



# **Economic and International Affairs Scrutiny Panel**

## **Public Hearing**

### **Witness: The Minister for Economic Development, Tourism, Sport and Culture**

Friday, 11th September 2020

**Panel:**

Deputy K.F. Morel of St. Lawrence (Chair)

Deputy D. Johnson of St. Mary (Vice-Chair)

Deputy K.G. Pamplin of St. Saviour

**Witnesses:**

Senator L.J. Farnham, The Minister for Economic Development, Tourism, Sport and Culture

Mr. R. Corrigan, Group Director, Financial Services and Digital Economy

Mr. C. Gibaut, Director, Financial Services and Digital Economy

[11:33]

**Deputy K.F. Morel of St. Lawrence (Chair):**

Thank you for joining us. We will start off, as ever, by going around the table. We will start from my right in a second, but also I should say we are here to discuss your decision to demerge the J.C.R.A. (Jersey Competition Regulatory Authority) from C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities). As we have noticed, I am still finding it hard to not say C.I.C.R.A. I keep referring to C.I.C.R.A. instead of the J.C.R.A., so apologies. But we will start here with the introductions and just go all the way around the table.

**Deputy K.G. Pamplin of St. Saviour:**

Deputy Kevin Pamplin, member of the panel.

**Deputy K.F. Morel:**

Deputy Kirsten Morel, Chair of the panel.

**Deputy D. Johnson of St. Mary (Vice-Chair):**

Deputy David Johnson, Vice-Chair of the panel.

**Group Director, Financial Services and Digital Economy:**

Richard Corrigan, Group Director for Financial Services and Digital Economy.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Senator Lyndon Farnham, Minister for Economic Development, Tourism, Sport and Culture.

**Director, Financial Services and Digital Economy:**

Colin Gibaut, Financial Services and Digital Economy.

**Deputy K.F. Morel:**

Brilliant, thank you. Thank you for coming in. Minister, I think we have mentioned we have a lot of questions. In 90 minutes I really do not think we are going to get through all of them, so if it is okay with you, we will be inviting you back for a further hearing if that is the case, that we do not get through them.

**The Minister for Economic Development, Tourism, Sport and Culture:**

That is fine. Let us be optimistic.

**Deputy K.F. Morel:**

It is a lot of questions, Minister, but thank you. We will get straight on, so we will start looking at reasons behind the decision. Minister, could we just start off by looking at regulation and your idea of what you believe to be the fundamentals of good regulation and good economic regulation? It is a very general question.

**The Minister for Economic Development, Tourism, Sport and Culture:**

In relation to today's subject matter of competition, given the type and the size and the shape and the dynamics of our own economy, I think it is important that we can promote competition and ensure competition across all of our market sectors and do that in a way that does not compromise the viability of businesses in those sectors, so it is quite a fine balance to strike, affecting consumer behaviour and ensuring that markets remain competitive and viable. I think that is a big challenge for the new Competition Authority, particularly in the light of the fact that we know that we have a

battle against inflation in the years ahead. As we have discussed, competition is one of the key levers to try to fight that, so I think the regulation needs to be realistic, fair, consistent and has the resources available to it to be able to act quickly and deliver the sort of programme that we need if we are drive out better value for the consumer.

**Deputy K.F. Morel:**

You mentioned the words “realistic, fair and consistent” which I take as kind of being your view of the underlying principles for regulation. Another one could be independence. Indeed, the Competition Regulatory Authority (Jersey) Law 2001 says: “Save as this Law provides to the contrary, the Authority shall be independent of the Minister and of the States.” In your opinion, how important is it that a regulator is independent and seen by the public to be independent?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think generally regulation does work well and in an independent manner, but politicians - and Ministers in particular - still have responsibility, as did the States Assembly, for legislating for that type of regulation, so I think independence is a key factor.

**Deputy K.F. Morel:**

It is interesting you mentioned the political responsibility that politicians do have. How do you understand that dynamic to work between the independence of the regulator to do its work in a fair, realistic and consistent manner, as you said, and politicians, who perhaps have other aims or have their own aims, let us say? How do you see that interaction and that dynamic working between the independence and the political aims?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think it is important that you have a political ... everything that we do, everything the States agree to, everything we legislate for generally needs political oversight or political responsibility because all of us in politics have to be responsible for the actions of not just regulators, but the Laws we make and the consequences of those Laws. I am sure you and your committee would be the first to hold me to account should any of the bodies that I am responsible for politically or any of the regulators were not to perform and to fail in their duties. The responsibility would fall largely to the Minister responsible.

