STATES OF JERSEY

JERSEY POST: PETITION

Lodged au Greffe on 11th October 2010
by Deputy J.A. Martin of St. Helier

STATES GREFFE

PROPOSITION

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

to note that 2,646 petitioners have signed a petition for which the Jersey Branch of the Communication Workers' Union is responsible and –

(a) to request the Minister for Treasury and Resources, as representative of the shareholder, to request Jersey Post not to take any steps to cut deliveries back to 3 days a week;

(b) to request the Minister for Economic Development to request the Jersey Competition Regulatory Authority, to the extent that this is possible under all relevant statutory provisions, not to allow any competition in the postal market until Jersey Post has completed the efficiencies and savings currently being introduced;

(c) to agree that the States should assist Jersey Post to maintain its Universal Service Obligation by contributing to any shortfall in funding in the event of competition being allowed in the postal market.

DEPUTY J.A. MARTIN OF ST. HELIER

REPORT

The workers and the members of the Communication Workers' Union have approached me to present this petition on their behalf to the States of Jersey.

I was a member of the Economic Affairs Scrutiny Panel which produced the report S.R.2/2006: 'The impact of the fulfillment policy on the incorporation of Jersey Post'.

This was over 4 years ago, and there was great concern with regard to the policy of the Minister for Economic Affairs to curtail the business development of existing, and the encouragement of many new, fulfilment companies setting up in the Island. Also in regard to the overall effect this would have on Jersey Post – this full short report is attached as **Appendix 1**.

The overall concern, even at this time, was that if Jersey Post did not have the fulfilment business it would very soon become unviable, and that this could have an adverse effect on the position of Jersey Post carrying out the Universal Service Obligations (USO).

There have already been many changes at Jersey Post and there may be scope for more restructuring, however the timescale for this to be implemented does not enable management or staff to give due consideration to all the issues and to the best service possible for the entire Island.

The States of Jersey need to consider whether they want and are able to support an inferior postal system compared to that of the U.K. and even Guernsey, who both still have deliveries 6 days a week.

The acceleration of the changes which are already in train includes extra redundancies, and this will have a major impact on our postal deliveries. The States of Jersey must consider whether to step in; or is it a *fait accompli* as there will not be enough experienced workers left to carry out the USO in its present form?

Jersey Post has been standing on its own 2 feet and pays all profits back to the States of Jersey and therefore back to the Island. I do not think any of the workers would not agree that they must become more efficient and that there need to be changes; in fact they have already done so.

A short report from the Communication Workers' Union is also attached at **Appendix 2** outlining their concerns in their words.

This proposition asks for the States of Jersey to step in and do the necessary work and the cost-benefit analysis that must be done. The States of Jersey cannot, in my opinion, allow Jersey Post to lose all of the major profit-making part of the company.

I would also like to see much more involvement from the Minister for Economic Development and the Minister for Treasury and Resources, who could look at the way Guernsey Post have worked with competition. Guernsey have been able to open up some competition in their fulfilment industry, but have not lost too many jobs or resorted to deliveries only 3 days a week or 5 times a fortnight. I think it's called good conversation, conversation, conversation, not consultation, consultation, consultation. Are Guernsey's government better at this than us? I understand in Guernsey it is for the States to give direction to their regulator; another recommendation which Scrutiny made in 2006, but which was never acted upon.

These decisions are too important to be left to Ministers.

Also in 2006 the States of Jersey loaned Jersey Post £4 million for pension liabilities; and Scrutiny were told at the time by the JCRA which came first, the right of competition or the repayment of the loan. It would appear from the reply that the loan repayment was their first priority. This loan was repaid on time over the last 4 years. However, management let down workers, local businesses and residents by not preparing for the highly likely outcome for competition in the profit part (fulfilment) business that would follow the repayment.

The blame lays with the Board and senior management, not the ordinary postal worker.

Please see attached (**Appendix 3**) pay-scale for management of Jersey Post and recommendations from the Jersey Consumer Council in respect of the USO. Much of this management team has been in place since incorporation. Yet the first announcement to staff, re: ‘We have a problem’ was just before last Christmas (2009). What have they been doing since 2006? Where was the long-term plan? They knew, or are paid enough to know, that traditional postal services were on the decline except for fulfilment. This is not rocket science: it should have been included in a long-term management plan from 2006.

I hope that the States of Jersey will support our Postal Service. It is time-limited, but hopefully with the right plan and all working together, they can get the best possible service for all Islanders and a good environment for the workers.

Financial and manpower implications

There are no manpower implications or immediate financial implications if the States of Jersey support part (b) of the Proposition, as this will give time for efficiency to be fully implemented at no cost to the States.

APPENDIX 1

Extract from: Economic Affairs Scrutiny Panel Report:
The impact of the fulfilment policy on the incorporation of Jersey Post
(S.R.2/2006)

1.3 TERMS OF REFERENCE

Prior to undertaking the review, the Panel had agreed the following terms of reference -

- To examine the likely impact of the Economic Development Fulfilment Policies on revenues of both Offshore Solutions Limited (OSL) and Jersey Post;
- To consider whether the transfer of assets, rights and liabilities to the group of companies enables those companies to be financially sound;
- To consider the effect of any potential change in revenue upon Jersey Post and its ability to meet its Universal Service Obligations (USO); and,
- To examine whether incorporation should be deferred or the terms of incorporation altered.

These had been expanded from term three of the Panel's original fulfilment review, which was 'To consider the role of Jersey Post in the development of the [fulfilment] industry'.

2. RECOMMENDATIONS

1. The Panel recommends that incorporation should be deferred to enable a new cost/benefit analysis to be undertaken by the Economic Development Minister in the light of the changed circumstances. The terms of reference should be to determine not only the overall viability of the company post-incorporation, but should detail the capability of each element of the company to support itself independently. This

process should meet with the approval of the Comptroller and Auditor General.

2. The Panel considers that the cross-subsidy of Offshore Solutions Limited (OSL) constitutes predatory pricing. It is anti-competitive as it allows OSL to operate at a loss, thus distorting competition, and uses profits from an area in which Jersey Post has a monopoly to cross-subsidise an area in which it is subject to competition.

   The Panel therefore recommends that prior to incorporation the JCRA conducts an investigation into what actions the company might take to remove this potential problem under the Competition (Jersey) Law 2005, and reports to the States.

3. The Panel considers that it is inappropriate for the Treasury Minister to lend money at a preferential rate to Jersey Post as this constitutes unfair competition. The Panel recommends that the offer of a loan be withdrawn, and that Jersey Post borrows in the commercial market.

4. The JCRA's primary responsibility to ensure the repayment of the loan to the States Under Article 8(1)(b) of the Postal Services Law (Jersey) 2004 unduly restricts the ability of the JCRA to act in the interest of the consumer.

