

STATES OF JERSEY

Economic Affairs Scrutiny Panel Jersey Post and Competition Sub-Panel

FRIDAY, 24th SEPTEMBER 2010

Panel:

Deputy D.J.A. Wimberley of St. Mary (Chairman)
Deputy M. Tadier of St. Brelade

Witnesses:

Senator A.J.H. Maclean (The Minister for Economic Development)
Chief Executive, Economic Development
Director of Regulatory Services, Economic Development

Also Present:

Mr. D. Scott (Scrutiny Officer)

[14:10]

Deputy D.J.A. Wimberley of St. Mary (Chairman):

We will just do the introductions straight away for the tape. My name is Daniel Wimberley, I am chairing this in the absence of Shona Pitman who is bereaved.

Deputy M. Tadier of St. Brelade:

Deputy Montfort Tadier.

The Minister for Economic Development:

Senator Alan Maclean, the Minister for Economic Development.

Director of Regulatory Services, Economic Development:

Director of Regulatory Services, Economic Development.

Chief Executive, Economic Development:

Chief Executive, Economic Development.

The Deputy of St. Mary:

Scrutiny Officer Darren Scott at the end of the table and Rebecca is doing the tape. Right. We have to get a wiggle on so the first injunction is to be as brief as necessary and obviously expand where necessary but follow the questions, if it is: "I do not know" then it is: "I do not know" and I think also in preparation let us hope that we can do, although we probably are labelled as having certain quite strong ideological beliefs on this side of the table and you indeed as well, what is best for the Island. It is a very complicated area, as we are discovering and the more you dig the more different views there are. So let us hope that we can aim to achieve the best solution, whatever that might be.

The Minister for Economic Development:

Sorry, just before we begin, the thrust of our involvement here, as you appreciate it, is from a regulatory perspective and I assume your questioning is coming from that direction. Would that be fair?

The Deputy of St. Mary:

Yes, although ...

The Minister for Economic Development:

Or are you seeking wider ...

The Deputy of St. Mary:

There will be wider questions too, I think.

The Minister for Economic Development:

That is fine.

The Deputy of St. Mary:

Relationships and where it all fits in.

Deputy M. Tadier:

We have got a fairly broad scope for our terms of reference which we need to get you to look at, even though you are probably familiar with it. Just hold your hand up like this, kind of thing.

The Deputy of St. Mary:

I think the first question is what are your contacts with Jersey Post? How do they work, how often do you talk to them, in what way do you talk to them?

The Minister for Economic Development:

Well, the involvement from a political perspective as I have just mentioned is purely from a regulatory perspective and the overriding involvement would be in areas of a social and environmental nature. There is not, as you might imagine, a great deal of liaison because there is no requirement in those particular areas or has not been previously. Clearly more recently with the decision by the J.C.R.A. (Jersey Competition Regulatory Authority) to open up the market we have had discussions with Jersey Post surrounding the Universal Service Obligation as you would expect and obviously a consultation has been undertaken and has concluded. I believe you have been sent some of the initial pie charts or will be sent some of the pie charts.

The Deputy of St. Mary:

Yes.

The Minister for Economic Development:

Although there is still a lot of data that needs to be assessed because of course a lot of replies came in, in a written form, and they have to be manually gone through.

Deputy M. Tadier:

Can you tell us a bit about the investigation, over what timescale it took place and just very briefly summarise with a bit more information?

The Minister for Economic Development:

The consultation, you mean?

Deputy M. Tadier:

Yes.

The Minister for Economic Development:

Jason, what were the dates?

Director of Regulatory Services, Economic Development:

Yes, it is written on the report.

The Minister for Economic Development:

It was the public copy.

Director of Regulatory Services, Economic Development:

It started at the end of June, the 28th, and ran for 2 months. Closing date was Monday, 30th August.

Deputy M. Tadier:

That is fine. So it is fair to say that under normal circumstances your dealings with Jersey Post would probably be in the context of the J.C.R.A. so you would be liaising more so with the J.C.R.A. and to do with regulation, not directly in any operational matters?

The Minister for Economic Development:

Clearly there is a split between regulatory responsibilities and the responsibilities of the shareholder which is the Minister for Treasury and Resources, as I am sure you are aware.

Deputy M. Tadier:

Yes, but would you liaise directly with Jersey Post on regulatory issues or would it be also through the J.C.R.A.?

The Minister for Economic Development:

We can and do have discussions with Jersey Post so that we can clearly understand their position, yes.

The Deputy of St. Mary:

Right.

Chief Executive, Economic Development:

But I think it is worth making clear that the Regulator's role is to regulate. Panels have been formed as to what the Regulator's position is and indeed what the Jersey Post's position might be on any action the Regulator may wish to take.

Deputy M. Tadier:

It is good to clarify.

The Minister for Economic Development:

We are not the Regulator. Obviously the J.C.R.A. have that role.

Chief Executive, Economic Development:

I think the other thing it is worth saying is that Jersey Post have of their own volition offered, and we have accepted, briefings from them on the way they plan to develop their business. But that is not something that we request, that is something that they offer to us and the Minister by way of

information, not seeking to ...

The Deputy of St. Mary:

Is that briefing at a political level or officer level or ...?

Chief Executive, Economic Development:

Both. We would meet together.

The Deputy of St. Mary:

Taking a case in point, we have had a big discussion here with previous witnesses about the cost of the U.S.O. (Universal Service Obligation) which is obviously critical in terms of how much support it needs, what does it need and how much you have to drive it down. How does that fit into these discussions? On the one hand you have got £100,000 or £150,000 which was the first figure quoted then you get £5 million then it is £3 million. So how does that get discussed? Is that purely a J.C.R.A. matter or ...?

[14:15]

The Minister for Economic Development:

No, certainly the U.S.O. would fall under my responsibility with regard to the social and environmental area so that a definition and future areas of defining the U.S.O. would be something that I would have a clear role in as Minister for Economic Development. The discussions with Jersey Post are obviously to ensure that we understand their position and their challenges in that regard in terms of fulfilling their obligations. It gives good background to us for that and of course the consultation that has just been undertaken will feed in a public view on some key matters like numbers of days postage, receiving, collections and so on and the Post Office network.

The Deputy of St. Mary:

So we had for instance our last person said: “Why were there not any numbers in the consultation paper?” and I have just heard it ranges from £150,000 to £5 million the loss, so that of course determines whether we have to go down to one day a week or whether we can stay with whatever, 5 days a week in fact, which could be profitable.

