

STATES OF JERSEY



STATES OWNED OR CONTROLLED COMPANIES: RIGHTS AND RESPONSIBILITES

Lodged au Greffe on 28th May 2014
by Deputy G.C.L. Baudains of St. Clement

STATES GREFFE

PROPOSITION

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

- (a) to agree that appropriate amendments should be made to the Public Finances (Jersey) Law 2005 to provide that responsibility for exercising the rights and responsibilities associated with the shares owned by the States in any company, which is currently vested in the Minister for Treasury and Resources alone in accordance with the provisions of Article 68(1) of the Law, should in future be vested in a new panel chaired by the Minister and comprising one Assistant Minister and 2 States members who are not Ministers or Assistant Ministers appointed by the States; and
- (b) to request the Minister for Treasury and Resources to bring forward for approval the necessary amendments to legislation to give effect to the proposal.

DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT

REPORT

Recent issues with Jersey Telecom (JT) have highlighted some of the downsides of incorporating utilities and having those States-owned companies at 'arms-length'.

Prior to incorporation, utilities were run by States Committees (usually consisting of between 5 and 7 States members) and it was they who made all executive decisions. As a result, accountability was transparent and it was easy for customers or members of the public to approach politicians to get queries answered or problems resolved.

After incorporation, however, a customer having problems will find his only recourse is to the company board, and general experience shows that such an approach is usually futile. He can no longer approach his elected representatives to intervene.

Given that companies like JT or Jersey Post are wholly owned by the States, the Minister for Treasury and Resources acts as the States shareholder representative. However, his involvement is at a high level; basically ensuring the company is behaving correctly, but not getting involved in day to day administration.

This has left a void, whereby customers experiencing poor service find they can no longer get satisfaction. Politicians who used to be able to help no longer can, and the ability to hold executives to account has evaporated. Previously, a member of the public would approach a politician and, if that politician couldn't get satisfaction on the person's behalf, pressure could be brought all the way up to a vote of no confidence in the committee until the problem was resolved. Sadly, it seems some utilities are taking advantage of this.

Any problems a customer may encounter with Jersey Water or Jersey Electricity are unlikely to be as immediate a problem as might occur with other utilities, as the main issues that affect customers of these are prices and reliability of supply. Both companies have a good reputation regarding the latter, and pricing is something which can be addressed. That is not to say problems don't exist. For example, the JEC justified its price rise on the fact it was more expensive to generate power locally than import it. We were also told the rise was not to pay for the new cable link. Customers might therefore have assumed that once the new link was operational prices would reduce but, in fact, we are warned they will rise again. There were also concerns raised recently about Jersey Water sending out disconnection notices before one might reasonably have been expected to pay the bill.

But by far and away the biggest problem is Jersey Telecom. Despite several questions being put to the Minister for Treasury and Resources (in his capacity of shareholder representative) the situation continues to deteriorate.

Complaints have covered a range of issues: the way fibre is being rolled out and the inconvenience to householders its installation causes, problems with telephones after fibre has been installed, the disastrous change-over to a new billing system (which many customers are dissatisfied with in its current format), the refusal to accept cheques or payment at JT itself, and the forthcoming 28% increase in broadband cost just to name a few.

Then there were the £100,000s the JT Board spent fighting the regulator; and the rumour that has run for some time that the company will need to come to the States for extra funding to complete the fibre project. It would appear from the above that the JT

Board is more interested in serving itself than its customers, which, in my view, should be of concern to the Minister for Treasury and Resources because when the regulator finally achieves competition in the telecoms market, there is a danger many dissatisfied JT customers will relocate to alternative providers, thereby adversely affecting JT's value. But the whole point is, since moving Jersey Telecom from a States Committee to an incorporated company, any ability to influence the Board has been lost.

Communications are not only vital for business, but a part of everyday life. To not be able to address the raft of concerns from dissatisfied customers is absurd.

Looking to the future, there are potentially more issues such as those above likely to happen in other areas, such as after the incorporation of Social Housing and Harbours and Airport.

Taking Housing first, to whom would a Housing tenant with problems (for example leaky windows, noisy neighbours, etc.) turn? Would they have to contact board members? What would happen if, like JT, the board essentially ignored them?

Harbours and Airport is potentially an even bigger problem. Many hundreds of boat owners in harbours all around the Island will need to know that there is someone to turn to if they cannot get satisfaction from the department. What happens, for example, if there is a huge increase in mooring fees (as there has been in recent years)? That would be a board matter, not a departmental one. Again, there used to be a Harbours and Airport Committee, populated by States members. There was accountability. It was hoped to incorporate Harbours and Airport before ministerial government came into being but, when it wasn't, it was 'tagged on' to the Minister for Economic Development's portfolio; so at present it is still possible to 'ratchet up' problems until resolution is achieved. That facility will disappear if incorporation takes place as is planned.

As mentioned at the beginning of this Report, the Minister for Treasury and Resources is the States' shareholder representative for these companies. However, as he takes a high-level view and does not interfere in executive decisions, remedies for the sort of issues listed above are almost impossible to achieve.

Trying to address this problem is not easy. I very much doubt there is an appetite (especially among States members) to take the above mentioned entities back into committees, and trying to influence a board is restricted by company law. I first considered the idea of a utilities ombudsman, but discounted that mainly on the grounds of bureaucracy and cost. Where we can influence, however, is through being shareholders in those companies. I'm sure that if the board were asked to do something by shareholders and refused, the question of replacing the board might arise. In short, accountability would be assured.

What I am proposing, therefore, is an enhancement of the current process. As stated, the Minister for Treasury and Resources does not involve himself in executive matters, for a variety of reasons. One of these will be simply lack of time – he is a very busy Minister. My proposal therefore expands the shareholder representative role to a level where the public will have politicians they can turn to (as happened previously under committees) and who, in turn, will have the ability to put pressure on the board of the relevant company to mend its ways.

Financial and manpower implications

There are no financial or manpower implications to this proposition that I am aware of.