**Deputy K.F. Morel:**

By ending the arrangement with Guernsey - that was C.I.C.R.A. - do you think the regulator could be seen by the public as having lost some of its independence?

**The Minister for Economic Development, Tourism, Sport and Culture:**

The short answer to that is no. Ironically, it was Guernsey that ended the relationship, not Jersey. Having said that, you have probably seen from the correspondence I had opened conversations with Guernsey in relation to what generally was an administrative arrangement in terms of sharing a resource, C.I.C.R.A. was a shared resource really between the 2 separate competition authorities. I am sorry, can you just repeat the question?

**Deputy K.F. Morel:**

Yes. I was asking by ending the arrangement with Guernsey, do you think the regulator could be seen by the public as having lost some of its independence?

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, I do not see that at all, because we were not impacting on the work of the J.C.R.A., we were just proposing the end of an administrative arrangement between the 2 organisations, which was set up on the back of a political decision in 2011.

**Deputy K.F. Morel:**

Yes, that is absolutely right.

**The Minister for Economic Development, Tourism, Sport and Culture:**

So it was a political decision of both Islands to form the administrative arrangement, so it had to be a political decision to end it.

**Deputy K.F. Morel:**

We have one submission from a business in Jersey that says with regard to independence: "This is a particular concern in Jersey, where the incumbent is States-owned, which we have long believed can create conflicts." Do you understand how in Jersey, in that sense, by taking the responsibility for competition regulation away from a pan-Channel Islands body and bringing it solely to Jersey, with the States having several interests - whether it is through J.T. (Jersey Telecom), Ports of Jersey or Jersey Post - that it becomes more closely under the control of Jersey politicians and therefore could be seen to be lacking the independence that a pan-Channel Islands ...

**The Minister for Economic Development, Tourism, Sport and Culture:**

I can perhaps understand that perception, but in reality there is no need for concern because of the very way that the Competition Authority is constituted. It is an independent body. By doing that, we will simply be providing more resources and more ability, in my opinion, for it to deal with the very big challenges we have ahead in our economy.

**Deputy K.F. Morel:**

Would you also say you would be providing more guidance, political guidance, into how it should ...

**The Minister for Economic Development, Tourism, Sport and Culture:**

I am not sure we provide political guidance. Colin, would you like to comment on the workings of the Authority?

**Director, Financial Services and Digital Economy:**

Yes. The powers of direction and guidance are covered in the Law. There are a few areas where those have been issued, but they are quite sparse. I think there is the universal service obligation, for example, under the Postal Services Law, there is something about the requirement to conduct mast sharing, I think, on telecommunications, but notably, under the 2001 Law the Minister does have powers, for example, to direct on governance, but there has been no direction issued under that Law. There are no powers of direction under competition and there are variable powers of direction and guidance in the other Laws, but they are not used extensively.

**The Minister for Economic Development, Tourism, Sport and Culture:**

So that is part of the Law approved by the States, but there is very little opportunity for a Minister to interfere outside of those very limited powers that Colin just mentioned. There is very little opportunity for a Minister to influence the work of the Authority.

**Deputy K.F. Morel:**

It is also interesting that correspondence between officers in the run-up to this decision being made - I apologise, I just want to find the actual correspondence - one of the concerns raised was conflict of interest between the role of the Minister for Economic Development and your wider remit and the Competition Authority and the work that it has to do. Do you see there being such a conflict? Because this was raised by officers as a concern about the demerger, that the Minister himself would be conflicted.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Again, I can see a perception that that could be the case, but I tend to take an opposite view. I think we need the promotion of competition. As Minister for Economic Development as well as tourism, sport and culture, I see one of my main roles, together with my Assistant Ministers and the team of officers, is to promote and develop and grow the economy, to take opportunities for economic development to create new industry and to ensure that we have a working, sustainable economy. The work of the Competition Authority I see as enhancing that position because the Competition Authority, I think once it starts to gain momentum now ... and the rationale behind coming out of the joint arrangement was to be able to provide the resource and the opportunity for the Competition Authority to focus purely on Jersey's challenges. If it is successful in doing that, promoting

competition while maintaining the viability of our economy, that is going to be a benefit for the economy, it will be a benefit for all Islanders. That is in line with the work we do at Economic Development.

