

5. Statement by the Minister for Economic Development regarding V.A.T. on Commercial Consignments from the Channel Islands:

5.1 Senator A.J.H. Maclean (The Minister for Economic Development):

Yes, Sir, I do. As I am sure Members will know, while declaring that the Channel Islands fulfilment sector did not result in tax avoidance, let alone tax abuse, the High Court ruled that the U.K.'s proposed changes to the Low Value Consignment Relief are lawful. This means that in his forthcoming budget, the U.K. Chancellor will announce that from 1st April H.M.R.C. will apply V.A.T. to all commercial consignments from the Channel Islands regardless of value. We are extremely disappointed at this outcome as the changes to L.V.C.R. which affect the Channel Islands alone create an uneven playing field, particularly with respect to other non-E.U. jurisdictions such as Switzerland and the U.S.A. (United States of America) where operators can continue to import goods and benefit from L.V.C.R. We have been granted leave to appeal by the judge and we will consider whether it is appropriate to lodge an appeal once the detail of the judgment has been considered by our legal team in consultation with the Guernsey authorities. For the avoidance of doubt, L.V.C.R. is not the only reason companies operate from Jersey but it is clearly a factor. We know that given the highly price-sensitive U.K. marketplace, some businesses will find it more difficult to compete. We have therefore been discussing the impact of the H.M.R.C.'s decision directly with affected companies so that we can assess other options that may exist to enable businesses in the sector to sustain operations in Jersey and in doing so preserve jobs. While L.V.C.R. may have contributed to profitability, it is by no means the only reason firms choose to base themselves in Jersey and it is up to us to provide a competitive trading environment free from unnecessary red tape. It should also be noted that the U.K. is not the only market and not all companies rely upon L.V.C.R. as they sell higher-value products. As Members are aware, fulfilment is but one component of a much broader and flourishing e-commerce sector in Jersey. We are already investing in broadband infrastructure through Gigabit Jersey and working to reduce the cost and increase the competitiveness of our e-commerce offering. As Members will see when I publish the new economic growth strategy, e-commerce and related hi-tech industries will have the highest priority as we seek to make Jersey the jurisdiction of choice for both existing businesses to expand and new businesses to develop. The Minister for Treasury and Resources has agreed to make funds available for positive initiatives which promote economic activity and create sustainable jobs. These funds would come from the contingency fund set aside in the 2012 Budget to deal with unforeseen issues. Measures have also been put in place to help those individuals who may be affected by the ending of L.V.C.R. Our Back to Work taskforce is stepping up its efforts to support all those whose jobs may be at risk. Meetings with staff have already begun and are continuing this week. The team has visited staff in their workplace to offer presentations on the labour market and the support available to find new employment through Work Zone, Advance to Work, Advance Plus and Careers Jersey. The team has also briefed staff on eligibility for income support, pension advice and self-employment. Staff members who have special employment needs and who are clients of J.E.T. (Jersey Employment Trust) or Workwise continue to receive one-to-one support from the appropriate agency. The Back to Work team is available to work with any businesses affected by the court's decision. Going to the High Court was the right course of action taken for the right reasons. We received clear legal advice which was wholly consistent with that received by industry and indeed our colleagues in Guernsey. It was on the basis of this advice that we took action through the English court to clarify E.U. V.A.T. law. In the weeks and months ahead we must now concentrate on supporting the industry to adapt and, most importantly, support people working in our fulfilment sector who may be impacted by the judge's decision to find new employment. Finally, we must support the fulfilment sector as it seeks to develop new opportunities in new markets. Thank you.

5.1.1 Deputy S. Power:

The Minister refers in the third paragraph that they have been given leave to appeal by the judge: "... and we will consider whether it is appropriate to lodge an appeal once the detail of the judgment has been considered." How long does he think that process will take because this is very time-sensitive?

Senator A.J.H. Maclean:

The Deputy is right. In fact, from the date of the judgment we have a maximum of 21 days to lodge an appeal if that is the case. The advice is that if we were to do so, we should do it well within that deadline.

5.1.2 Deputy R.G. Le Hérisssier:

Would the Minister outline the steps that are being taken to deal with a knock-on effect? For example, as students and school leavers compete in the labour market with people perhaps made redundant from this industry, what support is going to be offered to the young people who will be coming to try and find work within the labour market and could well be displaced?

Senator A.J.H. Maclean:

The Deputy raises a valid point. In fact, young people, as Members will be aware, are accounting for about a third of the total unemployment currently. The likely increase from L.V.C.R. will simply impact on that, hence the additional funding agreed by the Treasury from carry forward - £7.2 million - is going into extending programmes like Advance to Work, strengthening up the Careers Jersey programme, and so on. I am delighted that the additional resources have been put into the Back to Work programme. It is beginning to deliver genuine results; it is going to have clearly a lot of work to do in the coming months.

5.1.3 Senator L.J. Farnham:

Two points to make, if I may. The first one is a follow-on from the Minister's answer to Deputy Le Hérisssier's question. Does he have any statistics of the demographics of the workforce within the fulfilment sector and does he think there will be some migration as a result of jobs being lost? The second part of my ...

The Deputy Bailiff:

That is 2 questions, that is quite enough for the Minister.