The Minister for Economic Development:

But the loss on the U.S.O. is a matter of public record. Jersey Post has published in their business review of 2009 what the loss on the U.S.O. is.

Chief Executive, Economic Development:

Which is £5 million.

The Minister for Economic Development:

Which is £5 million.

Deputy M. Tadier:

But that figure seems to have been contested though, that is the trouble.

The Deputy of St. Mary:

It is extremely contested. We have heard a witness this morning saying: “It is £3 million if you use different accounting methods” and then we have had people saying: “You do not need any of that at all, it is all fact.” So that is a big range of opinion and yet the poor public has to consult on the basis of not knowing whether Jersey Post could do it for less.

The Minister for Economic Development:

Yes. I mean to be fair you will of course throughout a highly emotive debate like this get a lot of opinion, some of the opinion will be dressed up as fact.

The Deputy of St. Mary:

Absolutely.

The Minister for Economic Development:

We are basing the information that we have on discussions with Jersey Post and also their own published figures which are in their accounts.

Deputy M. Tadier:

So you are saying you accept their figures as accurate, the £5 million?

The Minister for Economic Development:

They have a statutory and legal responsibility to report accurate figures.

Deputy M. Tadier:

I am aware of that.

Chief Executive, Economic Development:

We have heard various opinions about what the cost is, what the level of cross-subsidy may or may not be but we have to go on the basis of what the published figures from Jersey Post are which are factual, are reported and are generally accepted accounting practises and say that as a result of the U.S.O. which the Minister defines and it is captured in their licence they lose £5 million. Now the consultation that we have undertaken on the U.S.O. is designed to look at whether or not a lower level of service would be acceptable and therefore that may translate into a lower cost provision which clearly does have an impact on the commercial viability of Jersey Post and the additional loss of revenue from other sectors.

The Deputy of St. Mary:

I was just exploring that you do discuss those sorts of issues.

Deputy M. Tadier:

Obviously that is understood. The trouble is you can look at efficiency in 2 different ways. You can either look at it under the current obligations, whether they are being efficient or whether by reducing the expected service level from the public that could be made more efficient. The issue here is we have just had the J.C.R.A. in, 2 people before, so to speak, and they have maintained that under their figures it is £3 million, so it is a big difference and they have said it is a grey area depending upon which economic accounting methodology or postal economist you use, you are going to get different figures depending on what you include in the figures for running the U.S.O. So I think that is where the area of contention is and I think from our point of view we just want to make sure that you are happy and accept those figures rather than any alternative figures provided by the J.C.R.A. But maybe that is not something you can answer here and now.

The Minister for Economic Development:

Not specifically. I mean we have had discussions with Jersey Post. Those are the published figures and certainly we are happy to base our considerations on those.

The Deputy of St. Mary:

Yes, and then do you have dealings, I expect you do, with the fulfilment companies? Are they banging on your door saying: "Can you do this, can you do that?" Can you outline what kind of discussions and dialogue you have with them?

The Minister for Economic Development:

We have. Clearly as you would expect the fulfilment companies are operating in a very competitive world where cost and cost reduction, not only government but private businesses, are also having to go through a cost reduction basis and as you would imagine the fulfilment companies have opportunities elsewhere and in fact there have been postal services coming to the Island looking to pitch for business with our fulfilment companies. You are probably aware of the very heavy reliance that Jersey Post has on just 2 fulfilment companies, the 2 largest ones account for 80 per cent of Jersey Post revenue. Those

2 companies employ significant numbers of people and generate significant tax revenues here in the Island. Clearly they would have, if just one of those went, in full or in part, a significant impact on the revenues of Jersey Post. This whole issue of competition is one that is not just an internal Jersey competition issue. We are operating in a global world at the moment and consequently it is very difficult for Jersey Post because prices and opportunities elsewhere are significantly lower and companies can move very easily.

The Deputy of St. Mary:

Do you have more questions on this? A few supplementaries?

Deputy M. Tadier:

I think so. I do not know if we should leave the whole moving thing until afterwards and maybe talk about these figures and why ...

The Deputy of St. Mary:

Are we sticking with the Jersey Post?

Deputy M. Tadier:

I think so.

The Deputy of St. Mary:

So we will put fulfilment in a bracket and come back to it.

Deputy M. Tadier:

That is certainly something that is coming up time and time again, is this idea of: "We will move to Switzerland." Certainly it is a very real, not to say threat necessarily, but it is certainly something that needs to be borne in mind. I do not think necessarily we are at that point yet but ... do you want to bring this up?

The Deputy of St. Mary:

No, I mean I was going to stick with fulfilment. The: “We will go to Switzerland” argument, what is your assessment of that, because we have had people giving different versions of this, particularly the J.C.R.A. in fact when pressed.

The Minister for Economic Development:

My assessment would be this. From a business perspective as a business model it is not very satisfactory to have 80 per cent of your revenue generated from just 2 clients. You are exposed for all sorts of different reasons. Clearly from a competitive point of view if one of those clients finds a significant competitive advantage in moving elsewhere they will do so. So you have to assess it on a risk basis.

The Deputy of St. Mary:

The risk to Jersey Post, yes.

Chief Executive, Economic Development:

I think it is worth bearing in mind that the fulfilment companies and the ones who represent 80 per cent of the customer base are classic high volume low margin businesses and if you look at the volume of shipments or consignments that they send out to the Island it runs into many, many, many millions. If they could save a penny on every packet that advantage goes straight to their bottom line and that is a tremendous advantage. So therefore they are highly mobile operators and I think the thing that is worth bearing in mind is that other jurisdictions, Switzerland being one of them, are aggressively in the market place trying to capture operators that are in Jersey and getting them to relocate to Switzerland with very advantageous tax-based deals.

The Minister for Economic Development:

That is a point worth emphasising, because what the Swiss are doing is coming in, putting forward some

very attractive arrangements from a taxation point of view to lure some of these businesses away. So it is not just the cost of fulfilment, it is the overall package. They are looking to win this type of business because it is the sort of model that other jurisdictions want.

The Deputy of St. Mary:

So my question to J.C.R.A. was why have they not gone already, because this is an ongoing situation as opposed to the high cost placement, and they have got figures to show it is a high cost with Jersey Post. Their answer was: “Well, it is more difficult to move than you think” so I just want to press a little bit on where we are going to go tomorrow.