[11:45]

So while you could take a view that competition is anti-business - and I am pro-business - that would be a conflict, but it is not like that. I see the regulator as being good for the economy and necessary.

**Deputy K.F. Morel:**

We will move on a little bit to the responsibility for competition legislation. In a ministerial decision dated 10th July 2020, the Chief Minister approved the transfer of function to you as Minister for Economic Development for Competition Law and the Competition Regulatory Authority Law. On what date did you formally take over responsibility for competition, for J.C.R.A.?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Political responsibility was transferred in January 2020, legislative responsibility in July, so political responsibility I would say January, with the final ...

**Deputy K.F. Morel:**

Could you just clarify for us, what does that mean, political responsibility as opposed to legal responsibility?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Political responsibility, so I think it is very straightforward. The definition is probably self-explanatory. I became the Minister with political responsibility for competition policy and strategy. Colin, perhaps you could explain the difference between that and the legislative powers that came to me in July.

**Director, Financial Services and Digital Economy:**

My understanding was that the Minister took responsibility for the relationship between Government and the J.C.R.A. as well as competition policy, having already received telecommunications in July 2019, so the Laws are an expression of competition policy. Competition policy is about the institutions that operate the set of rules by which businesses must behave, such that they compete fairly and therefore there is a benefit in doing that for consumers. So the legislative framework, i.e. the establishment of the J.C.R.A. as an independent body under the 2001 Law and then subsequently receiving competition powers in 2005, is the Government's expression of competition policy.

**Deputy K.F. Morel:**

Can I ask, Minister, the decision to remove political responsibility in January 2020, how was that confirmed to you and to the public?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think the decisions were taken in principle by the Chief Minister quite some time before that, following the elections, that the Chief Minister embarked upon a programme of reorganisation of political responsibilities. I think within the year of the new Government taking office, conversations were had along those lines. I am a strong proponent of returning all of the economic functions to one department because under the previous government it was split up for a number of reasons, but largely to satisfy the political appetite to share certain aspects of the economic portfolio among Ministers and Assistant Ministers. That was a legitimate decision of the previous Chief Minister and government. So I have always made it clear that following the formation of the new Government that we should bring all the economic function back into one department. I think we are almost at that stage now, so this was part of that programme.

**The Deputy of St. Mary:**

Sorry, I think where the Chair is coming from is that - and I am going back to decisions of the last Assembly, where there was perhaps a grey area as to which department was responsible for which function - I know that formally your ministership was named in legislation to take over from the Chief Minister as late as July, but what I am really getting at is there appears to be again a grey area as to when the public would know that the Minister for Economic Development was responsible for this area as opposed to the Chief Minister. Your replies to date have not been able to tie us down to a date or a particular decision or a particular announcement.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Political responsibility was January 2020, with legislative responsibility July 2020. Are you talking about when it was announced to the public? I cannot ...

**Deputy K.F. Morel:**

How did everyone else find out about the transfer of political responsibility?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Ministerial decisions. Thank you, Colin. So the States were notified in changes in the R.10/2020 document of 30th February. So a report was issued to the States on 13th February informing them that.

**Deputy K.F. Morel:**

I must admit to a slight mistake on my part. I referred to correspondence between officers with regard to official advice with regard to the demerger. It was not. Official advice was that ... and I shall read it. It was about the transfer of responsibilities from the Chief Minister to the Minister for Economic Development. The official advice did say: "The Minister for Economic Development, Tourism, Sport and Culture portfolio generates substantial opportunity for conflict if also asked to hold the competition and economic regulation responsibilities for those same markets. This generates perceptions of conflict and substantially enhances the likelihood of actual conflict that necessitate the Minister having to recuse oneself from the matter." Given that officers were against the delegation of responsibility, how did you overcome that and why do you think it was a good move to overcome that?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I refer to my previous answer about the impact. I believe competition is a necessary and very beneficial aspect to the economy, so it aligns with my responsibilities and the policies that I have put in place for developing the economy, but I think Richard could, from an officer's perspective ...