   The Panel recommends that this primary duty be rescinded.

5. The Panel recommends that the responsibility to issue guidelines or directives to the JCRA under the Article 9 of the Postal Services (Jersey) Law 2004, as detailed in R.C. 5/2005 'Postal Services (Jersey) Law 2004: Directions and Guidance to the JCRA under Article 9' be removed from the Economic Development Minister and placed in the hands of the States.

3. KEY FINDINGS

The key findings of the Panel and the terms of reference to which they are relevant is as follows -

3.1 To examine the likely impact of the Economic Development Fulfilment Policies on revenues of both Offshore Solutions and Jersey Post.

- The Panel has found that fulfilment revenue accounts for the majority of Jersey Post's profits. The Economic Development policy has reduced the number of businesses currently operating in the fulfilment sector, 13 companies out of 70 have so far been refused permission to trade or have been given notice to curtail their operations over a period of 12 months.

- This has a dual impact on the company. Firstly, existing business will be lost. Secondly, the company's expansion plans were targeted at the brand-name 3PS sector serving the UK market. The Panel suspects that the inability to develop this lucrative market is likely to severely restrict the growth of the industry.

- Jersey Post initially estimated a 14% loss of throughput as a result of the policy. This has now been refined to a 4 to 5% loss of revenue. The Panel is unable to reconcile the disparity between these figures at a time when the number of companies refused or granted a time limited licence to trade has risen to 13.

- The Panel is of the opinion that the loss of high-profile brand names and UK-market 3PS's companies has had a disproportionate effect on Offshore Solutions Limited (OSL) as these represent a market sector into which it had intended to expand. The Panel believes that a valuable opportunity has been lost to promote the fulfilment industry, thereby growing the sector.

3.2 To consider whether the transfer of assets, rights and liabilities to the group of companies enables those companies to be financially sound;

- The Panel is concerned by the lack of transparency under which Jersey Post currently operates by withholding publication of its full accounts. It considers that this approach is a failure by the Treasury Minister to reveal to the public, the States and the employees of Jersey Post the following -

  The total dependence on profitability for Jersey Post from the fulfilment industry via postage revenue;

  The cross subsidisation required from that revenue to support the core postal activities required under the Universal Service Obligations;

  The inappropriate use of cross subsidy to support the operation of Offshore Solutions and Promail; and,

  The failure to provide details of the remuneration of directors.

- The Panel is aware that competition currently exists in parcel and courier services. It is concerned that the only area which a competitor local or otherwise would find worthwhile would be the fulfilment sector.

3.3 To consider the effect of any potential change in revenue upon Jersey Post and its ability to meet its Universal Service Obligations;

- In order for the current model of incorporation to maintain service standards to the customer, the JCRA will have to permit the existence of cross-subsidy. The Panel understands that the removal of cross-subsidy is one of the principles of the Competition (Jersey) Law 2005.

- The Panel notes the continuing decline in postal volumes other than fulfilment which will put increasing pressures on the delivery of the Universal Service Obligation.

3.4 To examine whether incorporation should be deferred or the terms of incorporation altered.

- The Panel concludes that Incorporation without competition appears to have only marginal benefit. Incorporation with competition introduced would, in the opinion of the independent consultant, result in significant opportunity costs to the States.

- The Panel is aware that the standards set in the service level agreement in Guernsey are higher and more accountable than those set in Jersey. The Panel is concerned that these standards are not independently monitored.

- The Panel concludes that a cost benefit analysis should be undertaken.

4. WITNESSES

The following witnesses attended public hearings with the Panel –

Senator T.A. Le Sueur, Treasury and Resources Minister, accompanied by Mr. R. Bell, Head of Corporate Financial Strategy Division.

Senator P.F.C. Ozouf, Economic Development Minister and Connétable G.W. Fisher, Assistant Minister, accompanied by Mr. M. King, Chief Executive Officer and Mr. W. Gallichan, Director of Regulatory Services.

Deputy P. Ryan, Chairman, Corporate Services Scrutiny Panel (in his capacity as a previous President of the Committee for Postal Administration).

Mr. R. Syvret, Proprietor of Andium Limited, Consultants to the Economic Development Department, and the Treasury and Resources Department.

Mr. J. Pinel, Chief Executive of Jersey Post.

Mr. I. Ridgway, Finance Director of Jersey Post, accompanied by Connétable Fisher and Mr. J. Pinel.

Mr. W. Brown, Executive Director of the Jersey Competition Regulatory Authority, accompanied by Mr. P. Hamilton and Mr. C. Webb.

Mr. M. Hamon and Mr. L. Sampson, Communication Workers Union.

Full verbatim transcripts of the public hearings are available on the Scrutiny website at www.statesassembly.gov.je.

The documents considered by the Panel are listed in Appendix 3.

5. RATIONALE FOR THIS REVIEW

The fulfilment industry, otherwise known as e-commerce, was until recently the fastest growing sector of our economy. It consists essentially of the receipt of orders by telephone, postal request or increasingly via the internet, and the delivery of the goods by post. It is the modern equivalent of mail order.

The Panel had already decided upon a review into the effect of the fulfilment industry on the local economy. The Panel was concerned that some of the non-profitable services that Jersey Post provides, especially the sub-post office network, were subsidised by Jersey

Post's profit from the fulfilment industry. It wanted to establish if the Universal Service Obligation (USO - Jersey Post International Limited's planned service level agreement with the people of Jersey after incorporation) could be maintained at the level promised if the fulfilment industry were to shrink or collapse.

The Panel was aware of a recent policy statement issued by the Economic Development Minister on 14th February 2006, which was intended to limit the amount of fulfilment business carried on in the Island. It was understood that this would directly affect the profits of Jersey Post. The Panel was conscious that Jersey Post was to be incorporated in an atmosphere of uncertainty about the future of its primary source of income. No-one initially appeared to have understood exactly how many customers would be lost due to the new policy, or what effect this would have on the postal service, although work has now been done and estimates made by Jersey Post. The fact is that postage from fulfilment goods is the main source of revenue for Jersey Post, and that a policy which affected the industry could have repercussions on the ability of Jersey Post to repay the proposed loan of £4 million to the States.

The Panel therefore decided that the Chairman should confirm that P.9/2006 – draft Postal Services (Transfer) (Jersey) Regulations 200-, intended to incorporate the company, be referred to it, and to undertake a review of the situation, with the intention of reporting back to the States within the timescale envisaged within Standing Orders.
The referral procedure is one of the new powers granted to scrutiny by the States[1]. It is intended to allow a study to be undertaken of legislation or policy in order that States members are fully informed on the matter prior to any vote being taken.