The Minister for Economic Development:

It is difficult to answer or second-guess what a commercial entity’s decision is, but I think I would say that one of them is very much a Jersey-based company with Jersey-based directors that started here, was born here and has grown significantly here. That is going to ensure a degree of loyalty but it will get to a point where the risk element that I was referring to is going to come into play again.

Deputy M. Tadier:

The risk element from Jersey Post’s point of view?

The Minister for Economic Development:

If that company leaves, from the jurisdiction as well.

Chief Executive, Economic Development:

The other thing on mobility that I think is worth pointing out is that in 2006 when we published the *Fulfilment Policy* which required companies such as Tesco and other U.K. (United Kingdom) multiples to have a Regulation of Undertakings licence which we then did not grant them because they were using Jersey as a brass plate, for want of a better word, they relocated very quickly and they are all still trading, some out of Guernsey, some out of Switzerland, some out of other jurisdictions. So the notion

that these companies cannot or will not or have not upped sticks and relocated simply is not borne out by the evidence that we have. Nobody has left this Island because of our policy changes.

Deputy M. Tadier:

This was their intent?

Chief Executive, Economic Development:

No, in 2006 we published a *Fulfilment Policy* which effectively said that unless you had a material operation here and the stock and the customers was owned by an operation here then it effectively was no more than a brass plate company trying to exploit the L.V.C.R. (Low Value Consignment Relief).

The Deputy of St. Mary:

Could I look at a couple of questions about the value of the fulfilment sector. You mentioned significant taxation. How would that arise if the majority of the employees are pretty low paid, I would imagine, so I do not think they would be in the tax bracket, so what do you mean by significant tax revenue?

The Minister for Economic Development:

Well, I mean on the personnel perspective first of all you have got jobs to consider. There are probably about 700 or so employed full-time and through the seasonal basis peaks, Christmas and so on, it spikes up to something like I think about 1,500 so it is a significant employer. You are right, the majority of those are at the low end of the employment spectrum but the businesses themselves are Jersey-based local businesses with local directors paying significant tax.

The Deputy of St. Mary:

Would that apply to the 2 new potential entrants, are they both locally-based paying local tax?

The Minister for Economic Development:

You mean the postal entrants?

The Deputy of St. Mary:

Yes.

The Minister for Economic Development:

They are setting up Jersey companies with local directors. In fact Citipost and Hub Europe, well Hub Europe is a Jersey company.

The Deputy of St. Mary:

Yes, that is what they make a point about and they also make a point that the other one is not, so I wonder whether there are issues there around, jumping a little bit away from the existing set-up, but whether there are issues around Citipost not having any personnel here. They are not based here, they are not owned here so where is the tax advantage? I know I am jumping sideways a little bit.

The Minister for Economic Development:

I am not quite sure what your question is.

The Deputy of St. Mary:

Okay, there are advantages in driving competition.

Chief Executive, Economic Development:

You have jumped from fulfilment companies to postal operators.

The Deputy of St. Mary:

I have. I am sorry.

Chief Executive, Economic Development:

Just to clarify the fulfilment company issue, the profits arising, and they are both very profitable

companies, from both those companies are taxed in Jersey because they are either locally owned or they are owned by directors who are locally resident. Both of the companies. Then of course there is the additional tax, but one of the big benefits of a fulfilment operation here is that it does employ full-time I think 700 or 750 people and seasonally a lot more than that, and these are all relatively low skilled jobs, so they provide a very, very valuable volume of low skilled employment.

Deputy M. Tadier:

Presumably many of those would have to be put on income support?

Chief Executive, Economic Development:

Yes, interestingly, I mean I cannot remember the figures now but certainly some time ago one of those major companies, their entire work force was locally qualified.

The Deputy of St. Mary:

I was going to ask what the situation was with regard to that.

Chief Executive, Economic Development:

We can get you the numbers, I do not have them off the top of my head but for a while they had a locally qualified ... and they were very proud of the fact that they provided that low skilled ...

The Deputy of St. Mary:

Do you have the numbers for the whole sector in terms of local or to what degree the work force is local and to what degree it is ...

Chief Executive, Economic Development:

Regulation of Undertakings has that, we can get that. We can get that for you.

Deputy M. Tadier:

And how many are on zero-hour contracts employed through licence grantors et cetera. That is another area.

Chief Executive, Economic Development:

Yes, to be honest all of the full-time employees, certainly the last time I looked, are permanently employed by the entities themselves. Whether they manage some of their seasonal workers ... but they have within their employment licences a quite significant allocation of seasonal staff anyway, both qualified and non-qualified.

The Deputy of St. Mary:

The seasonal staff are also, I think you covered it, limited with regard to local?

Chief Executive, Economic Development:

Yes, there is a total allocation, some of which is permanent and some of which is seasonal.

The Deputy of St. Mary:

Yes, that has concerned me.

Deputy M. Tadier:

I think this is a discussion for another day, but I certainly have concerns about the precarious nature of some of the work and particularly through the agencies I have heard of workers turning up only to get either no work on that day or 2 hours work and then get sent home on the minimum wage and to come across the Island is quite difficult. So there are all these other factors.

The Minister for Economic Development:

Are you talking about fulfilment employees?

Deputy M. Tadier:

Yes. No, locals as well.

The Minister for Economic Development:

Working on a seasonal basis?

Deputy M. Tadier:

Working on a temporary contract through an agency.

The Minister for Economic Development:

Right.

The Deputy of St. Mary:

Did you cover the Income Support question about if you have got 750 people full-time on low wages is there a cost to the States in supporting that income, in this industry? Given that the industry is very highly weighted towards the lower end of pay, what is the cost to the Exchequer of supporting those low incomes in this industry as parallel to other low income industries?

Chief Executive, Economic Development:

We do not have that quantified but there is a supplementation cost wrapped up in it.

[14:30]

Deputy M. Tadier:

Of course if they could increase their profit all that money would go straight to the workers, I am sure, and they would not need to be supplemented.

The Deputy of St. Mary:

Via tax and no supplementation.

Deputy M. Tadier:

But we are going off on a tangent now so let us get back to reality.

The Deputy of St. Mary:

Political risks. There obviously are. Low volume?

