Lawrence from Jersey Telecom gave you evidence he cited the example of having mobile phone roaming partners and the clout that a small telecom provider has compared to a bigger telecom provider is an example of the economy of scale of the buying power of a larger group. That is the debate that needs to be had: has Jersey Telecom got a better buying power if it is linked in with a large telco operator than basically remaining independent? The world of telecommunications has changed almost beyond recognition in the last 10 years and we need to consider what is right for our very small telco in this globalised world.

**Deputy G.P. Southern:**

You lead me straight on to something else before I let Gerard in. I do want to. You talk about the world of telecoms has changed remarkably in the last 10 years. Do you not accept that Jersey Telecom has lead the way in many cases, been very innovative, very light on its feet and produced an excellent quality of service?

**Senator P.F.C. Ozouf:**

I do think that Jersey Telecom serves this community very well but I think that competition also, and the threat of competition, has helped that. I have been, almost since the beginning of my States' career, involved in some way in the debate and the moving of, effectively, Jersey Telecom as a States' department into an efficient private company but nevertheless owned by the States and not linked into any global operator from the beginning. I think that one of the catalysts for Jersey Telecom effectively being efficient has been the threat of competition. It is the threat that drives innovation and drives people to make business. The moment you say that somehow you are not going to have any competition then sometimes - no criticism here - that does not, in my view, provide the environment which is conducive towards hungry, competitive, customer service, price and all the rest of it. I think competition has helped and the threat of competition has helped sharpen Jersey Telecom and Jersey Telecom, by the way, has also done some great work in Guernsey in terms of driving competition there because, of course, they are, importantly, the second mobile operator and doing very well.

**Deputy G.P. Southern:**

It is always refreshing to hear your philosophy. Gerard?

**Deputy G.C.L. Baudains of St. Clement:**

Just expanding on what you were saying there about competition, I am trying to evaluate the foundation for the present position that we find ourselves in. How do you see competition benefiting

telecommunication in Jersey, both now and in the future? You have just raised the issue of competition driving forward the need for innovation and such things like that, but I see 2 sides of that coin. I also see a company potentially losing market share and therefore not bothering to invest because if I was driving a fleet of lorries and I had competitors I would not be out buying new trucks. Is there not a danger that there could be a perverse result?

**Senator P.F.C. Ozouf:**

Your Chairman says he enjoys hearing my political philosophy. My political philosophy is one of liberal economics, low barriers to entry and competition as driving customer service and price. I want this community - and I know how much it matters for the economy for there to be the very best world class level of telecommunication services possible. Fast internet access and fast efficient reliable data transfer through our financial services industries is absolutely vital. It is probably worth saying that one of the catalysts, one of the drivers behind the liberalisation of Jersey Telecom that we were alerted to in 2001 when the States made the decision to do away with the exclusive privilege of Jersey Telecom, was that on the tick box of whether or not a financial institution would base their activities in Jersey was the resilience and the efficiency of telecommunications. It is on the tick box, I can say to the panel quite openly and honestly, that fast dependable, reliable, resilient telecommunications is absolutely vital, among other things, for the decisions for international banks, et cetera, deciding whether to come to Jersey. They were a catalyst for the liberalisation and our competitors largely have liberalised telecommunication markets. In terms of what competition does, well, competition raises innovation and lowers price and effectively delivers more efficient services in the longer run.

**Deputy G.C.L. Baudains:**

It did not work on the southern sea route.

**Senator P.F.C. Ozouf:**

I think that we can have a debate about the southern sea route and I think that you will also be aware that the southern sea route is the subject of a particular attention by ED (Economic Development) and the JCRA about how best to get that right. The questions I am asking the JCRA, and that I want the Council of Ministers to be informed about, is what is the right structure of the market to serve this community. It is important that these questions are asked. For example, Jersey did not have until quite recently a 3G mobile phone network. I cannot take my computer and effectively get fast internet Wi-Fi access around St. Helier. When I am in other places, either on States business or for personal travel, I can log on to get fast internet access in order to get my emails to work. We have not had 3G. We have not had the market leader in terms of business technology, in terms of personal devices. I would suggest, respectfully, that it is the threat of other people providing services that drives innovation. The absence of 3G, the absence of some key technologies, some key products, I do not think that is -- I want the best for the Jersey community and I want the telecom structure that delivers that.

**Deputy G.P. Southern:**

That can only be produced by competition, in your book?

**Senator P.F.C. Ozouf:**

Competition drives innovation and is, I think --

**Deputy G.P. Southern:**

Innovation never comes from anywhere else?

**Senator P.F.C. Ozouf:**

It does.

**Deputy G.P. Southern:**

Jersey Telecom would have sat there like a big fat baby and done nothing for the last 10 years if it had not been for the threat of competition; that is in your book?

**Senator P.F.C. Ozouf:**

Well, I believe that competition assists greatly in the delivery of efficiency, allocation of resources and customer service, et cetera, and importantly on price. Let the evidence of other jurisdictions – let us look at Caribbean jurisdictions where there has been an incumbent, et cetera.

**Deputy J.A. Martin:**

Can I just come in there about your philosophies, competition and competition? Do you not have a worry, though, that with all the licences and with the proposed sell off of JT, that we could end up with one private monopoly. Nobody seems to have done the research as to what 90,000 people can sustain in the terms of operators. It does not mean that we will end up in a year or 2 with -- I cannot see it. Can you definitely guarantee we will still have competition?

**Senator P.F.C. Ozouf:**

First of all, we have got now a very comprehensive telecoms law which effectively regulates the incumbent dominant provider and I think JT in whoever's hands has a great future. If you look at the evolution of telecommunications services, the former state-owned dominant operator still is effectively the big game in town as far as telecommunication services and that is why I am not in any way pessimistic about the future of JT at all. In fact, I am very optimistic about it. Unless they do something that I do not know about. The track record that they have shown indicates that they are a force to be reckoned with now and into the future.

**Deputy J.A. Martin:**

They will not exist when you sell them.

**Senator P.F.C. Ozouf:**

Well, they will exist. It is not when I sell them.

**Deputy J.A. Martin:**

Sorry, if the States decide to sell them.

**Senator P.F.C. Ozouf:**

It is when the States decide and the States is obviously going to make a balanced decision which basically weighs the economic competitive elements of the argument, together with the protection that we have got on social and environmental -- because we have powers of direction. The States has powers of regulation; I have powers of direction in a number of respects; I have got powers of guidance. At the end of the day, the States makes the laws and we can, subject to Her Majesty's approval, pass laws to improve the regulations to tighten it up. I am not afraid of Jersey Telecom effectively in different hands because I know that the telecoms lawyers have very carefully crafted law which effectively provides the JCRA with all of the tools it needs to regulate properly, whether that is a regulated entity owned by the States or owned by another party.

**Deputy G.P. Southern:**

In terms of competition, if I can just return to it briefly, the likelihood is - and it has happened all over the place - we start off with competition; sooner or later one company, and usually one of the big 4 or 5 companies, telcos, becomes dominant. We end up with monopoly decisions and an attempt to regulate.

**Senator P.F.C. Ozouf:**

That is why I think it is very important to consider and ask the questions about what is the right structure of the telecoms market because I am very aware that it is, from a regulatory point of view, expensive to regulate. It is relatively expensive to regulate an incumbent and if you can structure the market in a way that requires less regulatory intervention then that is probably the best situation. We have all read in the national press in the UK the fact that Ofcom have now basically taken a step back and said we now no longer need to regulate BT in the way that - I think it was in the fixed line area - because effectively the market is regulating. Regulation is the proxy for competition.