**Group Director, Financial Services and Digital Economy:**

Yes, so officers were asked for a view at the time of consideration of political responsibilities being allocated by the Chief Minister. We provided that view, but there will be a view of officers and then ultimately officers advise, the Ministers decide. The Chief Minister has decided that it is appropriate and that Senator Farnham has carried on to take on those responsibilities. We have had cases in the past where - and particularly with regards to the Competition Authority - various Ministers have had to recuse themselves from discussions around a particular matter. You will probably recall the substantial case of litigation several years ago involving the Competition Authority, where because Ministers had knowledge of or relationships with some of the parties involved had to recuse themselves and for that period of time there was a sort of temporary shift in the decision-making back to the Chief Minister. There have been cases of conflict in the past. The conflict has been declared and then we have managed through that. So as long as there is an awareness the conflict exists, we can then look to manage in those circumstances as appropriate.

**The Minister for Economic Development, Tourism, Sport and Culture:**

That was not on my watch.

**Group Director, Financial Services and Digital Economy:**

No, that was the previous government.

**The Minister for Economic Development, Tourism, Sport and Culture:**



That was the previous government. As Richard said, as any politician would do, any Minister would do, depending on the nature of the investigation by the J.C.R.A., but right now I do not foresee that being an issue. I see it being a benefit, an advantage of it being in the same political portfolio.

**Deputy K.F. Morel:**

Can I ask, was it the case that officers changed their opinion or was it the case that the Chief Minister chose to ... I use the word "ignore" but I do not mean that in a pejorative manner, if you know what I mean. Chose not to take that advice perhaps would be a better way to say it.

**Group Director, Financial Services and Digital Economy:**

Yes. Officers gave advice and we still hold the view that the potential exists for conflict and therefore that needs to be managed, should the situation arise where there is a conflict of interest scenario, that that conflict gets managed accordingly. So the potential remains, it remains, for example, in telecoms, it remains possible in other areas. It is about how that is managed should the conflict come to pass on a live matter that the Authority is taking forwards. The view has not changed. As I say, officers advise and then Ministers decide, so it was the Chief Minister's prerogative to make the decision that he made and for Senator Farnham to accept the responsibility.

**Deputy K.F. Morel:**

The Chief Minister's Department mentioned in the correspondence that they would seek legal advice on the matter of conflicts of interest. To your knowledge, do you know if that legal advice was sought? I will not ask what the legal advice was, obviously.

**Group Director, Financial Services and Digital Economy:**

I believe advice was sought from the Chief Minister's Department from the Attorney General accordingly at the time, yes.

**Director, Financial Services and Digital Economy:**

Yes, that is right. I cannot remember the contents, but the Chief Minister talked to him on the basis of the advice that he had received, as far as I am aware.

**Deputy K.F. Morel:**

With regard to conflict of interest, and it is kind of turning it on its head, in your decision, Minister, to take the J.C.R.A. out of the C.I.C.R.A., was conflict of interest or potential for conflict of interest part of your thinking in that? Did you think that C.I.C.R.A., as a pan-Channel Island body, had the potential for conflicts of interest?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I am not sure if conflict of interest is the correct phrase to use, but I was concerned at the balance of resource between Jersey and Guernsey. I mean, we are 2 different jurisdictions with different policies, different economic aspirations and different Competition Laws. We had seen a significant decrease in work in the local economy since 2015. If you look back at the market studies that were being carried out, there seemed to be a slowing. I think we only had one market study in 5 years, did we not, since 2015? When I took over responsibility and started to look much more closely at this, I was concerned that perhaps Jersey was not getting the full value of being part of the partnership.

**Deputy K.F. Morel:**

Had you provided direction to the Authority to undertake those market reviews, make more market reviews if they were not undertaking them?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Any politician can suggest market reviews. As Minister for Economic Development, I have limited powers in what I can ask them to do in relation to the regulated entities, but then with political responsibility now, I do not think I would want to interfere and tell them to do market reviews. I believe that has to come from the Competition Authority. I think it is part of their own drive and their own ... I might have been slightly critical of the previous Competition Authority for not doing many, but already the new Competition Authority, without any ... what is the word I am looking for?