The Minister for Economic Development:

Value, consignment relief.

The Deputy of St. Mary:

Yes. How do you assess the risk? It has been put to us that there is a political risk in playing this game at all, the fulfilment game. I know it was partly closed down with that, that we have a consensus around that, but even the way it exists now when it was flagged up in the Customs thing was: "Be careful", this whole area, because if you go too highly over the horizon people get concerned. How do you assess that risk?

The Minister for Economic Development:

Well, I mean first of all it should be said that there is risk in all business but you are right, there has been risk here. That is why we moved in 2006 to remove those that presented the highest level of risk from a visibility point of view with the U.K. Treasury. I think it was 16 or 17 companies that effectively were asked to leave the Island and they went elsewhere. We want genuine, full chain businesses operating from Jersey who employ predominantly local people to benefit the local economy and therefore are defensible as far as this particular issue is concerned. Certainly from our perspective and from the Treasury's point of view it is an arrangement we have reached. The other area of course was the growth in volume of business coming out in the Low Value Consignment Relief area which is naturally a concern to the U.K. and so we have entered into Memoranda of Understanding with the operators as to what their maximum volumes can be which is an agreement that the Treasury were satisfied with. I

believe, Mike, you were involved in that.

The Deputy of St. Mary:

When you say: “the Treasury” you mean the U.K. Treasury?

The Minister for Economic Development:

U.K. Treasury, yes. So we believe we have got to a position that has stabilised the element of risk that existed before. Does it mean there is no risk in the future? No, of course it does not. But we believe we have limited that risk by the actions that we have taken.

Chief Executive, Economic Development:

You may have picked up on that 2 or 3 days ago there was a letter written by the Tax Justice Network to George Osborne which directly addressed and I guess reignited the issue around potential abuse of Low Value Consignment Relief. The position the previous administration in the U.K. took and I think the Coalition take the same position is that particularly Jersey has acted to limit both potential abuse of the Low Value Consignment Relief and the volume of shipments, and therefore limiting the volume of V.A.T. (Value Added Tax) losses. But the interesting issue is that when we spoke at length to the Treasury about this and to the National Audit Office in the U.K. about it who did a calculation for the report, for the Treasury, it said 2 things. One is that Jersey’s actions were both appropriate and were having an impact, but secondly if they were to remove Low Value Consignment Relief the cost of collection far outweighed the level of V.A.T. losses that were being incurred and then that was without taking into consideration the consumer impact in the U.K. and elsewhere. So it is a very delicate balance but it certainly is a very politically emotive subject in the U.K. and particularly now with the situation they find themselves in from the perspective of public finances.

The Deputy of St. Mary:

What date is that report, do you know?

Chief Executive, Economic Development:

That is going back to 2007 but we can get you copies of that.

The Deputy of St. Mary:

No, I just wanted to fix it time-wise so things have moved on from then in terms of Cabinet perceptions.

Deputy M. Tadier:

Sorry, it has only just come to mind. We have heard, going back to the Post Office now, the reason that the U.S.O. are suddenly increasing the pressure is due to the changing nature in the way that we communicate, so it is more electronic rather than written on paper. Has there been any ... not research, but being mindful of the fact that that too is probably going to happen for the D.V.D. (Digital Video Disc) industry, people are not necessarily buying D.V.D.s in the same way. First of all they are not buying them on the High Street, they are getting them shipped over but similarly in future they are more likely to download them, either legally or illegally. The same with music, so there is going to be a diminishing industry for fulfilment as far as it concerns those electronic media.

The Minister for Economic Development:

Absolutely and that is where the creative industries and the need, which we will be lodging very soon, for the intellectual property law is absolutely key to allow us and businesses within Jersey to be able to commercialise those opportunities. So I think you will see a shift. It is not going to happen overnight but it will happen and there are other commercial opportunities for businesses within fulfilment to move into the digital area and so on.

Chief Executive, Economic Development:

What is worth saying is that you have highlighted a key issue that is part of our negotiating strategy with the U.K. Treasury. This is a time limited market and the time it will take to really affect it, by that time there will be a very significant displacement. It is quite interesting that as it moves into the world of digital trading rather than physical we will be at a disadvantage because we are not a member of the

E.U. (European Union) and because of the E.U. digital trading directive you have to be registered in an E.U. state to be able to trade in the E.U. which is why Jersey fulfilment operators who have online operations are basing them out of Luxembourg and the lowest of the E.U. tax jurisdictions rather than out of Jersey.

The Minister for Economic Development:

Because there was an E.U. directive I believe in about 2003 which required V.A.T. to be paid and in fact it required at that stage I think about 32 returns to be made by operators and that has since been revised and Luxembourg has been the net beneficiary with the lowest V.A.T. rate which I think is about 15 per cent, so they have been net beneficiary of these businesses. What we need to do absolutely urgently is get this intellectual property law through so that we can sign up some of the conventions and capitalise on some of these opportunities.

The Deputy of St. Mary:

Are you saying that some of the fulfilment companies that operate in Jersey are based in Luxembourg? I did not catch what you said.

Chief Executive, Economic Development:

No, some Jersey-based companies who fulfil out of Jersey for their digital download business base that out of Luxembourg.

Director of Regulatory Services, Economic Development:

That is because the E.U. directive is based on consumption rather than sale. So that is why you have to be physically located within the E.U. and registered for V.A.T. within the E.U.

Chief Executive, Economic Development:

So they go to the lowest V.A.T. jurisdiction.

The Deputy of St. Mary:

Going back to the beginning, did we cover the question about contacts with the J.C.R.A.? On what basis do you meet with and talk with them about these issues and sort everything out, and also your legal powers, when do you use them, if ever?

The Minister for Economic Development:

We have regular briefings with the J.C.R.A. across a range of areas, as you would imagine, which inform the debate and areas at which they are looking.

Chief Executive, Economic Development:

But the Minister has very limited powers under the postal law, which are defined as being limited to social and environmental considerations. He has powers to direct on that basis but will he have the powers to issue guidance under any other basis?

The Deputy of St. Mary:

I suppose I asked that because it came a bit late in the day, the whole business of: “Oh, we will do a consultation with the public, that might be a good idea to find out how they feel about a U.S.O.” although you have a statutory obligation to protect the U.S.O. or the J.C.R.A. and the Minister share under Article 8 to satisfy all current and prospective demands for postal services and in a written reply you say the same thing, you say: “That is a given.” Then along comes something which according to Jersey Post threatens their very existence and we sort of end up with a consultation to the public about the U.S.O. It just seemed a bit disjointed.