**Deputy G.C.L. Baudains:**

Could I explore a situation, a nightmare scenario, which does trouble me and that is that we would ultimately replace a State monopoly with a multi-national monopoly, because at the moment through Jersey Telecom we have a degree of control over infrastructure which is vital to Jersey's economy. It does seem to me, and referring back to economies of scale, that you are reducing your economies of scale by the more operators you have on the Island. Ultimately I am concerned that we might end up with simply one operator over whom we have no control whatsoever, some multi-national company on



which the JCRA will be powerless to act. I can see this happening in a number of ways because, while the JCRA believes it could regulate such a scenario not to happen, of course the JCRA could not prevent a company going into liquidation or simply pulling out and leaving us with that one multi-national company who could basically dictate to us. How do we avoid that?

**Senator P.F.C. Ozouf:**

There are a number of very important points there that I will try and cover. First of all, you say that the infrastructure matters and I agree with you, which is why in any consideration of a change of ownership of that infrastructure we need to ask and be provided with all the best possible information about the consequences of different options that we have got. So I entirely endorse your statement that the infrastructure matters, because we are talking about Jersey's telco infrastructure. I think there is, however, recognition that there are 2 parts of this telecommunications market: there is the wireless mobile market and there is the fixed line market. The barrier to entry for the fixed line is much more difficult and much more expensive. I have not seen recently the balance sheet of Jersey Telecom but we know that the market cost of entering the mobile market in Jersey is much less than the fixed line. I know that there is a debate - and maybe we will cover this - going on about whether or not we want mobile phone masts and the proliferation of them, et cetera, but effectively it is much easier to set up a mobile network than it is the fixed line. Some people believe that mobile is going to overtake entirely the fixed line. I do not entirely subscribe to that view. I think the fixed line and the fixed mobile network is going to be around for some considerable time to come. Moreover, the fixed line is going to be, in terms of its data speed, in advance of the mobile network, irrespective of the views about health, et cetera. So there is a difference between the fixed line network and the mobile network. If you had asked me what my primary concern is and the issue that I want answers on, it is about the future of the fixed line network. I mean the copper wire from the various different exchanges around the Island but also the fixed line that the Island has between the Island and the UK and France. That is what we are talking about and it really is important for us to make the right decision for the ownership and the market structure of that network. That is not necessarily going to be a popular view and I have seen a submission by some that it is not possible, that these questions should not even be asked. It might be that the JCRA come back and say the costs of separation of these entities is just too prohibitive and it is not acceptable for economies of scale. I do not know the answer to those questions, but I jolly well know that the question should be asked.

**Deputy G.C.L. Baudains:**

I presume from your answer you are suggesting that we retain some form of ownership over the fixed network, as opposed to regulation, because, going back to my question, if by some means - and there are various routes that could happen - the multi-national company does become a monopoly and owns it, virtually nobody would regulate them. They could under-invest if they so chose and so forth.

**Senator P.F.C. Ozouf:**

I do not agree with that. I do not agree that the JCRA is powerless to regulate. I do not believe that at all because the telecoms law is a good law which can be applied and the expertise that we have in the JCRA is quite capable of regulating a multi-national or a state-owned utility. I do not see any fear at all. The point I did not make earlier was - I think it was the Chairman that made the comment - that effectively the experience of other jurisdictions is that somehow a number of mobile phone operators effectively goes down to, I think you said, 4 or 5, and then goes down. Let us also be clear that adjacent --

**Deputy G.P. Southern:**

In smaller jurisdictions that is almost inevitable, surely. Do you not agree?

**Senator P.F.C. Ozouf:**

Well, there are 2 laws here that matter, that regulate, that have the power to influence the ownership. The first one, of course, is the telecoms law itself which is what has been the subject of a lot of your discussions. The other one, of course, is the competitions law, and the mergers and acquisitions part of that, and the JCRA has to clear the merger or acquisition of -- certainly Jersey Telecom falls within the ambit of the mergers and acquisitions part of that law. So the JCRA, irrespective of their duties as a regulator, are going to have to effectively consider their obligations and to clear any transaction in respect of the sale of Jersey Telecom and any future merger. For example, if there were to be a proposal to merge, let us take a theoretical example, Cable & Wireless and the owner of the new -- supposing we sold Jersey Telecom and that was brought by somebody and then Cable & Wireless and JT merge, that would be a transaction which would have to be cleared by the JCRA. So this is not the world that happened a few hours before the purchase of Safeway by CI Traders. This is now a world which is subject to merger and acquisition control and no doubt the JCRA will carefully consider the impact of any proposals to reduce the amount of operators in the telecoms market. So there are 2 laws that are coming into force.

**Deputy G.P. Southern:**

How? How?

**Deputy G.C.L. Baudains:**

I would like you to expand on that because it does seem to me, when we are dealing with multi-national companies, that the chances of the JCRA being effective are, in fact, slim if we do end up with another monopoly. It is all very well for the JCRA to have the powers, but how does it enforce them?

**Senator P.F.C. Ozouf:**

Well, it has got very clear powers, as I think are clearly demonstrated in the law. The Executive Director of the JCRA, I think, very clearly explained to you that he has no fear and the JCRA have no fear of effectively regulating and using their powers effectively and fairly and properly with any telecom

provider. Let us take the example of Cable & Wireless in Guernsey. Cable & Wireless is a multi-national with experience of regulators across a number of small states and the Office of Utility there does not seem to have too much of a difficulty in regulating appropriately Cable & Wireless. Maybe I will go on to my views about how we could improve the regulatory framework by a Channel Islands approach and that may be relevant to some of the questions you may be wanting to ask me about the particular question that I have been given notice of on Cable & Wireless. I have no problem and I am entirely confident that the JCRA can regulate the incumbent Jersey Telecom, whoever owns it.

**Deputy G.P. Southern:**

And can enforce its regulations?

**Senator P.F.C. Ozouf:**

I am entirely confident that we have a proper legal framework and that we have a body of people in the JCRA that are expert and diligent.

**Deputy G.P. Southern:**

And the financial clout to take on multi-billion pound major operator?

**Senator P.F.C. Ozouf:**

It is true to say that the JCRA is a relatively new institution in Jersey and so they are going to only grow, in my opinion, in terms of their stature and in terms of the confidence, but I understand that people may well ask about just whether or not the JCRA is able to deal with that. Let us compare and contrast the power and the regard in which the JFSC (Jersey Financial Services Commission), which is effectively the other regulatory body which I have political -- to the extent that one has political responsibility for --

**Deputy G.C.L. Baudains:**

I do not think we are talking about confidence here; we are talking about --

**Senator P.F.C. Ozouf:**

The JFSC does it with international banks; the JCRA can do it with international companies. I have got no concern whatsoever. Even though we are small, our institutions in Jersey have proven themselves to be able to deal with the biggest in the class.

**Deputy J.A. Martin:**

But you did not answer the question. Have we got the money to fight a big multi-national in the courts, which it comes down to? That is the last step, the courts.