[1] Under Article 72(1) of the Standing Orders of the States of Jersey, approved by the States on 6th October 2005, detailed in the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations, which came into force on 11th April 2006

6. POLICY

The policy statement issued by the Economic Development Minister on 14th February 2006 is central to understanding the impact on Jersey Post. As such it is reproduced below-

The Economic Development Minister's Policy 'for the Fulfilment Industry' of 14th February 2006

Introduction

1. Previous research on the nature of the fulfilment industry in the Island has thrown some light on the activity at a time when it is attracting some negative publicity which is in danger of undermining the Island's good international reputation and integrity. The negative publicity is focusing on existing UK companies that are switching the distribution of their DVDs/CD's through the Channel Islands to take advantage of the Low Value Consignment Relief (LVCR – the EU approved mechanism for VAT exemption).

2. This paper sets out a revised policy that can maximise the benefit of the fulfilment industry while at the same time not damage the Island's international reputation or integrity.

The Economic Benefits

3. There are basically two types of activity within the fulfilment sector, although a number of companies operate as a hybrid of the two activities. Whole Chain Companies (WCC) physically buy in and own the stock and sell the goods to the final customers. Third Party Service Providers (3PS) on the other hand provide logistics or distribution services to other retailers. WCC receive revenues based on the total value of sales whilst 3PS only receive revenues based on the service they provide, with the sales revenue going to the retail company.

4. The Economic Growth Plan (EGP) has two key objectives: to generate £20m additional tax revenue and to create high value jobs for local people. On purely economic growth grounds the dichotomy within the industry means that the appropriateness of the two types of activity for the Island is significantly different. The high value added per employee and significant tax contribution of WCC activity means that it is fully complementary to the EGP and therefore should be supported by the States wherever possible.

5. 3PS activity contributes less significantly to either of the two key economic growth objectives and the States should therefore be much more cautious about this type of activity. Significant growth in employment in this sector poses two questions (assuming that licences will not be granted for significant non-local labour):

- Where will this labour be drawn from – the unemployed/new labour market entrants or other industries/firms?
- Could the labour be put to more productive uses?

6. The answer to the first question is that while some of the existing employees might have come from the unemployed or new labour market entrants there are greater concerns that further jobs growth will start to bid up wages in this area and therefore undermine activity of all firms in the sector and possibly other sectors such as tourism.

7. The very low value added per employee of 3PS activity also suggests that the labour could be put to better use in other areas such as tourism and retail.

8. On pure EGP grounds the conclusion should be to support WCC activity but not to allow further growth in 3PS activity, where it requires significantly more labour.

Jersey's Integrity in Financial and Commercial Matters

9. The impact of the fulfilment industry does not however, stop here. EGP issues also have to be balanced with those surrounding the Island's international reputation.

10. The selling structure which is adopted by the retailer is little better than a sham. The vendor, or the vendor's parent company, and the purchaser are both located in the United Kingdom. The goods, or some of them, come from the United Kingdom, and are shipped to Jersey for a "sale" before being shipped back to the United Kingdom for delivery to the customer. Jersey's integrity in financial and commercial matters cannot but be damaged by the use of the Island as part of such a selling structure.

The policy

11. The appropriate policy (for further details see notes below) that meets both the Economic Growth Plan and protects the Island's international reputation and integrity is:

(i) Existing WCC should be supported, particularly those that are or have been majority beneficially owned by Jersey principals.

(ii) New WCC which are beneficially owned by Jersey principals will be supported.

(iii) With the exception of those companies trading in DVD/CD's into the UK market, high value hybrid companies should be supported, where they do not involve UK companies diverting current business through the Island.

(iv) There are some UK companies already operating in the DVD/CD market through 3PS. These companies should have applied for licences, and any which have not will be required to do so. Assuming that there is no ground for refusing a licence additional to those set out in this policy statement, such companies will be granted time limited licences to allow them gradually reduce and eventually to discontinue their activities.

(v) 3PS activities will be allowed to grow where they do not require significant additional labour and are consistent with the Economic Growth Plan.

Notes

1. WCC are as previously defined – companies that physically buy and sell goods to final customers and receive revenues based on the total value of sales and are generally owned by locally qualified principals.
2. 3PS are as previously defined - they provide logistics or distribution services to other retailers and only receive revenues based on the service they provide, with the sales revenue going to the retail company.
3. Hybrids are fulfilment related companies that do not fit easily into either category but have a permanent establishment with some or all of their core activities in the Island such as a head office, finance, purchasing, marketing or customer service. Hybrids employ locally qualified people in high value jobs, make a significant local tax contribution and stock is owned and possibly held by the local business. Their pick and pack operations are likely to be carried out by a 3PS but could be done by the company itself. There could also be companies that operate as both WCC and 3PS.

Implementation

For the policy to work:

- The Chief Minister's department will undertake any international relations work.
- The Economic Development Minister will apply RUDL in the required manner*.
- Time limited consents will be issued for a maximum of 12 months from the date of this policy.
- The Economic Development Minister will seek to ensure that Jersey Post will comply with this policy.

*When considering any application, the Economic Development Minister is required under the Regulation of Undertakings and Development (Jersey) Law 1973 ("RUDL") to have regard to the need to regulate and manage demand on the resources of the Island and to protect its integrity in commercial and financial matters. Furthermore, the Minister has particular regard for the Population & Immigration Policy recommendations adopted by the States in November 1997 and the States Strategic Plan 2005.

The Minister will make decisions in line with domestic legislation and policy. However, the Minister will monitor the fulfilment industry and seek to ensure that a level playing field is maintained with other jurisdictions.

7. DESCRIPTION OF THE FULFILMENT INDUSTRY

7.1 The nature of the Industry

The industry essentially centres on the dispatch of goods to meet orders received by telephone, by post (historically) or increasingly via the Internet. The provider then processes the financial transaction, traditionally by cheque but now in the case of internet order by 'PayPal', or other on-line credit mechanism. Goods are then either dispatched by post from a central stock or ordered to meet demand and then posted on to the customer. Contact lenses, DVDs and CDs are an example of goods which are highly suitable for this form of retail. It is a development of the traditional mail order business which has operated from Jersey for some time, with Flying Flowers having existed for over 40 years.

This sector of the local economy has experienced spectacular growth in recent years, and postings had doubled in volume between 2003 and 2005 from 17.6 million to 35.2 million (estimated). Before the recent changes in policy it had been estimated that the total postings could have again doubled in volume between 2005 and 2008, although constraints on available resources (warehousing and labour) would have limited this.