Chief Executive, Economic Development:

I think the way to explain that is that Jersey Post in that context came to talk to us as a business operating in Jersey. There were threats to their sustainability. One of those threats was the level of costs or the level of losses associated with providing the U.S.O. The Minister is the only person who can go out and consult on an appropriate level that that U.S.O. should be set. That is then captured in

the postal licence that is issued to Jersey Post and that is then regulated by the J.C.R.A. So the cost of the losses incurred by the provision of the U.S.O. are in our view, not necessarily a view shared by the J.C.R.A., but in our view important to the overall equation of the introduction of competition, the impairment of revenues that may result in that and the sustainability of Jersey Post. Therefore we thought that it was an appropriate thing to do to go and consult on the U.S.O. to see what would be acceptable from the perspective of the population in terms of deliveries, presence of sub-Post Offices and all the other components that make up the U.S.O.

The Minister for Economic Development:

Bearing in mind you have rightly highlighted the very changing way in which people communicate now and post is dropping year-on-year.

Deputy M. Tadier:

I brought this up earlier but there are 2 ways of looking at the efficiency. First of all you have got the idea that the Service Level Agreement if you can call it that or the U.S.O. as it currently stands, some people are saying that is inefficient already, so irrespective of whether we look at what the public want and if they would be willing to accept a reduced level, there are some parties who say it is inefficient and it is very inefficient at the moment. I mean what is your view on that? For example is it currently inefficient and secondly could it be made to wash its own face in economic terms?

The Minister for Economic Development:

Well, I think it is not a surprise that it is inefficient simply because of the changing nature of the postal services. The volume of post being passed now, it has been dropping year-on-year for quite a number of years and that is going to continue, simply because people are communicating by electronic means and so on. But the network is as it was, there are still the same number of sub-Post Offices, the collections and deliveries are exactly the same as they were.

Mr. M. King:

Or more.

The Minister for Economic Development:

Or more, yes, absolutely, but of course the volume of business is dropping. So just at a cursory glance you can see that it just does not add up.

Deputy M. Tadier:

What I mean is I am trying to define the way we use the word: “inefficient” in this context because of course the U.S.O. at the moment is never going to be able to make a profit and it is questionable whether any U.S.O. of this nature can be made to break even or make a profit.

The Minister for Economic Development:

It is not designed to make a profit.

Deputy M. Tadier:

No, it is not and I agree with that as well, but there are and we have had witnesses in who think that the U.S.O. if it was rejigged could break even and make a profit, which I think is folly personally. But I mean that is ...

The Minister for Economic Development:

In simple terms it could be made to break even which would be an ideal scenario. Certainly the Minister for Treasury and Resources has a view which I share that the public should not be subsidising a U.S.O. but the key to this whole thing is the level of service that is acceptable. You can go down to a certain level that would be possible to be made ...

Deputy M. Tadier:

Could we follow on from that, because we have read Senator Ozouf’s submission but you can make the argument that any kind of cross-subsidy is already the taxpayer or one group of taxpayers subsidising

the U.S.O. It just happens to be those that use that particular business facility, they are paying over the odds for it and that money is already being used to subsidise. So in that sense Jersey Post can be said to break even through the cross-subsidy. Are you happy with the principle of a cross-subsidy, either from a personal perspective or from the department's view?

The Minister for Economic Development:

I think a degree of cross-subsidy is probably feasible. I think the levels of cross-subsidy that you have got at the moment where broadly speaking you have got £5 million for postal services and £5 million in the fulfilment or other services in terms of profit, so basically they are cancelling each other out, that balance is wholly unacceptable in all respects.

The Deputy of St. Mary:

Yes. To rephrase the question, if I may, one of our witnesses said: "No, no, no, if the U.S.O. was delivered efficiently then it would wash its own face", that is a different argument and the other thing is that the real effect of having a big business over here called fulfilment which Jersey Post does is not the profit they make out of it which they use to stuff the hole, but it is the volume. It gives them work to do and that supports the other leg. How do you react to that, that it is not a matter of money, it is a matter of volume, which people have said to us? Jersey Post has said to us.

The Minister for Economic Development:

Without doubt there is going to be an element of truth in that, but clearly from a financial point of view, from an accounting perspective and you can see the figures in their own accounts, there is a clear correlation between the revenues generated from fulfilment supporting the traditional postal centres and the U.S.O. of course which are part of that.

Deputy M. Tadier:

The other view we have had and it is a very compelling argument and it is difficult to argue against even if you have got a strongly held opinion yourself is that the U.S.O. in particular is a public service and the

bulk mail side of Jersey Post and the corporate, profit-making part is not perceived as a public service although there is an overlap. So the argument is if you fund roads, schools, hospitals through general taxation or indirect taxation why are we not doing the same with that part of the Post Office which essentially is a public service?

The Deputy of St. Mary:

This argument was put to us by a businessman.

[14:45]

Chief Executive, Economic Development:

Because you fund the roads, hospitals and all the other public services through tax revenues that you generate from export business. Jersey Post funds the U.S.O. from revenues they generate from their export business which is fulfilment. It is just one is a private sector model and the other is a public sector model of revenue. I think one thing worth bearing in mind in the context of this particular part of the discussion is that we are very lucky to have fulfilment and be able to cross-subsidise from fulfilment because many jurisdictions, the U.K. being typical of this, do not have this gorilla in the room which allows that cross-subsidy to happen and their postal services are far more in crisis than ours are as a consequence of that. This is an atypical contract mix for a postal business.

The Minister for Economic Development:

I am not sure I would call it a gorilla in the room. I would probably call it a golden goose but that is a minor point.

The Deputy of St. Mary:

Whose wings we clipped 4 years ago. Was that yourself, the Minister for Economic Development, or the previous one?

The Minister for Economic Development:

No.

Deputy M. Tadier:

That cross-subsidy is under threat, though, is it not if competition comes in? We have heard that it is going to be very difficult in any meaningful way to get levies from other businesses to subsidise the U.S.O. because there is this very high bar that the U.S.O. has to be seen to be efficient and there are all kinds of ways of defining that.