**Senator P.F.C. Ozouf:**

There is an arrangement between both between the JFSC and the JCRA and the States of Jersey in

respect of legal support and in the event I would confirm to the Panel that I would be happy to support the JCRA. There is a budgetary allocation for their competition work and the JCRA which we enjoy regular and constructive communication. I would have no hesitation in giving the JCRA all the support it needed in order to deal with its enforcement, if it came to that.

**Deputy J.A. Martin:**

What is the budget?

**Senator P.F.C. Ozouf:**

Well, I mean how long is a piece of string? Telecoms matters in Jersey and it is important the JCRA is giving the necessary resources to carry out its responsibilities, as is exactly the case with the JFSC.

**Deputy G.C.L. Baudains:**

Possibly one thing that may be even more important than monetary considerations, of course, is time. Court cases can take, if we look at some cases in the Island, many years, which would make the JCRA basically impotent during that time and technology, as we know in the telecommunications market, is marching ahead. Is that another consideration? Could that be a difficulty that we are bogged down in court dispute and during that process the JCRA clearly cannot enforce what it wants to enforce?

**Senator P.F.C. Ozouf:**

Well, let us look at the JCRA's track record. They are, in my view, rightly requiring the new mobile phone operators to co-operate in terms of number portability. I think that JCRA have made, again, the absolute right and correct call in respect of number portability. I read in the press, as you do, the action that they have taken against Jersey Telecom and I agree with it. They are independent, I do not interfere in their activities, but they are proving -- and when I see the action they are taking against JT, it would be no different if it would be JT owned by Telefonica or BT or whomsoever.

**Deputy G.P. Southern:**

Once again you have failed to answer the question. The question was would not the time involved in a legal challenge -- the JCRA has not been legally challenged yet. It has sought and obtained co-operation, but under a case where it was serious and did seek a legal challenge, that could take some time.

**Senator P.F.C. Ozouf:**

That is right but the case of number portability and the action that the JCRA has taken against JT in respect of number portability, there is a timeframe which is set out in the Law. We can go through those timings if you wish. There is a 30-day arrangement whereby there is an appeal process but the combination of the JCRA and our well-regarded, highly-respected court service is going to deliver solutions and decisions which are effectively enforceable and that does not mean we take years and

years. I would take the opportunity of saying that, having reviewed the process of appeal and enforcement that we have in Jersey, I think it is better than that of Guernsey which, from what I have seen, would certainly take longer to sort out disputes than in Jersey. If the JCRA comes to me and says: "Minister, we really need to review this time. We need to look at the period of the time of appeal and we need to tighten this up", then I will not hesitate in inviting the States to make amendments to the Law, but I do not see any deficiency in the law as crafted. In fact, the JCRA are doing a jolly good job.

**Deputy G.P. Southern:**

You suggest the courts can come to a very rapid decision over particular challenges legally?

**Senator P.F.C. Ozouf:**

Well, let us look at the track record of our courts in relation to the JFSC. The quality and the speed of the court's decision making is, I think, there to stand up to scrutiny.

**Senator B.E. Shenton:**

Well, yes, they have just dropped a case because it took too long. You mentioned that you are in agreement with the actions of the JCRA. Under Article 33, they have just deemed that Jersey Telecom are in breach of their licence because they did not advertise special offers to the public 21 days in advance. The whole concept of advertising special offers to the public 21 days in advance is absolutely ludicrous. I do not know how you can run a business that way. It seems to me that the JCRA seems almost to have an agenda to destroy Jersey Telecom.

**Senator P.F.C. Ozouf:**

You are entitled to your opinion, Senator. I have to say I am far from being able to support or agree any of the conclusions that you appear to have reached.

**Senator B.E. Shenton:**

Could you run a business where you have to advertise special offers 21 days in advance? And your competitors do not?

**Senator P.F.C. Ozouf:**

I am entirely confident in the administration and the decision making of the JCRA. All of the decisions that I have watched from the sidelines and taken in respect of action against JT - whether it be 18 month contracts or whether it be number portability or issuing of mobile phone licences - are decisions which I have to say give me confidence that they know what they are doing. One has to remember that JT is the dominant operator and what the JCRA is doing is, I do not think, any different from the regulatory approach of other regulators with the dominant operator. JT is in a powerful position.

**Senator B.E. Shenton:**

Well, what the JCRA are doing is reducing the value of Jersey Telecom.

**Senator P.F.C. Ozouf:**

I do not agree with that.

**Senator B.E. Shenton:**

What experience do you, your Ministerial colleagues, and the Treasury have in handling this sort of asset sale?

**Senator P.F.C. Ozouf:**

I think you came in halfway through my opening remarks where I said that it was important for the Council of Ministers, and ultimately the States, to be properly informed by independent experts in the areas that need to be taken account of when considering the future ownership of Jersey Telecom. I am not a merchant banker; I am not a regulator. I have a responsibility to ensure that my Ministerial colleagues are properly informed with expert advice with the information that they need to make the important decisions about the future ownership of Jersey Telecom. That is why I have asked the JCRA to provide a detailed report on the options and that report will be not only submitted to the Council of Ministers but will be published. We are also getting advice and that report from the JCRA will be interpreted, if it needs any interpretation, and further expanded upon by our properly appointed expert economic advisers. I note the Treasury Minister has made the decision to appoint eminent merchant bankers, in the form of Citigroup, in order to advise the Treasury Minister and the Council of Ministers on the shareholder issues. So together with all of this information, and may I say the conclusions of the Scrutiny Panel, I think that we will be well equipped to make a balanced informed decision about the future of our important telecoms company.

**Senator B.E. Shenton:**

I find it very strange that you have asked the JCRA to look at the sale of Jersey Telecom. I likened it this morning to Churchill asking Hitler to advise on the D Day landings. I have spoken to other people in the industry and they cannot quite work out the logic behind it. I mean, why ask the Regulator to advise on a sale?

**Senator P.F.C. Ozouf:**

I find sometimes, Senator, your comparisons curious, if not a little insulting. Making references to Churchill and Hitler I think have no place in --

**Senator B.E. Shenton:**

I am saying they are opposites. That is all I am saying is that they opposites and you are obviously quite sensitive (...overspeaking).

**Senator P.F.C. Ozouf:**

I find such statements offensive, frankly, but I am happy to explain to you why I think the JCRA are the correct body, or one of the correct bodies, and one of the most important bodies to do -- and I have already answered this question but I am happy to repeat it again. The JCRA is the States' appointed expert body in relation to the regulation of telecoms. They are the body that has all the information and has the best level of information about the telecoms market. They know about Jersey Telecom; they know about potential other entrants into the market; they understand and have a track record in showing that they understand the telecoms market. They will be involved in the sale of JT in the later stages of the merger and acquisition obligations that JT and the States have. They will need to clear the sale. It is not only right to bring them into the process at an early stage, but they are the body that is the States appointed expert authority in the matter. It is absolutely right that they are there. I find the comments that you make about destroying shareholder value completely bizarre and strange. I just simply do not believe that those comments could be borne out by scrutiny. I do not know any politician who would sit on a select committee and suggest that a regulator is destroying shareholder value. It is for scrutiny to decide.

**Senator B.E. Shenton:**

Well, they have been if they are regulated unfairly, of course they are. Again, you may have answered this question, but why allow competition and then sell Jersey Telecom?