The estimated value of e-commerce across Europe is also increasing at a considerable pace, in 2002 €20.4 billion was spent on-line, and roughly a third of people had made an on-line purchase. The expenditure was predicted to rise to €51.9 billion in 2005, and €97.8 billion in 2008, with two-thirds of Europeans having purchased something over the internet.[2]

7.2 Low Value Consignment Relief (LVCR)

It has been claimed that logistical excellence and reasonable pricing are the reasons that so many e-commerce companies are located in Jersey. However, local fulfilment companies incur high rental and labour costs, and in the case of UK businesses distributing from Jersey, could operate from any part of the UK mainland. It is therefore a reasonable assumption that one of the factors which make Jersey attractive to these companies is the Value Added Tax (VAT) situation.

The fulfilment industry is essentially built around one provision within the (then) European Economic Community's Council Regulation No. 918/83 (as amended), which set up a 'Community system of reliefs from customs duty'. The relevant provision, (Article 27) states that:

> *'Subject to Article 28, any consignments made up of goods of negligible value from a third country to a consignee in the Community shall be admitted free of import duties.*
>
> *'Goods of negligible value' means goods the intrinsic value of which does not exceed a total of ECU 22* [now 22 Euro, defined as £18] *per consignment.'*

[2] Figures from Jupiter Research (2003)

This means that except for the goods mentioned in Article 28 (Alcohol, perfumes and tobacco) any goods of reasonable value and small enough to be posted can be sold from a base in Jersey to a customer in the UK VAT free, as Jersey is not a member of the European Union (EU, previously the EEC). This exemption to VAT is called 'Low-Value Consignment Relief (LVCR).

Therefore Jersey-based businesses have a 17.5% cost advantage over their UK based counterparts. In the case of some goods, this advantage outweighs the costs of shipping, postage, repacking and the higher labour and storage costs found in Jersey.

The provisions of this legislation were later amended to allow EU member States to lower the level of LVCR-

> *'Goods of a total value not exceeding 10* [Euro] *shall be exempt on admission. Member States may grant exemption for imported goods of a total value of more than 10* [Euro] *but not exceeding 22* [Euro][3]*.'*

This provision is the key to one of several measure that the UK could implement to control the use of LVCR. The current risks are that-

- the EU could abolish LVCR.
- the UK could introduce legislation to lower its relief limit to 10 Euro.
- The UK could apply for derogation from the requirement to provide relief on all goods.

These are detailed in full in Appendix 1.

[3] Amended by Article 22 of Council Directive 88/331/EEC of 13 June 1988.

Jersey is in competition with numerous other offshore and non-EU jurisdictions for a share of this lucrative industry. The most active challengers are Switzerland, the Åland Islands (a dependency of Finland) and Guernsey, and Hong Kong Switzerland. Competition is fierce in this industry as there are few barriers to non-EU States entering the market.

The estimated cost to the UK Treasury of LVCR was estimated to be £80 million in 2005[4]. This should be considered in the context of an estimated £3 billion loss to the Treasury through VAT avoidance overall. LVCR therefore accounts for only 2.6% of the total avoidance.

Jersey does not simply take advantage of the tax situation however, approximately a quarter of the consignments (by value) that leave the island for the UK are over the £18 threshold, and therefore eligible to VAT. In these cases the monies are collected and passed to the UK Government. The value to the UK Exchequer of these VAT collections, carried out at Jersey's expense, was approximately £9.3 million in the twelve months ending 30th April 2006. This collection has a secondary advantage to Jersey Post, which funds the employment of a dedicated customs officer to collect the VAT as above and to pre-approve parcels under £18 as VAT-exempt. This saves those packages being held in UK clearing houses, and allows for considerably faster delivery. This makes Jersey a more attractive location for fulfilment.

7.3 Benefits of the industry to Jersey Post

Jersey Post has established itself as a major service provider to the fulfilment industry. It not only provides mail services, but also acts as a Third Party Service Provider (3PS), and has a sizable pick and pack operation based at Rue des Prés trading estate and the Elizabeth harbour. 3PS activities are the preserve of a wholly-owned subsidiary company known as Offshore Solutions Limited (See Appendix 2)

[4] Figures quoted by Mr. J. Healey, a UK Treasury Minister

Dedicated services provided for the industry include the provision of high-capacity processing and packing facilities based near the harbour, discount package rates for large-volume mail users, and a dedicated customs officer to VAT-approve outgoing packets, in order to avoid their delay in customs houses in the UK.

Jersey Post profits from the industry in the following ways-

(a) The mail volume itself provides revenue from the sale of postage stamps or from 'franked' mail, the volume of which is hugely increased by the volume generated by the local fulfilment industry and OSL pick and pack activities for overseas clients;

(b) A proportion of items ordered by e-mail are returned to the sender, either as a result of a mistake by the fulfilment company or as the purchaser has changed their mind. Additionally, some companies send out unsolicited items in the hope that the recipient will decide to purchase them, with many being returned. The Royal Mail pays Jersey Post for the return of these items to the sender (book, music, and DVD 'clubs' use these methods). In the instances where the sender was a company operating through OSL, the process of 'return' takes place on site, and so Jersey Post receives the income without having to carry out the expensive 'last mile'[5] delivery services;

(c) Pick and pack revenue would accrue to OSL, but this is currently running at a loss and therefore no revenue is being produced directly.

[5] The most expensive element of postal service provision is usually the last element of the service, the doorstep delivery.

In terms of total revenue, Mr. Pinel, the Chief Executive of Jersey Post, made the following statement to the Panel at the Pubic Hearing of 5th April-

> *"The 5-year financial forecast which we provided you with shows that our average* [annual] *profit is expected to be somewhere in the order of about £5.2 million* [in] *2006/09. We forecast that will reduce as a result of the implementation of this current policy significantly, but then we have options, of course, to go forward with other sorts of business products and markets and other business diversification. It is difficult to say [what] will be the direct result of* [the new policy] *because we have time to do other things, of course, which is what we have been doing over the past few years anyway."*

Jersey Post's profits were addressed again at the next hearing on 5th May-

> ***Mr. I. Ridgway, Finance Director of Jersey Post***
>
> *"The States of Jersey* [2005] *surplus is £5.8* [million]*. The States of Jersey surplus does differ from the UK GAAP (generally accepted accounting principles) … on GAAP, an equivalent profit will be £3.8* [million]*… So, very strong profitability."*
>
> ***M. J. Pinel***
>
> *"There is a lot of talk about our profits being £5.8 million and was that too high, too low, or whatever. I would hope that there is a clear understanding of the difference between a*

States of Jersey surplus of £5.8 million and a commercial profit, which is more like about £3 million."

These statements concerning the reduction in the level of profit should be taken in context of the starting net assets of the company of only £6.8 million[6]. Even were profit to be halved from the lowest estimated level, this still represents an exceptional return.