**Group Director, Financial Services and Digital Economy:**

Prompting.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Prompting - thank you, Richard - from us has already announced that they are embarking on a new market study. I expect a lot more market studies to come, but they are doing that of their own volition, not because I am asking them to or telling them to, which is the sort of proactive approach I am very pleased to see at this early stage.

**Deputy K.F. Morel:**

But if you believe there should be some element of political direction in terms of let us say the fight against inflation and where bubbles of inflation may be in certain sectors and so on, is it not up to the Minister for Economic Development, from your previous statements, to speak to the Competition Authority and say: "You should look into this sector"? I believe in fact you did ask them to look into the freight sector, a very unusual review into customer perceptions of the freight sector, but you did ask them to do that.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I did not do that. That was, I believe ...

**Director, Financial Services and Digital Economy:**

That was Senator Routier's time, I think.

**Group Director, Financial Services and Digital Economy:**

Yes, the previous government.

**Deputy K.F. Morel:**

But the Minister with responsibility for it did.

**The Minister for Economic Development, Tourism, Sport and Culture:**

So now we have moved into this new arrangement, we have appointed a new chairman and they are restructuring their organisation. We will be monitoring, in line with our duty under the Law, but I sense a real renewed appetite and vigour from the Competition Authority to be far more proactive in promoting competition. If I become or the department or any States Member or politician becomes particularly concerned about a market, then we can certainly approach them and ask them to look at it, but I would rather let them make those decisions as they get up and running.

**Deputy K.F. Morel:**

I know from conversations I had with officers at C.I.C.R.A. that they believed it was up to the Minister to direct them to where the Minister wanted market reviews to take place. That was certainly a reason given for why market reviews had not taken place, because no direction had been given. How would you respond to that?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I would disagree.

**Deputy K.F. Morel:**

What do you disagree with?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I will defer to my previous answer. I believe that the J.C.R.A., as they are an independent organisation with their aspirations clearly set out, would carry that out on their volition unless there is an extreme concern, a political concern about a market not working properly. I think that is how they should operate.

[12:00]

But I would stress that if there was real concern then I would talk to them about it.

**Deputy K.F. Morel:**

It is interesting that the Competition and Regulatory Authority Law does say: "It shall be the duty of the Authority to have regard to any guidance, and to act in accordance with any directions, given to it by the Minister under this Article." It is quite clear that you are able to give directions.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, absolutely. I understand that, yes.

**Deputy K.F. Morel:**

But you chose not ...

**The Minister for Economic Development, Tourism, Sport and Culture:**

But I would try to avoid giving direction unless there was a real problem.

**Director, Financial Services and Digital Economy:**

Sorry, I am not sure that is quite right. Are we talking about the 2001 Law, Chairman?

**Deputy K.F. Morel:**

Yes.

**Director, Financial Services and Digital Economy:**

Article 6(4) is the Minister's powers to request a market study, but it is a request, which is then within the gift of the Authority to refuse.

**Deputy K.F. Morel:**

Yes, absolutely, but my point being the Minister had not made any requests, but he was absolutely ...

**Director, Financial Services and Digital Economy:**

No, but I am saying he cannot direct them is my point.

**Deputy K.F. Morel:**

The Minister claimed that he did not have the power to do so. I am quite clearly showing that the Minister had the power to do so.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Let us be clear: I do not have the power to force the Competition Authority to do something.

**Deputy K.F. Morel:**

No, but you have the power to request and it is the duty of the Authority to have regard to those requests.<sup>1</sup>

**The Minister for Economic Development, Tourism, Sport and Culture:**

I have mentioned it before, any States Member, anybody can make a request to the Authority to look into a market. It does not just have to be ...

**Deputy K.F. Morel:**

But they do not have to have regard to my request. They do have to have regard to your requests, my point being that if you made no requests, how could the Authority - in this case the J.C.R.A., C.I.C.R.A. - know that you wanted certain reviews to be undertaken if you did not make those requests, which you do have the power under Law to do?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Sure. I would not hesitate to use that power if it was required, but then we do not really want to look too far back, because if you look at the number of market studies that the Competition Authority carried out on their own volition - we have got a list in here somewhere, it is quite considerable - and then suddenly it slowed to a halt and they, for some reason, stopped doing it. I judge that it was because there was a juxtaposition caused by the joint Authority and I just felt that some focus had been lost.