**Senator P.F.C. Ozouf:**

Well, first of all, I came into this whole debate about the telecoms market in 1999 when the States had made a decision effectively to incorporate a number of bodies. At the time it was made effectively to find a way of getting the funding and the capital of these entities - most importantly, Jersey Telecom - out of the funding arrangements for the provision of public services. At the time it was that you would incorporate Jersey Telecom, but Jersey Telecom would continue to be the regulator. I believe, which I said in my opening remarks, that the right structure for the regulation for Jersey Telecom was to separate out the respective responsibilities of regulator, operator, and shareholder, and to create the tension between those different positions, and that is what we have done. That is what I did when the JCRA law was taken to the States and the telecoms law was taken to the States, and we have separated out to create this healthy tension. There will be a healthy debate at the Council of Ministers' table and, no doubt, in the States when we consider the Treasury Minister's recommendations to try and find the best capable --

**Senator B.E. Shenton:**

So why allow competition before selling Jersey Telecom?

**Senator P.F.C. Ozouf:**

Well, I think if you had asked me, really, it was in the early 1990s that we should have incorporated Jersey Telecom and made this separation. It took too long, and the fact is we were late on in achieving

what should have happened.

**Senator B.E. Shenton:**

But you have only recently allowed competition.

**Senator P.F.C. Ozouf:**

Well, I did as soon as I possibly could.

**Senator B.E. Shenton:**

Yes, you allowed competition, where you could have delayed it.

**Senator P.F.C. Ozouf:**

Are you suggesting that one should have delayed competition in order then to sort of dress up Jersey Telecom for a sale at an early stage?

**Deputy G.P. Southern:**

If you want to maximise value --

**Senator B.E. Shenton:**

If you were looking at maximising value.

**Senator P.F.C. Ozouf:**

From my position, I am interested in the economics; I am interested in the competitiveness; I am interested in what consumers get. Your Chairman said he is always interested to hear my views on the matter. As I have explained, I am of the view that open, liberal, economic politics and policies is the best way to serve the community.

**Senator B.E. Shenton:**

You could have still achieved all that with a different timeframe and maximised the value of Jersey Telecom as well but the way you have done it is completely and utterly naïve.

**Senator P.F.C. Ozouf:**

You will be entitled to your opinion, Senator but the States have agreed, with huge majorities, to policies that have been put forward by the former Industries Committee, Economic Development Committee and Finance and Economics, and I believe that I am in no way pessimistic about the value, the performance, the customer service, or the price levels at which JT will provide to this community in future. In fact, I have a high level of confidence that we will not only find the right decision for the structure of Jersey Telecom, but Jersey Telecom, in whatever structure we decide, has a great future.



**Senator B.E. Shenton:**

So you must have an idea what you think Jersey Telecom is worth?

**Senator P.F.C. Ozouf:**

I have my private views, but it would be inappropriate for me to suggest them. My primary job is to ensure that the Council of Ministers and the States are properly and completely informed with as much possible information in order to make the best decision in the interests of the shareholders, the workers of Jersey Telecom, the consumers, and the economy of the Island.

**Deputy G.C.L. Baudains:**

Could I ask what your long-term vision for telecommunications in Jersey is? How many operators do you possibly anticipate might be suitable, and do you see a profit for Jersey Telecom or an outright sale? Or is it a split-up of the various parts, as you suggested earlier?

**Senator P.F.C. Ozouf:**

Well, the first thing is I do not believe that politicians should regulate markets such as telecoms. I think that there are reserved powers that the political body should have, and that is clearly set out in the law that we do have powers in respect of social and environmental matters. But basically I do not believe that politicians should be the Regulator, and that is why I sought to change in 1999, 2000, and 2001 the approach whereby politicians would be regulators. Politicians do not make very good telecoms regulators. We have set up an expert authority to do so, with expert people with huge experience and the ability to get good information from colleague regulators and experts in the field. I am not the regulator. I have faith that we have put in place the right regulatory structure that those decisions may well be taken. It is up to the Regulator to make those decisions. If you are confident in the Regulator, then the right decisions will be made.

**Deputy G.C.L. Baudains:**

Do you have a particular personal view of what you think may be the best outcomes for telecommunications in Jersey?

**Senator P.F.C. Ozouf:**

My job, Deputy, is to make sure that the right questions are asked, that the Council of Ministers is furnished with all the possible options, and that we can have that trade-off discussion between structure, shareholder value, and all the other considerations that need to be had.

**Deputy G.C.L. Baudains:**

Well, I must say, I am disappointed because I did expect to at least have an idea that there was an end game in sight.

**Senator P.F.C. Ozouf:**

The end game is that it would be wrong for me to speculate on what the conclusions of the JCRA and our economic adviser and Citigroup, the Treasury Minister, will come to. My aim is to ensure that in now and out to 2020, 2030, 2040, we have the best and most efficient telecommunications available to a small nation state. That means quality; that means speed at a good price. It is competition - to repeat myself, which I will probably sound like a broken record - that delivers that.

**Deputy G.P. Southern:**

We will return to competition later but ... James?

**The Deputy of St. Ouen:**

If I could ask a slightly more direct question perhaps. As Minister for Economic Development, do you support the proposal to sell Jersey Telecom, and what are the reasons behind your view?

**Senator P.F.C. Ozouf:**

Well, it seems to me that the telecoms industry has changed over the last 10, 20 years beyond all recognition. We have moved from telecoms being part of the postal service, which was a state government department in the 1940s, to a separation out of telecoms companies from post offices, and governments around the world liberalising their telecoms services. They then have also - sometimes before they have introduced competition, sometimes after - considered the right and appropriate ownership structure. It seems to me that there is a good case to be made for us to review the ownership structure of telecoms, and certainly it is unusual in 2006 to see the dominant telco owner to be entirely state-owned.

**Deputy G.P. Southern:**

Is that a yes or a no? Do you support this sale?

**Senator P.F.C. Ozouf:**

I support the debate, and I support the principle that it is, on balance, probably in the best interests of the company, the shareholders, consumers, and the employees of Jersey Telecom for there to be some form of privatisation, but I would not wish to pre-judge what the outcome of the solution might be. Whether that be a trade sale; whether that be an IPO; whether that be a partial sale; whether that be some form of break up; I do not know. But I know that the questions need to be answered so that we get the right decision. This is a once in a lifetime decision, and we have to get it right, and I am in no rush.

**The Deputy of St. Ouen:**

There certainly seems to be --

**Deputy G.P. Southern:**

Can I come in there? Excuse me, James, I will come straight back to you. You have mentioned the employees twice in the last 2 minutes. Did you feel that you were supporting the interests of employees of Jersey Telecom when you voted against the introduction of TUPE-style legislation into the Island before any sale took place recently?

**Senator P.F.C. Ozouf:**

Well, let us be clear. I think I am right in saying that the precise TUPE legislation that we are speaking about here did not necessarily apply for a sale of one company to another. I think the TUPE regulations - and please correct me if I am wrong - deal effectively with the transferring and outsourcing of services that are government into private hands. What I would remind the Panel is that the Treasury Minister has confirmed - and confirmed to you in the States during that debate and also subsequently, no doubt, when he comes to give you evidence - that he will guarantee the same equivalent TUPE which does not cover company-to-company things, but if I am wrong correct me. So, effectively, he has guaranteed the equivalent of that. If you have the Treasury Minister effectively guaranteeing giving a States' undertaking that the guarantees will be given on an equivalence basis, then you do not need to wait for the legislation. What we do need to do is have a debate about the ownership of telecoms and it does not need to wait for TUPE legislation on the books because he has given the equivalent guarantee. You have got it, effectively.