He also clarified for the Panel the importance of the current levels of fulfilment revenue-

"…fulfilment profits account for almost all of our profit. Fulfilment profits are used at the moment to fund the loss-making areas of Jersey Post, which includes the retail network, [and] *the sub-post office network."*

7.4 Predatory Pricing

The stamp and return postage revenue accrue directly to Jersey Post. The pick and pack activities result in a significant increase to postal revenue, which is currently outweighing the operating loss of OSL. Jersey Post has presented evidence to the Panel of its plans to address the operating loss of OSL, although the Panel is unconvinced that these measure will produce sufficient increase in revenues to generate an operating profit. The Panel is concerned that in effect OSL is being allowed to operate at a loss. It believes that this constitutes 'predatory pricing'. Other local 3PS operators require a profit to stay in business, and if OSL has an additional revenue stream from cross-subsidy based on postal receipts, this distorts the market and could unfairly remove competition.

[6] As detailed in the Draft Postal Services (Transfer) (Jersey) Regulations 200- (P.9/2006)

Mr. R. Syvret, Proprietor of Andium Limited, Consultants to the Economic Development Department, and the Treasury and Resources Department, commented upon cross-subsidy during the 5th April hearing-

> ***Mr. R. Syvret***
> *The position with regard to cross-subsidy is I think fairly clear in the minds of those who regulate utilities, that it is something that in general is taboo. On that basis, I do not think any of those who have been working on this project, certainly not myself, have ever believed that it was necessary to cross-subsidise the ordinary postal services other than as the JCRA might need to do through the powers that they have under the new law.*

The 'powers' mentioned allow the cross-subsidy for the operation of the USO, which is rarely profitable. Mr. J. Pinel, Chief Executive of Jersey Post, also stated that cross-subsidy to fund the USO is permissible-

> ***Mr. J. Pinel***
> *Elsewhere, it is perfectly legitimate in other jurisdictions for money that accrues within any reserved area (and it varies from country to country) to be used to subsidise Universal Service Obligations. That is pretty straightforward stuff in almost every jurisdiction in Europe. … So, the fulfilment profits accrue largely within the currently planned remaining reserved area and they are used in part to help fund the Universal Service Obligations that make a loss.*

While the Panel understand the need to cross-subsidise the USO, it is apparent that there are two forms of cross-subsidy operating in this case-

- The legitimate use of fulfilment revenue to 'prop up' unprofitable last-mile services.

- The maintenance of OSL at a loss as a driver of postal revenue.

It has been predicted that in a best-case scenario, with unrestricted fulfilment growth, OSL would come into profit in its own right. In the worst-case, it would continue making a loss for at least five years, while still driving postal revenue. The Panel considers that the Economic Development Minister's fulfilment policy has put Jersey Post into a situation more in keeping with the worst-case scenario by severely restricting growth, and that OSL is likely to need cross-subsidy for the foreseeable future.

At the Public Hearing held on 5th May 2006, Mr. W. Brown, Executive Director of the JCRA, made this comment in respect of cross-subsidy outside of funding the USO-

> ***Mr. W. Brown***
> *Well, I think again under normal competition law principles cross-subsidy is usually only considered to be a problem, or a potential problem, where it is having the effect* [of] *distorting competition. So, for example, if a dominant company was using profits from an area in which it was dominant or had a monopoly to cross-subsidise areas in which it was subject to competition and the effect of that was to make life difficult for its competitors so that it was effectively leveraging its dominant position to achieve a competitive advantage in other markets, then that would usually be considered - or could be considered - a problem under competition law.*

The Panel considers that the cross-subsidy of Offshore Solutions Limited (OSL) constitutes predatory pricing. It is anti-competitive as it allows OSL to operate at a loss, thus distorting competition, and uses profits from an area in which Jersey Post has a monopoly to cross-subsidise an area in which it is subject to competition.

The Panel therefore recommends that prior to incorporation the JCRA conducts an investigation into what actions the company might take to remove this potential problem under the Competition (Jersey) Law 2005, and reports to the States.

8. BACKGROUND TO INCORPORATION

8.1 The nature of incorporation

The process of incorporation transforms a government-owned operation into a limited company. This is intended to allow that operation to work in a more efficient manner by acting as a private operator. Incorporation differs from privatisation in that the government still retains 100% of the shares in an incorporated company, while a privatised utility would sell its shares, usually to a mixture of corporate investors and the public.

It is the responsibility of company directors to maximise profit to their shareholders by way of increased value and dividend payments, and so the States hope to increase their revenue receipts from Jersey Post in the long-term.

For the past four years, the States have forgone revenue payments from Jersey Post in order to allow the company to begin to pay off its pension liabilities, which it incurred while it was a Department of the States. All Departments have such liabilities, but have agreed to pay them off over 80 years. It would not be acceptable to have an incorporated company with such liabilities, however, and so the profit generated by Jersey Post's operations since 2001 have been used to fund the deficit.

Senator T.A. Le Sueur made the following statement in evidence to the Panel at the Public hearing of 5th April 2006-

Senator T.A. Le Sueur

"We are deferring income - rather than turning it down - in order that Jersey Post can be incorporated, to generate future profits, which will enable it to then pay dividends to the States, recognising that if we had not, the liability, which you have spoken about, the £4 million into the JPPF [Jersey Post Pension Fund]*, would have to be discharged over a period of years anyway.*

The drawbacks of incorporation are that the company must 'stand alone', and any losses incurred or problems experienced would not necessarily translate into a loss of profits to the States, as would have been the case prior to incorporation, but into economy savings affecting the service and staff. This is a result of the Directors' primary duty being to the States as shareholder, as noted above.

8.2 The history of incorporation

1995

The Strategic Policy Review '2000 and Beyond', produced by the Policy and Resources Committee in 1995, resulted in a move to redirect States expenditure towards 'core services'. In order to achieve this, it was suggested that 'States Trading Committees could be given greater 'commercial independence under the umbrella of the States'. It was initially intended that the States itself would act as a regulatory body.

1996

On 24th September 1996 the Committee for Postal Administration lodged a Projet entitled 'Jersey Post Office Limited – Incorporation' (P.146/1996) which requested that the States direct the Committee to take the necessary administrative steps to incorporate Jersey Post, and to set in motion the appropriate law drafting procedures. This was approved on 22nd October 1996. A similar projet regarding the incorporation of Jersey Telecom was lodged and approved at the same time.

2000

The concept of direct regulation by the States was challenged by studies undertaken by the Centre for the study of Regulated Industries at Bath University to prepare for incorporation. The Panel was concerned that it would not be appropriate for the States to undertake the dual roles of ownership and regulation. In 2000, the Policy and Resources Committee lodged a projet entitled 'Incorporation of Jersey Post and Jersey Telecoms: Revised Approach', which removed the regulatory role from the States and placed it instead in the hand of an independent regulator, which was at that time yet to be determined. This was approved (as amended by P.101.2000) on 4th July 2000.