The Minister for Economic Development:

Yes, but this point about competition gets very confused, because we talk about if competition comes in, in other words if licences are offered internally to other companies than the 2 you have referred to, yes, that is competition and it is a threat to Jersey Post. Of course they have got to become more efficient, more effective and reduce their costs in order to compete. But that is not the only issue. The issue is competition is actually we are operating in a global world, and there is competition outside of the Island which is going to have just as big an impact on Jersey Post regardless of whether the J.C.R.A. make the decision to issue these licences internally. It is a problem for Jersey Post, not just in Jersey's context but in the global context. As we discussed at the mini(?) so it is not just internally.

Deputy M. Tadier:

But even more so, the U.S.O. is under threat because Jersey Post at some point may say: "We cannot do the U.S.O. anymore, it is not profitable" and they might give that back to the Government and say: "There you go. Find somebody else to do this. We are going to just focus on this area" and that is a very real ... certainly it is a threat from Jersey Post at the moment, from what we have heard. So there are all these ...

Chief Executive, Economic Development:

It is a theoretical possibility.

Deputy M. Tadier:

Well, it is something that they may well pursue.

Chief Executive, Economic Development:

The shareholder may have a different view.

The Deputy of St. Mary:

Is it really a threat? What that leads us on to us what is your view of Jersey Post's bombshell really in their hearing with us when they said that in 2 years' time if the licence is granted they may be in the position of not being able to sign off their account as a going concern? As the Minister for E.D. (Economic Development), how does that prospect grab you?

The Minister for Economic Development:

It does not grab me at all. We have had, as we said at the beginning, discussions with Jersey Post. We are familiar with their challenges and their positions and as I said a moment ago the key thing is to ensure that Jersey Post get from where they were to where they need to be to be as an efficient company and to cover their own costs as they possibly can. It is in many respects a timing issue from their point of view, and I think they have said this to you themselves, that they believe they can get there and in fact they have made tremendous strides and progress in terms of the way they have changed their business and cut costs and become more efficient. They are part of the way on a journey and we believe that they will get to the end of the journey. I think they are doing the right things, albeit difficult decisions they are having to take. As any business they are taking them and they are moving forward. They have threats, clearly, they have threats and you have identified quite rightly the threat of the loss of Low Value Consignment Relief as an opportunity. The threat of competition internally, the threat of competition externally, all these factors as a business they are having to deal with.

Deputy M. Tadier:

Can I ask about this? A previous business user raised an issue with us and it has probably raised more questions than answers and he basically said that the way that Citipost or any new incomer would access the Royal Mail market is different to the way of Jersey Post because Jersey Post is a national operator and you may know this, and it would be good if you could give some clarification. They access it through Royal Mail International which has a different pricing structure to direct access. I do not know all the terminology I am afraid, and that is why other operators are able to give better pricing. But Jersey Post for whatever reason has not been able to access that and he is asking questions about why that is the case and suggesting that if Jersey Post had done this 5 years ago and they had managed to access this, and I should point out at this point there may be a very valid reason why they cannot do that, then we would not even be in the position where competition was coming in, because there would be no need to compete because Jersey Post would be providing a pretty good value for bulk mail.

The Minister for Economic Development:

This is essentially about downstream access, that there are I think, and Jason may know, 4 companies that provide downstream access into the U.K. of which Citipost are one and you are right, it is quite simply based on a volume basis. Clearly if you can get in with one of the large operators then you can drive efficiencies and value down. There are opportunities, I think that Jersey Post are well aware so, yes, there is an element in there or an opportunity probably in there for closer collaboration between Jersey Post and one of those that does downstream access. Citipost is one, TNT is another and there are a couple of others, USP, so those are the access points that go into the Royal Mail International and could drive capacity. It would not have solved this whole issue but there is an opportunity there.

Deputy M. Tadier:

I think we are going to be questioning Jersey Post a bit more now.

The Deputy of St. Mary:

Or even the shareholder.

Deputy M. Tadier:

And the shareholder.

The Minister for Economic Development:

But as a subject that is about downstream access.

Deputy M. Tadier:

Okay. We mentioned the shareholder, we would like to ask about the relationship between you as the Minister for Economic Development and the Minister for Treasury and Resources. You clearly have 2 different roles and there is probably a tension, I think it is fair to say, about what is expected from those roles. So could you tell us a bit about the way that you would liaise, if at all, with the Minister for Treasury and Resources?

The Minister for Economic Development:

You are right in the way you have summarised it. The Minister for Treasury and Resources is the shareholder, effectively, and so his motives are somewhat different to mine as the Minister for Economic Development having a responsibility for the regulatory side through the J.C.R.A. As I say clearly we have different aims and objectives. As you would imagine a shareholder will have a different view to a regulator, that is why in many other areas of the public service you are seeing the functions of operation and regulation being separated as the appropriate and right model.

The Deputy of St. Mary:

I have got a question which arose out of what someone else said in a hearing which was that the States should decide on U.S.O. When the consultation is finished and Jason has done his report and all the rest of it, that really the decision about making this balance between people who want cheaper better faster and not to pay for the U.S.O., that whole balancing act belongs with the States. What is your view on that?

The Minister for Economic Development:

There are 2 aspects to that, I guess. Under the law the way in which the U.S.O. is defined is the responsibility of the Minister for Economic Development. On an issue such as that one could take it to the States for a view and that is something that will have to be decided upon once the consultation process has concluded. Obviously the responses are in but they are in the process of being assessed at the moment.

The Deputy of St. Mary:

That is a little bit non-committal.

The Minister for Economic Development:

It was, was it not?

The Deputy of St. Mary:

The consultation will say X, Y or Z and I suspect you have a temporary view as you wait for the consultation. But the issue is really one of principle, is it not, whether a Minister should be deciding something as pretty wide-ranging and fundamental as the nature of the U.S.O. in Jersey now it is going to be a complete change, or probably will be, or whether that should go to the States and you are saying you are non-committal about having a view.

The Minister for Economic Development:

Yes, I mean you could argue it both ways. You could say to yourself, for example, as it has gone out for consultation and as there has been a very high response ...

The Deputy of St. Mary:

Oh yes, could you tell us?

Director of Regulatory Services, Economic Development:

Just under 500 responses. That is not bad for a public consultation.

The Deputy of St. Mary:

1,300 for S.T.P. (Sustainable Transport Policy) transport. I am surprised. I would have thought there would be more.