**Deputy G.P. Southern:**

Our understanding is while he can, in good faith, give that guarantee, he cannot enforce it without legislation in place. However, we will pass on. James --

**Senator P.F.C. Ozouf:**

I would respectfully submit that an undertaking given by the Treasury Minister is as good as it gets in terms of a guarantee, and that it is enforceable. He is ultimately the shareholder, and ultimately that is going to be a condition of sale, et cetera. I am sure that they are lawyers and our legal advisers can find a way of making sure that it is enforceable.

**The Deputy of St. Ouen:**

I just want to go back to my original question, because I am really struggling with a whole load of what I would term "mixed messages" that not only you are giving in words used, but others. We have a consultation document that basically seems to come to a conclusion: "Right, let us sell Jersey Telecom." We have others, like yourself, who are saying: "Look, this is extremely important. The telecoms sector is extremely important for our Island and we have to make sure that we have a top quality service", so on and so forth. We say that in one breath and yet we say that we have not had all the pre-technology that we should have had, but nowhere, in my view, are there clear and precise details showing why we are choosing to sell Jersey Telecom. You speak about incorporation and how it was designed to free up the regulatory side of things. Incorporation was equally designed to free companies

from government, and allow them to be fully commercial and active in that environment. So I cannot see, and no one seems to have shown me, a step that goes right where you said it would go. So can you just expand on your reasons that you have concluded that we need to be pursuing this route?

**Senator P.F.C. Ozouf:**

Well, the Treasury Minister has made it clear that he is coming at this from a position as JT as an investor, as a shareholder, and he is obviously of the view that there is benefit in Jersey Telecom itself being plugged into a bigger operator and being effectively owned by a different entity than the States. He is entitled to his view and I see merit in that point of view. In considering whether or not he is absolutely right in that conclusion, that is why we are having this consultation; that is why you are reviewing it; that is why we are getting advice to ensure that he is right in that; moreover, that the way in which he proposes to do it is in the best interests of the consumers, the employees, the Island, the economy, et cetera. So, we have not got a final decision yet, but we are going through the process of asking whether or not that decision is the right one.

**Senator B.E. Shenton:**

Was the Treasury Minister forced into this position by you allowing competition?

**Senator P.F.C. Ozouf:**

Jersey is not some sort of state that is incomparable with other places. Let us look at the telecoms market in other large and small states. This is nothing unusual in terms of a government needing to liberalise its telecoms market and that means introducing competition. We are not unusual in that. We would be unusual if we had not done it. We are not unusual in having an informed and proper debate about the ownership of it and considering what is best for the market.

**Senator B.E. Shenton:**

Hang on. We owned Jersey Telecom. You could have just hauled them in and said “put your prices down”.

**Senator P.F.C. Ozouf:**

Senator Shenton, you have been a States’ Member for coming up to a year. You obviously have quite a lot to learn in relation to the way in which markets work and the interaction between markets and regulators. I repeat my views earlier that it is competition that drives innovation, and I would repeat the remarks I made to Deputy Martin when I said that the regulation is the proxy for competition. Now, if I have not made myself clear ... in other words you regulate if the market is not regulating itself through competition.

**Senator B.E. Shenton:**

So the experts that argue that for a small jurisdiction a regulated monopoly is the best way forward --

**Senator P.F.C. Ozouf:**

Where is there a regulator that has come to that conclusion, Senator?

**Senator B.E. Shenton:**

I think that you will find that there are --

**Deputy G.P. Southern:**

I believe the expert who was over earlier in the year, Michelle Gal from Tel Aviv, was suggesting exactly that: in small economies there are occasions when the natural monopoly properly regulated is the best way forward. I believe if you read her book you will find that conclusion in several places.

**Senator P.F.C. Ozouf:**

Indeed, it did not take the Chamber of Commerce to alert me to Dr. Gal's book because I read it before I took the Competition Law to the States with Deputy Voisin, so I am well aware of it.

**Deputy G.P. Southern:**

So you say "where are the examples?". Michelle Gal points to them.

**Senator P.F.C. Ozouf:**

Yes. There are natural monopolies in which competition is not possible: telecoms is not one of them. If I had Dr. Gal's book with me then we would no doubt seek out a paragraph. I would also remind the Panel that Dr. Gal was quite complimentary of the structures and laws that we had put in place to regulate, and put in place to protect, against the abuse of dominant position in competition. In fact, I think she thought that we were a leading jurisdiction in that regard, and I do not believe that her conclusions in respect of natural monopolies needing to be regulated related to telecoms. You can bring her and call her to evidence if you wish. They may well relate to water or electricity.

**Deputy G.P. Southern:**

If I may bring you back to Senator Shenton's question. Do you believe the decision to sell now was motivated by the arrival of competition which, according to the Treasury Minister, was going to reduce the value of Jersey Telecom and they needed to sell now and to sell quickly to maximise the return? Do you believe that the arrival, that the onset, of competition promoted that?

**Senator P.F.C. Ozouf:**

Of course, it is a very important, relevant factor, but in concluding one must not be a *Sun* headline reporter here and just simply take a - I mean no disrespect to *The Sun* but they are just one particular narrow point of view that can be put on one tabloid newspaper - you cannot just take the narrow issue of the introduction of competition. We needed to liberalise our telecoms market. As I think I was also

saying earlier --

**Deputy G.P. Southern:**

You are still avoiding answering the question. Was that a factor in --

**Senator P.F.C. Ozouf:**

It is a factor.

**Deputy G.P. Southern:**

Thank you.

**Senator P.F.C. Ozouf:**

It is a factor, but let us be absolutely clear that on the tick list, and Senator Shenton apparently has experience and knowledge of the financial services industry and he will be able to say for himself whether he agrees with the statement that liberalised telecoms is on the checklist of whether or not banks locate to Jersey and operate out of a jurisdiction. A liberalised, efficient and resilient telecoms service is absolutely vital to the trading operations of hedge funds, of financial institutions, trust companies, et cetera, and the States, it is true, was under no illusion of the importance of liberalising telecoms in order to deliver that.

**Senator B.E. Shenton:**

Most of the banks came here when it was not liberalised.

**Senator P.F.C. Ozouf:**

Well, I can tell you, as Economic Development Minister, that on the tick box there is one new bank that I have authorised this week under Reg. of Uns (Regulation of Undertakings). I am well aware of the reasons why banks come and continue to come to Jersey, and liberalised, efficient, effective, resilient telecoms is right up there, high on the list.

**Deputy G.P. Southern:**

It is part of your duty as Economic Development Minister to ensure that a reliable and an innovative service is maintained there.

**Senator P.F.C. Ozouf:**

You have read the Law very well, Deputy --

**Deputy G.P. Southern:**

Absolutely.

**Senator P.F.C. Ozouf:**

-- and you will be aware of my obligations under the Law.

**Deputy G.P. Southern:**

Therefore, can I assume that if, for example, either Bharti or Cable & Wireless should end up being the highest bidders for Jersey Telecom were it to be sold off, you would expect the JCRA - since that would be a reduction in competition - possibly to rule against that and say: "You cannot buy Jersey Telecom"? Would you, if they did not, intervene in your role as Economic Development Minister?