2001

The States approved the Competition Regulatory Authority (Jersey) Law 2001 on 28th November 2000, and it came into force on 1st May 2001. This set up the Jersey Competition Regulatory Authority, which was intended to take over the role of regulator from the States once the company was incorporated.

Post Office (Jersey) Law 1969

An essential element of the incorporation was the alteration of the legal framework of postal services in the Island to accommodate a limited company as a monopoly provider, regulated by the JCRA. The Post Office (Jersey) Law 1969 gave exclusive privilege to the States with respect to the conveyance of letters and had been drafted in the context of postal services only being carried out by a States Department.

2004

In order to accomplish this, the Economic Development Committee lodged the Draft Postal Services (Jersey) Law 200-, which was approved on 30th March 2004 (as amended). This revoked the 1969

Law. It was brought partially into force when the States approved the Appointed Day Act for some elements of this law on 28th September 2004 (P.159/2004). The remaining provisions were deferred by the States after Draft Postal Services (Transfer) (Jersey) Regulations 200- (P.9/2006), was referred to the Panel and have therefore yet to take effect.

8.3 Loan to Jersey Post for pension liabilities

Initially it was believed that £9 million would need to be loaned to Jersey Post by the States in order for the company to pay off its pension liabilities. This was to be used, in addition to monies collected from revenue surpluses since 2001, to pay off the pension liabilities in a lump sum. After incorporation was delayed, only a £4 million loan was deemed necessary, with the £5 million reduction arrived at through a combination of improved trading profits and revised funding assumptions.

The Panel does not feel that it has developed a sufficient understanding of the rationale behind the loan reduction. Nonetheless, whatever the size of the loan, the Panel has reservations both about the need for the States to be making such a loan and the terms under which it is to be made.

Postal Services Law 2004

The existence of this loan has created a notable shortcoming in the separation of regulation and operation. The Jersey Competition Regulatory Authority (JCRA) and the Economic Development Minister have two ‘primary’ goals under Article 8(1) of the Postal Services (Jersey) Law 2004-

> *‘The Economic Development Committee* [Minister] *and the Authority shall each have a primary duty to perform its*

functions under this Law in such manner as it considers is best calculated to ensure the following –

(a) that (so far as in its view is reasonably practicable) such postal services are provided, both within Jersey and between Jersey and the rest of the world, as satisfy all current and prospective demands for them, wherever arising;

(b) that the company, to the extent that it is or is to be licensed under this Law, has sufficient financial resources to discharge, during the period when this sub-paragraph is in force, its liabilities under securities issued by the company to the States.'

There is a also a secondary consideration that the Minister and the Authority must consider under Article 8(2) of the law-

(e) in performing his, her or its functions under this Law, to have regard to the need to ensure that persons engaged in commercial activities connected with postal services in Jersey have sufficient financial and other resources to conduct those activities; and

This places the requirements of maintaining the proper provision of postal services (regulation) with the same bodies that are tasked to ensure that Jersey Post have sufficient funds to repay the loan to the States and to run effectively (operation).

Jersey Competition Regulatory Authority

At the Public Hearing held on 5th May 2006, Mr. W. Brown, commented on the priorities of that organisation-

Mr. W. Brown

"It is clear from the law that the two primary duties under 8.1, in the event of conflict, would take priority over the duty to perform our functions in a manner we consider best calculated to further the interest of users, in particular by promoting competition where appropriate. So, to take an extreme example - I hope it is an extreme example, and this purely hypothetical - if Jersey Post was able to persuade us that the only way it could repay the liability to the States was to increase its postal charges, thereby prejudicing the interests of users then 8.1(b) [loan repayments] *would have to take precedence over that under the law. But let us hope that situation will never arise."*

The Panel has expressed reservations concerning the current situation in which the JCRA could be forced to make concessions on service quality to Jersey Post should it make a convincing case that it was experiencing loan repayment difficulties. Article 8(1)(a) of the Postal Services (Jersey) Law 2004 is weakened by the existence of Article 8(1)(b), and the Executive Director of the JCRA has indicated how the conflicting demands of these paragraphs might be reconciled *in extremis*, as above.

The JCRA's primary responsibility to ensure the repayment of the loan to the States Under Article 8(1)(b) of the Postal Services Law (Jersey) 2004 unduly restricts the ability of the JCRA to act in the interest of the consumer. The Panel recommends that this primary duty be rescinded.

The Panel notes that the protection of the USO is vested within the power of the Economic Development Minister to issue guidance to the JCRA-

'if it considers it desirable in the public interest to do so, give to the Authority written directions in respect of the principles,

procedures or policies to be followed by the Authority in relation to –

(a) the implementation of any social or environmental policies in respect of postal services;'[7]

The Panel is aware that the 'Guernsey model' puts the responsibility to offer guidance to the Office of Utility Regulation with the States of Guernsey. The Panel is of the opinion that both the Economic Development Minister and Treasury Minister have vested interest by virtue of their roles, as the Economic Development Minister has responsibility for economic growth of Jersey, and the Treasury Minister will be the sole shareholder of Jersey Post International Limited.

The Panel recommends that the responsibility to issue guidelines or directives to the JCRA under the Article 9 of the Postal Services (Jersey) Law 2004, as detailed in R.C. 5/2005 'Postal Services (Jersey) Law 2004: Directions and Guidance to the JCRA under Article 9' be removed from the Economic Development Minister and placed in the hands of the States.

8.4 Treasury Minister

The Panel has concerns about the circumstances surrounding the loan to Jersey Post. It has considered that the Treasury Minister's 'everybody wins' argument presented at the public hearing on 5th April 2005-

Senator T. Le Sueur
"Now, for a potential organisation or any company in its early years has to struggle until it is established, as any

[7] Quoted in R.C.5/2005 - 'Postal Services (Jersey) Law 2004: Directions and Guidance to the JCRA under Article 9'

businessman will understand, it is far better if they can borrow more cheaply from a lender such as the States that they should do so. Equally from the States' point of view, it makes sense to me to invest and get a return on my money which is in excess of what I would get if I put it directly into the bank. So, I think it is a win-win situation. It is better for the States and the Treasury, and it is better for the company because they can borrow at a more effective rate of interest."

"…cash reserves need to be invested. They would be put, otherwise, in one of the clearing banks on deposit. Rather then do that, I am proposing to lend it to Jersey Post. … That rate is about 4 per cent, maybe 3 and three-quarters. I am not sure, but certainly the yield I get from Jersey Post is marginally better than the yield I would get by depositing it directly in the bank. … Even if it was at the same rate, speaking as the Treasury Minister, it would still be my interest to ensure that Jersey Post was well funded and got off to a good start."