The Minister for Economic Development:

There are groups within that, I think I am right in saying, organisations.

Director of Regulatory Services, Economic Development:

Mostly individuals.

The Minister for Economic Development:

That is interesting.

Deputy M. Tadier:

While you can take it to the States for a view, Minister, the final decision still rests with you under the law.

The Minister for Economic Development:

Yes, that is what I was referring to.

Chief Executive, Economic Development:

It is a legal obligation that the Minister has to make the decision. He has no obligation under the law to refer it to the States and the States has no power to instruct him.

The Deputy of St. Mary:

On the other hand the States can take a view and then he can disagree with the States view if he is

inclined. So I think politically that is the way it lies.

The Minister for Economic Development:

It might be a brave Minister who disagrees with the will of the States, of course.

The Deputy of St. Mary:

It might be a brave Minister and it might be a brave Minister who does not take it to the States, perhaps.

The Minister for Economic Development:

Indeed and these matters, as I say, we have been out to public consultation which has got a clear feedback from the public view which is obviously where the responsibility lies.

Deputy M. Tadier:

Can I ask again, I do not mean to bang on about the same issue but why are you opposed to the U.S.O. being funded by general taxation?

The Deputy of St. Mary:

Is the Minister opposed to that?

Deputy M. Tadier:

I think it is stated that you are, yes.

The Minister for Economic Development:

Yes, I did, insofar as it is the Minister for Treasury and Resources' view that it should not be subsidised and I think I said that I shared that view so, yes, that is correct. Simply because I believe that it can be self-funding. I think it should be self-funding. We are in a position where we need to cut costs and ensure that we are as efficient as possible and I think it revolves around the efficiency level, frankly. I do not see any reason why it should not be able to be self-funding.

Deputy M. Tadier:

Yes, but you mean self-funding through the cross-subsidy, do you not?

The Minister for Economic Development:

I would hope that it can wash its face much more effectively without very much cross-subsidy because the model of cross-subsidy, the balance at the moment is not satisfactory.

The Deputy of St. Mary:

How would it wash its face, in your view? If we could have that in 1, 2 and 3. How would you make the U.S.O. wash its face?

The Minister for Economic Development:

Well, you are going to have to reduce the cost of operations, so you are going to need to look, over a period as one would expect the use of postal services to diminish further as electronic and what have you grows in popularity, you would see a reduction in delivery and collection days, you will see a reduction probably in either the network of sub-Post Offices or they will be done in a different way, and that type of thing.

Chief Executive, Economic Development:

I think it is worth saying that if one were to sit down with a clean sheet of paper and design a self-funding U.S.O. today, if you ring-fenced it, it would look very, very different to the current U.S.O. which is why the overall cross-subsidy model to carry on providing that public service by cross-subsidy from an export market to a local market is the one I think that is more sustainable.

Deputy M. Tadier:

Yes, that is right but that has relied on the goodwill and the sustainability and profitability of the company up to now.

Chief Executive, Economic Development:

And the competitiveness of it in an international market place.

Deputy M. Tadier:

Also redesigning the one to wash its face, that does not take into account public pressure and it may well be possible to have a U.S.O. that delivers twice a week and costs £1.50 to deliver and that would be completely unacceptable to many sections of society.

The Minister for Economic Development:

You have got private individuals to consider, you have got businesses to consider. I mean it is a very ...

The Deputy of St. Mary:

You have States Members to consider.

The Minister for Economic Development:

Yes. That comes under the public view, does it not, in many respects, because States Members are reflecting the views of the public, their constituents.

Director of Regulatory Services, Economic Development:

If I may just add, I think we must not step away from the first principle which is asking Jersey Post to come back with efficiencies itself that challenge the present U.S.O. rather than jump immediately to a step of saying: "We must cut everything back." We probably must, to a degree, but I think the first step that Jersey Post will have to demonstrate is can they deliver what they are doing in a different way.

The Deputy of St. Mary:

In a different way, which option does not appear here, does it, or can you direct me to it? I was going to ask just that question, the Minister said to reduce the service, reduce the network, blank sheet of paper

and so on, and what I did not hear was that we could make Jersey Post do what you have just said, to the U.S.O. as it is or to a reduced level, for less, just doing it less.

[15:00]

Director of Regulatory Services, Economic Development:

Jersey Post is undertaking its own efficiency review with the J.C.R.A. I understand, so that work has not been included in this for the simple reason that the majority of the public would not know enough about the way that Jersey Post operates its business to make a meaningful contribution. That having been said, there have been quite a number of public submissions that have made efficiency contributions and recommendations.

The Deputy of St. Mary:

Not service without efficiency.

Director of Regulatory Services, Economic Development:

Not about efficiency.

The Deputy of St. Mary:

Despite that you do not ask for it.

Director of Regulatory Services, Economic Development:

We do ask for any additional comments that people care to make. Those have been included and will be in the final report and will be passed on to the J.C.R.A. and Jersey Post.

The Deputy of St. Mary:

Can I ask if that efficiency review being done by Jersey Post and the J.C.R.A. is the efficiency review which J.C.R.A. announced and invited tenders for back in March or February? We got a notice of the

invitation to tender to conduct an efficiency review and it says: “Terms of reference” and now it has become ...

Director of Regulatory Services, Economic Development:

I think they are only doing one so ...

The Deputy of St. Mary:

Yes, so it is probably that one but it is now being done jointly.

Director of Regulatory Services, Economic Development:

Yes. But I have not been involved in that so I cannot give you the details but I think that makes sense.

Chief Executive, Economic Development:

The J.C.R.A. are conducting the efficiency review with the full co-operation of Jersey Post, that is what it is. It is not a self-fulfilling prophecy.

The Deputy of St. Mary:

It would have to be done that way anyway, would it not, really?

Chief Executive, Economic Development:

Yes.

The Deputy of St. Mary:

Efficiency Review, here we are, 15th January. *Efficiency Review of Jersey Post Limited* and it has got a timescale and the aims in there, so in fact what they ended up doing was not appointing a consultant but saying: “Come on, Jersey Post, we can do this together.” Yes?

Chief Executive, Economic Development:

Using their own resources and agreeing with Jersey Post that the information will be made available for them so to do.

Deputy M. Tadier:

We will have to wrap it up shortly.

The Deputy of St. Mary:

Yes. The Guernsey model as stated in the consultation document, do you have any comments on that? It does seem to start from a slightly different place.