Senator A.J.H. Maclean:

As far as the demographics are concerned and the makeup of the workforce, more than 80 per cent of those employed in fulfilment industry are local and as such it is clear to see the impact and cost that is going to be associated therein.

5.1.4 Deputy M.R. Higgins:

Can the Minister advise the Assembly what the legal expenditure has been to date on this so far failed attempt to reverse the L.V.C.R.?

Senator A.J.H. Maclean:

It is the Deputy's specialist topic: legal charges. All I can tell Members at this stage is that the estimate for legal charges for Jersey were £360,000. We have not yet had the final bill in. I can assure Members that when we do know the final cost, I will be making that public. We have also had contributions from industry; we need to assess exactly what those are going to amount to. Of course the other point is that we will, having lost the case regrettably, have some costs from H.M.R.C. That will be split with Guernsey, so our total contribution to the U.K. costs will be 25 per cent of the total.

5.1.5 Connétable D.W. Mezbourian of St. Lawrence:

Has any work been undertaken to establish the likely number of new applications for income support and, if so, what would the likely additional costs to that be?

Senator A.J.H. Maclean:

That is linked to my earlier comment where the assessment was done and the likely cost per 100 unemployed will cost approximately £800,000. That is based on approximately 70 per cent requiring income support and that is averaged, clearly taking into consideration the family component. At this stage we cannot assess exactly the numbers because clearly we do not know how many are going to be made unemployed.

5.1.6 Deputy G.C.L. Baudains:

Is the Minister able to advise Members of the cost implications of going for appeal on the recent judgment on fulfilment?

Senator A.J.H. Maclean:

I am not at this stage, although it is likely to not possibly be at the same level that we have currently contributed towards the action that was taken in the High Court in the U.K. But again these are figures that we need to establish and will form part of the decision-making process as to whether or not we appeal.

5.1.7 Deputy J.A. Martin:

This is a follow-on. I know it is Jersey Post, but what talks prior and even now ... and I fully support us going to the High Court and I do not believe it is tax avoidance. It was Her Majesty's Revenue and Customs who brought in this L.V.C.R. because flowers and goods were sitting on the docks for weeks and weeks and weeks and not getting to the rightful owner. So what talks? It really will stick in my craw, and probably a lot of other Members', if even anything up to £18, £15 is collected this side of the water for Her Majesty's Revenue and Customs. There are talks going on and the Minister will assure us that we are not working for the U.K. Government because they certainly are not working for us.

[12:00]

The Deputy Bailiff:

Deputy, it is not speech time, it is question time. The questions, just as answers, should be concise. Minister, what talks are going on at the moment?

Senator A.J.H. Maclean:

First of all I will comment on the Deputy's comment about tax avoidance, tax evasion or tax abuse. I am pleased that she does not think it is. She will be pleased to know that Judge Mitting did not think it was either and he made that perfectly clear in the case. With regard to talks, there are talks between Jersey Post which is appropriate. They are the ones that have the relationship with H.M.R.C. and they are the ones who collect the tax with regard to Low Value Consignment Relief. They are the ones who are ongoing trying to get an agreement with H.M.R.C. that some payment can be made for collections below. If we refuse to do that, the problem reverts to the local businesses. It will see their consignments going into the U.K. which will be slowed down and so it is a very difficult balance.

5.1.8 Senator L.J. Farnham:

If I could just ask this point, could the Minister, in reply, just clarify whether he sees there will be migration from the result of this action? Also, just to clarify Deputy Martin's point, I think it could be more detrimental if we did not collect the V.A.T. because then the onus would be on the purchaser to pay the V.A.T. on the other side and that could be even more detrimental to our business.

Deputy J.A. Martin:

That was why it was introduced in the first place because the U.K. Government could not afford to pay for ...

The Deputy Bailiff:

I am sorry, Deputy, this is not a time for debate, it is question time to the Minister. The second part of Senator Farnham's question was not a question either.

Senator A.J.H. Maclean:

If Senator Farnham is asking will we see net outwith migration as a result of this, the answer is probably unlikely as 80 per cent or so of employees in the sector appear to be local.

5.1.9 Deputy M. Tadier:

What lesson has the Minister learnt about the importance of sustainability when it comes to creating jobs in the Island from this episode?

Senator A.J.H. Maclean:

It seems to be a misconception in some quarters that it is governments that start up businesses or indeed open up sectors. It was the private sector that spotted the opportunity that existed in fulfilment, and L.V.C.R. in particular, and chose to exploit it. Many in that sector realised it was not necessarily long-term. As far as I am concerned, it has generated benefit for the Island while it has been in operation, and I think the industry will evolve. Certainly the wider e-commerce industry offers a significant opportunity for the Island in the future which is why we are investing in it.

5.1.10 Deputy J.H. Young:

Do we know the amount of U.K. V.A.T. that either Jersey businesses or we ourselves will act as U.K. tax collectors for? Secondly, given the conflict of interest in this matter with the U.K., is the appeal to the U.K. Supreme Court the final one?

Senator A.J.H. Maclean:

The tax revenue collected (and I stand to be corrected on this) I believe is around about £5 million. I will check that figure and make sure that the Deputy has it. As far as the appeal is concerned, it will go to the Court of Appeal initially, and probably to the European Court ultimately, if indeed that goes ahead.