The Treasury Minister also stated that-

Senator T. Le Sueur
"I mean, they [Jersey Post] *could go to the commercial market and borrow at a higher rate than we would lend it to them…"*

The Panel considers that it is inappropriate for the Treasury Minister to lend money at a preferential rate to Jersey Post as this constitutes unfair competition. The Panel recommends that the offer of a loan be withdrawn, and that Jersey Post borrows in the commercial market.

8.5 Advice on Incorporation

In 2003, the EDC commissioned a cost/benefit analysis to confirm that-

> *'the benefits from incorporation and any introduction of competition would far outweigh the total costs of regulation of the postal market*[8]*'*

This analysis was carried out by Mr. R. Syvret of Andium Ltd, the same economic advisor who had dealt with the incorporation of Jersey Telecom, and dated 10th June 2003.

The analysis concluded, in general terms, that benefits would outweigh costs. The term '*far outweigh'* was not directly addressed. The benefits of incorporation of large national post services were noted, but it was also suggested that Jersey Post was significantly different from any other postal service, as all had their own unique characteristics. This was not, therefore, a solid indication that incorporation would bring the attendant benefits that other jurisdictions had enjoyed.

Mr. Syvret, the only independent advisor to have undertaken a detailed study of the incorporation, attended the public hearing on 5th April 2006, and was questioned about his current opinion of his report to the Committee-

> ***Deputy Southern:***
> *"When you look at your report, do you think on a scale from 0 to 10, if 10 is 'cut your arm off to do this* [incorporate]*', where does it come out? How strong is that?*
>
> ***Mr. R. Syvret:***
> *I think it comes in the 0 to 3.*

[8] Finance and Economics Committee Act referenced in report

Deputy G.P. Southern

That low?

Mr. R. Syvret

Yes. I think so, and the report summed up the outcome … which is: "In general terms, therefore, on balance and for Jersey and its people, it appears that it could reasonably be expected that the implementation of the Draft Postal Services Law over time should give rise to continuing benefits that are likely to exceed continuing costs… But whether this expectation will become a reality at some stage must very much depend on the enterprise, expertise, integrity, dedication, frugality and co-operative spirit of all parties." I may say that such was the interest in this report, shall we say, and to a degree some controversy surrounding it, that it took a while for the relevant committee to actually minute its decision to go ahead."

In 2005, Mr. Syvret wrote to the Economic Development Committee with an unsolicited addition to his original report which suggested that the incorporation could have significant 'opportunity costs'[9] to the States. The sum of £40 million was suggested over 5 years as a best-case, and even if the profit level of Jersey Post remained static for this period with little or no fulfilment growth (the situation that Jersey Post are now in) approximately £5.2 million profit would be generated a year, for an opportunity cost of up to £25 million over 5 years. Mr. Syvret commented on the £40 million figure-

Mr. R. Syvret

"That figure came to me from a meeting a few days earlier with the Finance Director of Jersey Post. The paper that I produced of that cost/benefit revision was also circulated and examined by the Finance Director and discussed with him

[9] An economic term referring to the cost of lost opportunity

and the Chief Executive of Jersey Post a couple of days after it was produced."

The process of Mr. Syvret's argument concerning monopoly costs was that-

(a) Generally, regulators by their nature have two methods of ensuring competitive behaviour, either simulating competition by artificial price controls and targets with associated penalties, or by introducing real competition;

(b) Wherever possible regulators would generally prefer to introduce real competition rather than simulate it;

(c) The postal market in Jersey, with fulfilment business included, could support two operators;

(d) The JCRA, were it to compare Jersey Post International Limited's assets to its profits, would find the ratio to be exceptionally high (a minimum of £3 million per annum on starting assets of £6.8 million, as detailed in Section 2.5), due almost entirely to the benefit to stamp revenues due to fulfilment. In this situation, the regulator would have to determine the best course of action to resolve the situation, and would be likely to act in the manner suggested in (a), and introduce rather than simulate competition;

(e) Any additional operators would make profits from these operations. This would result in monies that would have accrued to the States instead being received by a private operator.

Mr. R. Syvret stated in evidence-

Mr. R. Syvret

When a new company comes in, for instance Deutsche Post (Jersey) Limited, and makes profits, under the revised taxation proposals … in exchange for 100 per cent profit retention by the States when it is made by Jersey Post Limited, there would be virtually nil that would accrue to the States except for taxation on the employees' wages."

Mr. Syvret was questioned about the 2005 submission to the Committee-

Deputy G.P. Southern

Finally, putting it in simple terms, from your position in 2003 where you said it [incorporation] *is in the range 0 to 3, your revision in 2005, where did that put your cost/benefit analysis on a 0 to 10 scale, with 10 at the top?*

Mr. R. Syvret

I think it put it below that.

Deputy G.P. Southern

So it went down.

The independent adviser had recommended to the Economic Development Committee that a further study should be undertaken in order to ensure that incorporation was still appropriate-

Mr. R. Syvret

My position of recent times has been that I firmly believe that a new cost/benefit analysis of the Postal Services Law should be obtained. I have indicated to those to whom I am in contract that I do not believe that I should do it, or Andium Limited, but that it should be done separately. I think that that would be essential.

The Panel was concerned to discover that the report proposing that additional work be carried out on the subject was not acted upon, in either 2003 or 2005.

The Economic Development Minister and Jersey Post have been overwhelmingly in favour of going ahead with incorporation. The Panel considered that the response to Mr. Syvret's second report was lukewarm, even dismissive.

Mr. Syvret's concerns in 2005 were that, amongst other things, monopoly profits would be lost to the States, that a competitor might significantly affect Jersey Post's profitability, and that the Postal Services Law might need to be made exempt from the Competition (Jersey) Law 2005 for reasons of public policy.

The Economic Development Committee responded to these concerns by noting that these points-

> *'Had been identified as risks at the time of your report and are not new, the Committee is therefore surprised that they have been raised again at this late stage … Jersey Post's predicted forecast profits of £8 million per annum for the period 2005 may be optimistic … the Committee believes that competition would be of benefit to the Island and it is incorrect to base comments in the report on a supposition that competition in this sector, if it materialises, will virtually wipe out all profits made by Jersey Post.*
>
> *Thank you for raising your concerns, however we feel it is still appropriate to press forward with the Postal Services Law '*

At the Public Hearing of 5th April 2006, a similar response was made by the former President of the Committee for Postal Administration-

Deputy P.J.D. Ryan

"Yes, so he was marginally in favour. There is always a range of opinion. Richard Syvret is not a great believer in the benefits of incorporation.

Deputy G.P. Southern

Believing in something: we are not talking about faith, we are talking about an independent assessment, surely.