Director of Regulatory Services, Economic Development:

It starts from a very different place, but that is a political decision taken by the States of Guernsey and ...

The Deputy of St. Mary:

Way back.

Director of Regulatory Services, Economic Development:

Yes, about how they wanted to deliver their postal service and it was merely included in there and I have had some consultations that say: "Frankly, this is completely irrelevant and I do not know why you bothered putting it in" and others have said: "That is jolly useful." It is context. Whether it is relevant for Jersey or not I leave to my Minister and your good selves. It is an entirely different model and it was just there for background information.

The Deputy of St. Mary:

That is interesting. Minister, do you have a comment on setting it up in this way, that you asked the public when you assumed the U.S.O.: "Should we do this, should we do that?" It is a very different model.

Director of Regulatory Services, Economic Development:

They kept their legal monopoly, Minister, basically.

The Minister for Economic Development:

Yes. I would be looking to refine what is in place at the moment rather than starting from that position.

I do not think it is particularly ...

The Deputy of St. Mary:

Too hypothetical. Going back to the goodwill and the public, the way the public support Jersey Post. We will be wrapping up because Mike pointed out if you had a blank sheet you would not design it this way. The thing is that out there, there is enormous public emotional connection to Jersey Post in the same way that there is to Royal Mail. So you have got issues like the Ageing Society and you have got issues like the inclusion of the workers from Poland and Portugal who use Jersey Post because it is a Post Office and no one can condemn them for using it. How does that figure in the way you look at things? Those agendas, that social agenda.

The Minister for Economic Development:

First of all the fact that this is highly emotive is not surprising. I mean just simply down to the postie who delivers the post there is an interaction which you would expect, so the public motive angle is understood. It goes back to the point I made right at the beginning where my responsibilities lie from a social and environmental perspective. I need to consider very carefully with the future provision of the U.S.O. that we meet the requirements of the public in that respect from a social sector. So that would be for example a little old lady living out in the far reaches of the Island who perhaps is not proficient with other more electronic media and communication channels.

The Deputy of St. Mary:

Or the Polish chap who wants to convert some of his Euros back into Jersey currency.

The Minister for Economic Development:

Yes. I mean there are examples that we can pull up, all sorts of different examples but yes, that has to be considered as part of the U.S.O. and the way in which it is going to be defined and shaped in the future. Clearly the views of the public and the reason for the consultation was to ensure that we do get a good feedback of what the public feel. I should add that you are going to have copies of what we have got so far. There is still a lot of work to be done because there were the electronic replies to the consultation but there were a lot of handwritten replies that are being gone through separately. The electronic versions seem to be fairly evenly split in most categories, which is interesting. There is no clear cut or does not appear to be, am I right about that because I only glanced at it very quickly?

Director of Regulatory Services, Economic Development:

Yes, absolutely.

The Minister for Economic Development:

They seem to be fairly evenly split in the public's views on most of the issues from the electronic version.

Deputy M. Tadier:

Do you accept that there is a perceived tension at least between Jersey Post, the public service which delivers the letter to the last mile and Jersey Post the corporation?

The Minister for Economic Development:

In the view of the public?

Deputy M. Tadier:

Yes, I think in the view of the public but also in the sense that they are doing 2 completely different roles. You have got one aspect which is a public service and the other is a corporation and to balance the 2, certainly from Jersey Post's point of view, that is a challenge.

The Minister for Economic Development:

Any function is a challenge. You have got an incorporated body, which is Jersey Post, which has been incorporated in order to drive efficiencies and to sustain its future. As part of that it has an obligation which is contained within the U.S.O. There are bound to be some challenges for that on an operational basis and to ensure that it is able to fulfil its obligations and drive a profit, which clearly is what the shareholder wants.

Deputy M. Tadier:

How do you feel, being the Minister for Economic Development, the fact that take Citipost for example but any competitor, they do not have that second thing to worry about, they do not have the U.S.O., they do not have that drain on their resources? Are you comfortable with the fact that it is not a level playing field may have an adverse effect on Jersey Post?

The Minister for Economic Development:

Well, certainly in terms of the market, if it was opened up to additional operators like Citipost and Hub Europe there is a provision I believe in the J.C.R.A. law that they would levy or could levy a charge on new operators. Is that correct?

Chief Executive, Economic Development:

Could.

The Deputy of St. Mary:

Yes, they put a condition in and they may or may not make it. Yes. Do you have a view on Jersey Post's attempts at diversification? First their impact on other businesses that are not Jersey Post and the impact on other businesses that are owned by the States and did you have any input on those decisions?

The Minister for Economic Development:

We did not have any input into the decision that Jersey Post made to go into the different areas of diversification, no. We were informed that they were doing these different things because they keep an open dialogue, which is as one would expect. Like any business they have assessed the risk and the opportunity that existed in other areas and from their assessment they believe these areas that have opened up are going to offer commercial opportunities and revenues to them. That remains to be seen if that proves to be the case.

Deputy M. Tadier:

On a personal viewpoint, as a States Member do you have any concerns about MeMo in particular which is competing directly with another incorporated wholly States-owned Department?

The Minister for Economic Development:

MeMo, the mobile ...?

The Deputy of St. Mary:

Memo or MeMo, or whatever it is. MeMo.

The Minister for Economic Development:

Do I have a view on that? Not specifically. I think they identified what they thought was a niche market, that there are other operators competing in already. It is not as if they are competing just with Jersey Telecom, they are competing with other operators that are in the market and it is an issue that the competition authority were satisfied with.

Deputy M. Tadier:

It is just wait and see really, I suppose whether they get any market penetration.

The Deputy of St. Mary:

So are there any things you need to add, anything you want to say? That is all we have got.

Director of Regulatory Services, Economic Development:

I would just like to add that I will get you the data in an understandable form as soon as I can which should be early next week.

Deputy M. Tadier:

Is there anything you would like to perhaps ask the Minister for Treasury and Resources?

The Minister for Economic Development:

When are you seeing him?

Deputy M. Tadier:

In about 5 minutes.

Chief Executive, Economic Development:

If you would like that information from Regulation of Undertakings?

The Deputy of St. Mary:

Yes, please.

Deputy M. Tadier:

That would be useful.

The Deputy of St. Mary:

Okay, thank you very much.

[15:10]