**Senator P.F.C. Ozouf:**

First of all, I repeat - again, broken record - the fact that I have confidence and faith in the decision-making of the JCRA, and if you do not, even if you want --

**Deputy G.P. Southern:**

That is not the question.

**Senator P.F.C. Ozouf:**

Well, that is the first thing, because I trust them to make the right decision. Secondly, the decision about any sale of JT is not just simply about maximising shareholder return. It is about what is right for the Island, what is right for consumers, the long and short-term interests of consumers, as you have read the Law, and a number of relevant factors, and so it is not necessarily to the highest bidder. There are other factors that will be, I am sure, taken into account, and the structure of the market is one of them. I think there is an important difference between the mobile market --

**Deputy G.P. Southern:**

Would you expect JCRA to rule against the takeover of Jersey Telecom by either of the 2 main investors already here, as the reduction in competition has to be a possibility?

**Senator P.F.C. Ozouf:**

I am not the regulator. I have faith in the JCRA making the right decision in the best interests of the community of which they are a part.

**Deputy G.P. Southern:**

And were they not to rule against them on the grounds that it was a reduction in competition not to be welcomed, would you intervene?

**Senator P.F.C. Ozouf:**

Well, let us be clear. The decision to sell Jersey Telecom is going to be a recommendation by the Council of Ministers to the States, so it is going to be the States that decide and no doubt if there was a

proposal --

**Deputy G.P. Southern:**

If that produced a reduction in competition, would you intervene?

**Senator P.F.C. Ozouf:**

Well, there are 2 markets here: we are dealing with the mobile market, of which we have currently 3 - I hope 3 - operators and we have the fixed line. I have already made my views very clear that I am as concerned, if not more concerned, about the fixed line network because effectively there is no competition there. So if you had asked me about whoever owns the fixed line business, we do not have, apart from the former television company, Newtel, competition at the fixed line level in Jersey, . That is why --

**Deputy G.P. Southern:**

You are still not answering my question.

**Senator P.F.C. Ozouf:**

Well, because I cannot answer your question. It needs to be broken down into component parts. What the Regulator has to do is consider issues such as local loop unbundling in order to allow innovative ways of having competition over the network. That is why I want to see the answers to the structural issue --

**Deputy G.P. Southern:**

How many operators in the telecoms business in this Island would you see as a healthy number?

**Senator P.F.C. Ozouf:**

Again, I cannot answer the question because you are asking me how many telecoms companies -- we are dealing with 2 markets. We are dealing with a mobile market, and we are dealing with a fixed line market, and I think the JCRA have made the right call in respect of more than 2 in mobile.

**Deputy J.A. Martin:**

At the moment, yes, but if we sell to Cable & Wireless they will take over JT's infrastructure which is fixed lines completely.

**Senator P.F.C. Ozouf:**

But it could be, and --

**Deputy J.A. Martin:**

What the Chairman is asking you, under that circumstance, would you use your powers to intervene?



**Senator P.F.C. Ozouf:**

Well, I do not have powers to intervene to that extent except --

**Deputy G.P. Southern:**

On economic, social and environmental grounds?

**Senator P.F.C. Ozouf:**

Well, no, I have powers of direction on environmental and social matters, and I have powers of guidance in respect of other matters. We can go through the Law if you wish.

**Deputy J.A. Martin:**

No.

**Deputy G.P. Southern:**

No, no. We will save it. We will check it again later on.

**Senator P.F.C. Ozouf:**

Yes, well, my primary duties under the Law -- I have a copy here --

**Deputy G.P. Southern:**

Please don't. I accept what you are saying.

**Senator P.F.C. Ozouf:**

Okay.

**Senator B.E. Shenton:**

There are a lot of people working over here for Bharti and for Cable & Wireless. How many licences has the Reg. of Uns issued so far for people to come over and set up the network?

**Senator P.F.C. Ozouf:**

I would need notice of that question, Senator. I would not wish to answer that question in open session because Reg. of Uns licences are confidential and, as a matter of protocol and as a matter of long-established principle, I never answer direct questions on Reg. of Uns applications. I am happy to furnish the Panel information on that matter but it would be subject to the confidentiality arrangements that we have in place.

**Deputy G.C.L. Baudains:**

Would you confirm, or otherwise, that the JCRA is primarily concerned with promoting competition and

not so much concerned possibly with other issues. I am thinking of with respect to entrants into the market who may be undesirable, or for political or other reasons, whether the firm would employ local people or not? What is the balance the JCRA has in these issues, or is it heavily loaded towards competition?

**Senator P.F.C. Ozouf:**

Well, I think Bill Brown explained very clearly and very completely to you the rôle, as he sees it, of the JCRA. Of course, any business wishing to set up in Jersey has a number of other hurdles to jump, some would argue too many. Senator Shenton's question relates to the commencement of a trade and employing of people. Of course, I administer the Regulations of Undertakings Law, and the Housing Minister the J Category system, in a manner which is consistent and applies to businesses in different sectors, in different ways but is consistent. So, therefore, the decisions that have been made about the new entrants -- and by the way I have to have regard to the Competition Law in Reg. of Uns matters and so I am guided by the JCRA, but I also have obligations in respect of population matters and qualified versus non-qualified and they are made in the normal way and according to our stated policies.

**Deputy G.C.L. Baudains:**

I raise that issue because when we did interview the JCRA, I came away with the impression that if 30 or 40 entrants came to them with a business plan to move into Jersey, providing they were financially secure and various other things, they would get a licence. It does not seem to me they have a mandate to look very deeply into other issues. I was hoping that, as Minister, you would probably be working in that area, because otherwise nobody seems to be working in that area.

**Senator P.F.C. Ozouf:**

Well, I did not read from Mr. Brown's evidence any reference - unless I missed it - to 30 or 40 entrants. The duties of the Authority are clearly set out: they have to perform their functions in a manner which is best calculated to consider the short and long-term interests of users of telecommunication services, and those are the guiding principles. I know that the Chairman does not want me to drone on about the Law itself but I think it is also very important to recognise that it must also perform its duties in relation to the ability for JT and telecoms providers to be able to fund their operations. So they do have regard to a number of factors; they are not simply slaves to the sole objective of competition. It is achieving their objectives, wherever possible, through competition, and that is exactly what they are doing.

**Deputy G.P. Southern:**

We have mentioned economies of scale. Can I take you on to the concept of diseconomies of scale which result, for example, if you sell JT to one of the large multi-nationals? It is being run by Seattle, it has interests worldwide, and when it comes to consideration of decisions of investment or otherwise, or return - where are we getting the best returns from - it takes its decisions in terms of its global perspective and not from a perspective of "are we doing the best for Jersey". That sort of diseconomy of

scale which says you lose control of the interests of a utility in your Island and give it over to somebody who will, on the grand scale of things -- Jersey does not really count unless it is making the right level of profit, that is a diseconomy of scale, and that is what we are at risk of doing if we sell to one of the multi-nationals.

**Senator P.F.C. Ozouf:**

Can I just track back for one second, and just make sure that the Panel has understood one thing about the responsibilities of the JCRA? I will come directly to your question, because it is also related. Can I just remind the Panel what the duties of the Authority are in respect of one important factor, and in Article 2 (e) it says: "In performing its functions under the law, have regard to the need to ensure the person engaging in commercial activity connected with telecommunications in Jersey has sufficient financial and other resources to conduct those activities." So the JCRA is having regard to the ability for the operators of Telecom to fund their activities; in other words that they can continue to invest. This is a very carefully constructed law which has duties which means the JCRA has to balance its decisions on a number of aspects to fund the operations to deliver services to further the interests of the economy of Jersey, so it is not a slave to competition.