[Later in the hearing]

Deputy P.J.D. Ryan

As I recall, Richard Syvret's second report, which you are referring to, was not something that he was asked to provide. It was a self-motivated report. It went to EDC and EDC said: "Thank you very much, we are aware of this".

Contrary to the impression given by Deputy Ryan, Mr. Syvret has stated no objection to the concept of incorporation of companies for whom it would be beneficial. He said of Jersey Telecom-

Telecommunications, this world is changing so rapidly that competition, as it were, in telecommunications is the order of the day. But those utilities on that range, from the one which will never have competition to the one which really in a sense must have competition, there is a scale of grey that goes from the black to the white.

Those involved in the incorporation of Jersey Post are universally in favour, and the Chief Minister has advocated moves away from state control of utilities, as recent media reports have shown[10]. It is however clear that the only independent reports on the subject have raised significant concerns. The recommendation that further work be undertaken has not been implemented.

[10] JEP front page entitled 'Sell off Utilities, says Chief Minister' on 27th April 2006

The Panel recommends that incorporation should be deferred to enable a new cost/benefit analysis to be undertaken by the Economic Development Minister in the light of the changed circumstances. The terms of reference should be to determine not only the overall viability of the company post-incorporation, but should detail the capability of each element of the company to support itself independently. This process should meet with the approval of the Comptroller and Auditor General.

APPENDIX 2

Report on Petition

TO THE PRESIDENT AND MEMBERS OF THE STATES OF JERSEY

from the

Jersey Branch of the Communication Workers' Union

The Communication Workers' Union has staged a petition in King Street to the effect that we believe that the people of Jersey want the States to help fund Jersey Post so that it can maintain the level of postal services the Island currently enjoys. We also feel that the States should intervene on behalf of the people of Jersey to ensure the postal service currently provided does not disappear forever once the market is opened up to outside competition forcing Jersey Post in to the red.

The points stated on the petition are –

1. To ask Jersey Post not to cut deliveries back to a three-day week.
2. To influence the JCRA not to allow postal competition until such time that Jersey Post has completed the efficiencies and savings currently being introduced, allowing time for them to take effect.
3. To help Jersey Post maintain their Universal Service Obligation by contributing any shortfalls as a result of competition being introduced to the local postal market.

The background to these points is as follows –

1. On 28th June 2010 the Economic Development Department issued a Green Paper on the Universal Service Obligation (USO) for Postal Services in Jersey. The Paper was issued with regard to how the USO is paid for. Currently the USO is subsidised by Jersey Post's involvement in the fulfilment industry. The Paper suggests that the USO should be changed so that it can pay for itself.

   A number of alternatives were suggested and the consultation paper asked nine questions, one of which was "If you had a choice between deliveries 3 days a week or 5 days a fortnight, bearing in mind that the latter would be accompanied by marginally lower costs, do you have a preference?".

   The reason for the inclusion of this issue in the petition is that we at the CWU believe that 3 days a week delivery would leave the Island with a woefully inadequate Postal Service which would particularly expose rural areas.

   Furthermore, we feel that the wording of the consultation gives the indication that going down to 3 deliveries a week would create a decrease in the cost of delivery to the individual rather than a reduction in the running costs.

2. Jersey Post has embarked on a course of efficiencies targeted at making the USO as self-sufficient and cost-effective as possible. These efficiencies were originally planned to take place over 4 years but due to decreasing mail volumes they have not been accelerated so as to be in place by 2012. The underlying reason for the request on the petition is that Jersey Post will be in a better position to maintain the USO financially when they have achieved the efficiencies rather than having to address further financial challenges while still implementing the current ones.

3. The third issue is based on the fact that Jersey Post is wholly owned by the States and the belief of the CWU is that in this capacity they should not allow the USO to fall to a sub-standard level due to the introduction of competition. The proposition is that, should Jersey Post face the situation of financial shortfalls affecting the level of service, the States should step in to cover these shortfalls.

APPENDIX 3

23 August 2010

It is rather ironic that the people are now being asked their opinion about postal services, because apparently when Jersey Post had money coming out of their ears, no-one did so.

As an example, in 2005 the Consumer Council highlighted that Executive Officers at Jersey Post were salaried as follows:

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

These figures include pension benefits and in total they add up to quite a few stamps needed to be sold! If they were all on the minimum amount it equals £770.000 per annum and on the maximum pay it equates to £910,000 per annum.

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

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

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

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

Added to this is the cost of regulation by the JCRA and this begs the questions; 'At what benefit to the public and postal users were the above changes and what have been the actual costs?' It would be helpful if someone could answer these points.

So, to ask the public what they think about the Universal Service Obligation and the reduction in postal counter services is rather interesting against the above salaries, conditions and regulatory background.

The Jersey Consumer Council recommends the following:

1) Jersey Post should continue to deliver mail under the Universal Service Obligation 5 days a week

2) That deliveries will take place Tuesday to Saturday inclusive -there will be no deliveries on Monday.

3) Mail collection points should be stream-lined so that there are less collection points.

4) Collection points should be repositioned in accessible areas to the public, especially in areas of high footfall, but also serve the whole Island.

5) Collections should be made on each of six days Monday to Saturday at a time that ensures connection with the UK and other links in and outside of the Island.

6) Jersey Post should continue to hold the exclusive licence to service the fulfillment industry.

7) Failing 6) above on a decision by the JCRA, any other individual or company licensed to provide fulfillment services will have to pay a levy on revenue to support the USO.

8) Jersey Post should continue to operate the Broad Street Post Office and promote the sub-Post Officer businesses.

I hope the above comments are of assistance. Should they raise any issues, please get in touch.

Yours sincerely,

Senator Alan Breckon
Chairman
Jersey Consumer Council

APPENDIX 4

PETITION

TO THE PRESIDENT AND MEMBERS OF THE STATES OF JERSEY

Name of person(s) or body responsible for this petition –

Jersey Branch of the Communication Workers' Union

These are the reasons for this petition –

We believe that the people of Jersey want the States to help fund Jersey Post so that it can maintain the level of postal services the Island currently enjoys.

Furthermore, we feel that the States should intervene on behalf of the people of Jersey to ensure the postal service currently provided does not disappear forever once the market is opened up to outside competition forcing Jersey Post into the red.

We, the undersigned, petition the States of Jersey as follows –

1. To ask Jersey Post not to cut deliveries back to a three-day week.
2. To influence the JCRA not to allow postal competition until such time that Jersey Post has completed the efficiencies and savings currently being introduced, allowing time for them to take effect.
3. To help Jersey Post maintain their Universal Service Obligation by contributing any shortfalls as a result of competition being introduced to the local postal market.

Full name (please print)	Full postal address	Signature

2,646 signatures