**Deputy G.C.L. Baudains:**

I apologise for butting in here but that does hinge directly on the question that I asked previously, because, while the JCRA has regard to the company, it does not necessarily have any regard to employment. The company may well outsource all its work to India or wherever in the world and only maintain half a dozen people in Jersey. That clearly would not be for the benefit of Jersey's economy, but I fail to see whether the JCRA would have regard to that.

**Senator P.F.C. Ozouf:**

Certainly the States have pursued policies in financial services of encouraging the outsourcing of some functions to other places and, indeed, the footprint of Jersey, we benefit because of that. In the financial services industry we are seeing the 12,000 or so people working in financial services being at the higher salary end, and there are potentially some opportunities for a global carrier to provide some of those services outside the Island. I do not necessarily see that to be a bad thing for Jersey. Clearly, the company needs to be absolutely best in class in terms of the protection of its employees. We have seen JT doing some restructuring in the last couple of years. That is, as all companies, an evolution of its activities.

**Deputy G.P. Southern:**

Are you saying you would be content to see the stripping out of that particular set of skills attached to telecoms out of the Island? Once it had gone it would never get back, would it?

**Senator P.F.C. Ozouf:**

I did not say that.

**Deputy G.P. Southern:**

No, you appeared to be --

**Senator P.F.C. Ozouf:**

I said that these are matters which are best left to well-constructed, well-owned, well-run businesses, having regard to their obligations locally and their reputation locally, et cetera. Just to answer now your questions, Chairman, in respect of -- I am somewhat confused between the issue of diseconomies of scale in passing control to somewhere else. I think they are 2 different things. Diseconomies of scale are about the small scale of an operation. I do not think that is about losing control. I attended last night the Ashburton Investment Conference and heard the inspirational comments of F.W. De Klerk, our own Chief Minister, and Ken Clarke and Anatole Kalinsky, a well-known economic observer, and they all said and made comments about the success of economies that tended to be open economies. That is the view that I hold. I believe that economies that are open, economies that have tough competition laws, that have well-regulated markets, are likely to be at the higher end of GDP (Gross Domestic Product) growth and what I mean by that is that effectively many people can share in the financial success of the community. So I am a liberal economic politician and I believe in open markets and I think that Jersey's telecom market is no different.

**Deputy G.P. Southern:**

Can I bring you back to my question: are you content to see control of Jersey Telecom being offered to someone who is 1,000 miles away with global concerns and in whose eyes Jersey matters that much, rather than with its base here and operated and owned by us, its interests are to make sure that it does best by Jersey?

**Senator P.F.C. Ozouf:**

We have a very good telecoms law. We have a very effective telecom regulatory structure, and so it is not as though we would be passing control of our much-respected, much-loved Jersey Telecom into this sort of fire of --

**Deputy G.P. Southern:**

We are about to sell it to the highest bidder probably --

**Senator P.F.C. Ozouf:**

Who said we were going to sell it to the highest bidder?

**Deputy G.P. Southern:**

-- which may well be a large multi-national. That is a possibility. Do you accept that possibility?

**Senator P.F.C. Ozouf:**

We can have confidence that whoever owns Jersey Telecom as telecom companies are owned and are -- the underlying sort of assumption in the question is that somehow multi-nationals are bad things and they somehow bring --

**Deputy G.P. Southern:**

Worldwide experience suggests that small economies, small jurisdictions, have a terrible time dealing with multi-nationally owned, multi-billion pound organisations getting control of their telecom system which produces worse results and being held to ransom, effectively, by the company.

**Senator P.F.C. Ozouf:**

Well, there are 3 things I would say: the first thing is that we have a law which can deal - as I have repeated earlier - with any owner of Jersey Telecom effectively and well, because it is a good law with a good regulatory authority; secondly, I do not think I subscribe to the same political philosophy as you, Chairman, in respect of that.

**Deputy G.P. Southern:**

It is not a political philosophy. It is experienced around the world today in terms of telecoms and small jurisdictions. There are jurisdictions around the world, particularly in the Caribbean but also elsewhere, being held to ransom by large companies.

**Senator P.F.C. Ozouf:**

Well, there are a number of Caribbean jurisdictions which have now opened their telecoms markets. Indeed, one of our entrants in the mobile phone area has demonstrated to be a fierce competitor of the other entrant that is coming into Jersey and, in fact, consumers are better off with better services. A number of Caribbean jurisdictions were also quite late on in effectively liberalising their telecoms markets. It is the threat of competition; it is the threat of a hungry new innovative entrant that keeps the competition, the incumbent sharp. That is why competition works.

**Deputy G.P. Southern:**

I am glad you came back to competition because I was going to come back there as well. Do you agree with the thoughts of, I think, probably most academics in the field that it is competition and regulation that produces the benefits and that privatisation per se goes on top of that but does not produce enormous or large scale additional benefits? It is competition and regulation that produces the benefits.

**Senator P.F.C. Ozouf:**

Well, I would put the sentence quite the other way around: regulation is the proxy for competition and so, in a sense, the regulator and what has happened in telecoms market is that there are examples where

regulators have effectively done themselves out of a job because they have created the market forces for the market to regulate itself, as we have seen with Ofcom in the UK. That is why I think it is important to ask the questions, and I do not pre-judge the answers to the questions, about the structure: would it be in the best interests of the Island to look at a different telecoms structure than we have at the moment? I am not saying yes or no, but I think it is a healthy and a correct question to ask. Would it be easier for the Regulator to regulate a separated Jersey Telecom? It is clear that I think these questions need to be asked because I have asked the JCRA to answer them, and that is why, in my Article 8 (6) iv--

**Deputy G.P. Southern:**

You are not answering my question again, that privatisation per se does not produce large scale benefits, competition does.

**Senator P.F.C. Ozouf:**

Well, private companies with global clout in terms of buying power, in terms of international call purchasing and bandwidth, and things that other people know and understand much better than I do, can deliver economies of scale and buying scale which can benefit Jersey consumers. To an extent --

**Deputy G.P. Southern:**

Who will run their companies to the benefit of their global interests and not necessarily Jersey's. So if your regulator gets a bit tough and cuts your margins down, if you are a large global operator, so that your profit levels from Jersey start to slide, is there anything that we can do as a regulator or otherwise to stop that company just simply pulling the plug and saying: "Had enough. It is too tough to deal with you. Your regulator is working. It is doing a damn good job, but he does not believe me when I say I need this much profit from your company, so I am pulling the plug."

**Senator P.F.C. Ozouf:**

.It sounds as though from some of the questions that I have been asked -- I thought this was a sort of real, impartial, evidence-based approach. It sounds as though there is some --

**Deputy G.P. Southern:**

I am being completely impartial. I am examining possibilities, which I know have happened elsewhere.

**Senator P.F.C. Ozouf:**

Okay, fair enough. I will not then assume that you have pre-judged --

**Deputy G.P. Southern:**

So please do not go there.

**Senator P.F.C. Ozouf:**

I hope that you have not pre-judged the conclusion because some of the questions that I have been asked --

**Deputy G.P. Southern:**

You should know me well enough to know that I never pre-judge; I go for evidence.

**Senator P.F.C. Ozouf:**

Well, fair enough. Then the evidence that you will see in respect of the benefit of a potential multi-national partner to JT is replicated in a number of jurisdictions. Certainly, we are going to have a debate in the States on Tuesday and I have been considering with the Council of Ministers yesterday the comments on the mobile phone masts. Then I believe that the arrival of a third operator, and particularly Airtel, in terms of the telecoms market in Jersey will be of benefit to consumers and will be a further force to be reckoned with in terms of delivering consumers good services, good value, and competitive telecom prices.

**Deputy G.P. Southern:**

I realise we are coming towards the end but, Gerard --

**Deputy G.C.L. Baudains:**

Surely, going back to the economies of scale - which is proving extremely difficult for us to nail down - is it not the case that the more you divide the market up between a number of operators, the less the economies of scale? Why would operators want to be here for just a fifth of the market share?

**Senator P.F.C. Ozouf:**

Well, first of all, there has been a lot of loose talk about the fact that we are going to have 4 mobile phone operators. As far as I can see we are, at the moment, likely to have 3 mobile phone operators and, clearly, the 2 entrants believe that there is good business and there is good return on investments to be made out of that market. Cable & Wireless and Airtel have made their investment decisions and clearly they are quite keen to get on with entering the Jersey market. They have made those decisions because they believe that this market is capable of sustaining, certainly, 3 operators in terms of mobile phones. This is not unusual if one looks across other small states in terms of the number of mobile phone operators. It is not unusual to see 2 or 3 mobile phone operators. Indeed, I would like to see further innovative competition in terms of virtual networks being operated on the existing operators and that is maybe something that we will see. It is important in the fixed line business, because we need to probably have the local loop unbundling to allow other companies to effectively use the highway of the copper wire which is owned by JT. That is why it is important for us to ask the questions about the structural separation potentially of JT. I do not know the answers and it may well be too prohibitively expensive, but it is worth answering the questions.

**Deputy G.C.L. Baudains:**

Leaving aside for the moment the issue that if Jersey Telecom's Island partnership were owned by a much larger player who would thereby gain access to services that it might either have difficulty obtaining or obtaining for the correct price, is there not an issue around the sale of Jersey Telecom in so much that the return that we would have if we, having taken the money and invested it, would not be able to get the same return as we do by owning Jersey Telecom, so financially the Island will probably be worse off?

**Senator P.F.C. Ozouf:**

That is why we have appointed some top city merchant banker advisers in order to advise us as States' Members about what is in the best interests of us wearing our shareholder hats. We have other hats to wear, but I am confident that we are going to have all that information and we are going to have the best advice available.

**Senator B.E. Shenton:**

The whole saga has cost quite a lot. The Regulator is quite expensive; I think £800,000 a year. Is that the figure the JCRA costs us?

**Senator P.F.C. Ozouf:**

I would be happy to confirm those figures. I believe that the first year of telecoms regulation was in the region of the figures that you quote. I believe that as we then move forward into the knowledge of the JCRA improving and JT providing the proper segregation of accounting that the JCRA has asked JT, the costs of regulation will fall. The cost of regulation is an important issue in the context of the structure of the market, and the question that I have asked is are there any advantages in having a less costly regulator if we had a different market structure? That is why it is important to debate the potential separation of JT into the network business and the actual retail business on the fixed line and the mobile business separately. That is why I would like to know the trade-off: is there a regulatory saving? If you bear with me in the comment that effectively the regulator is the proxy for competition. If you can provide a structure which delivers that competition with less regulatory cost then that may be a factor that we will have regard to in the consideration of the sale of JT. So I am interested in that debate. I am interested to know whether there are potential regulatory savings with a different structure of JT. On the other side, there are potentially costs associated with any break up, but that is why we are asking the questions. I do not know the answers, but I know the questions need to be answered.

**Senator B.E. Shenton:**

The Regulator does seem to be very expensive at the moment.

**Senator P.F.C. Ozouf:**

We are dealing with a business that has a turnover of -- is it £50-60 million? Something like that. We



are dealing with a business that returned to the States £7 million worth of dividend in addition to taxation. We are dealing with an important part of people's household expenditure, whether that be their broadband access, whether that be their mobile phones. I am interested in anchoring inflation to the floor; I am interested in delivering economy and efficiency of services; and I am interested in ensuring that the marketplace delivers people value. The regulator and the investment that the States has made in regulation and in competition is designed effectively to make the Pound in the Jersey man and woman's pocket go as far as possible. So, you need to contrast and you need to compare the costs of regulation with the benefit that we are getting from a cost point of view, because we all want everybody to have as low as possible prices in lots of markets, whether that be port services, whether that be telecoms, or whether that be supermarkets. Just because we are spending money on regulators, it does not mean to say it is money wasted. In fact, in my mind, it is money well worth spent.

**Deputy G.P. Southern:**

Thank you, Ben. It really put me in mind of how many regulators can we support? Can we have some competition regulators, please?

**Senator P.F.C. Ozouf:**

Well, there is an important point there and if you want to hear -- **[Interruption]** -- you have raised the question and I will answer it and that is we have found an innovative solution to the regulatory -- and the final point I would make is that we are a small place. Therefore, we have to find smart ways of dealing with regulatory requirements, and that is why the JCRA is both our competition authority, our OFT (Office of Fair Trading), our competition commission of everything. What I would finally like to say to the Panel, a strong view that I hold is that we should regard the Channel Islands as a telco market. I am in discussions with my colleague Minister in Guernsey about the possibility of having a Channel Islands telecoms regulator, because there is potential savings to be made. Why is the job being duplicated in both jurisdictions, Senator Shenton, when effectively there could be efficiency and economy with having one regulator dealing with the same parties? I would remind you that there are the 3 same mobile phone operators in Guernsey as there are in Jersey and is there a case for combining their activities so we get a more efficient regulator as a result of it?

**Deputy G.P. Southern:**

At which point I must ask you to stop. You are in serious danger of getting my vote in 2 years time. **[Laughter]** "Goodness me" you will probably say. While we are speaking, I will remind you that you did say we are a small jurisdiction and the fundamental question remains about the smallness of the jurisdiction - only 90,000 people - how many operators do we need? Let us hope it is not just the one. Can we support it? Let us hope it is not just the one, because we could be throwing ourselves into a very deep pit.

**Senator P.F.C. Ozouf:**

Well, I do not share your concern about different owners of JT as clearly you have demonstrated there, because I can give you, I hope, some comfort that we have a good law and a good regulator. But I do think you are right when you make a remark about the size of the market, which means that we would be slightly stronger if we were to regard our telecoms market as a single market across the Channel Islands. It is effectively the same operators and there potentially could be advantages in us looking at ourselves more integrated with our friends in Guernsey. I would say that it is true for telecoms, electricity and a number of other of our natural monopolies.

**Deputy G.P. Southern:**

Which is why it is so important to get this first privatisation right.

**Senator P.F.C. Ozouf:**

Indeed it is, and that is why we are asking the questions.

**Deputy G.P. Southern:**

Thank you.

**Senator P.F.C. Ozouf:**

Your review and our report from the JCRA, I hope will help us make the right decision.

**Deputy G.P. Southern:**

Well, thank you for your time again. That is very good.

**ADJOURNMENT**