**The Deputy of St. Mary:**

Can I just make the observation at this stage, the Oxera report in 2015 I think places great emphasis on the relationship between Government and the Authority. Your comments now suggest that some of the recommendations of Oxera have been brought forward, before your time possibly, and that ... not vagueness, but area of uncertainty might have been avoided more and both sides needed a better steer as to what they were meant to be doing and this perhaps has not been the case.

**The Minister for Economic Development, Tourism, Sport and Culture:**

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<sup>1</sup> Note from Department: Just to note there may be some confusion about Directions and guidance. Art 10, where the Authority must act in accordance with Directions and has a duty to have regard to any guidance. Article 6 is about the Authorities functions and they don't have a duty to have regard to Ministerial requests for market studies.

Yes. I have only had political responsibility for the Authority for a short period of time, during which events have somewhat overtaken us with COVID-19, but I certainly intend to ensure there is a far stronger and better relationship with the Competition Authority. I want them to feel they are properly resourced and supported and free to work in their independent way to deliver, ensure that we have markets that are working for the benefit of the consumer and work to their full potential under the Competition Law. I intend to make sure that not just during this term of office, but for future terms of office, there is a good, strong and appropriate relationship between ministerial government and the Competition Authority. I cannot really answer for what went on before because I did not have political responsibility for it.

**Deputy K.F. Morel:**

Picking up on the Oxera 2015 report, it clearly recommended that C.I.C.R.A. be maintained as an operationally combined authority between Jersey and Guernsey. Its rationale for the recommendation was: "... to help the parties to co-operate efficiently and effectively at operational and strategic levels" and: "There is a mutual interest to support the delivery of Island-specific and pan-Channel Island strategies in the areas of regulation and competition, to reduce the cost of regulation through the sharing of knowledge and resources and to lessen the compliance burden on businesses by implementing pan-Channel Island procedures and remedies where appropriate." Obviously you have chosen to take a different view to that 2020 report.

**The Minister for Economic Development, Tourism, Sport and Culture:**

2015 report.

**Deputy K.F. Morel:**

The 2015 report, sorry. Would you be able to explain why you feel that Oxera, who are clearly experts in this sort of area, were incorrect in their assessment?

**The Minister for Economic Development, Tourism, Sport and Culture:**

We are 5 years on from that now. I think quite a lot has changed in our economic thinking, our economic aspirations. Of course we have COVID-19. I do not think that we have to lose some of those advantages by pulling out of the administrative arrangement. Already the Jersey and Guernsey Competition Authorities have in place a memorandum of understanding which allows them to continue to work in that collaborative way where possible, so that we are keeping that part of the working arrangement where it covers pan-Island activity, such as telecoms. They can work just as strongly and co-ordinate just as effectively as they had done before, so that stays in place. In relation to the cost, I admit there will be an extra cost. Running the Authority, I believe we still have an Authority that is running well and will show us a very, very good return on our investment, especially if we make the strides in improving competition and helping in the fight against the cost

of living for Islanders. If the J.C.R.A. does that successfully, as I very much hope it will do, I think the additional costs will be a very worthwhile investment and the economic return will outweigh that additional cost significantly.

**Deputy K.F. Morel:**

Looking back at when they merged, the G.C.R.A. (Guernsey Competition Regulatory Authority) and J.C.R.A. - it may well have been you at the time - in 2010, so it has worked for 10 years. Can you briefly describe what worked well in those 10 years and what you feel did not work so well?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I have not completed a full study of all the work they have done over the 10-year period, so I can really only talk to timings that I was particularly interested in when I became Minister for Economic Development in 2014. I have always felt that from that time onwards, the Authority tended to be far too much focused on telecoms and there has been a significant amount of work done on the telecoms sector. I want to be the first to say that the Channel Islands, for jurisdictions of our size, I think we enjoy really good telecommunication services. We know our digital infrastructure is rated right at the very centre of global excellence, but the cost of telecommunications is also a key. It is one of the biggest contributors still to the cost of living, so despite all of the focus on telecoms and the cost to the telecoms companies and ultimately the consumer, which has run into millions of pounds in recent years, it did not seem to be working because there is still no reduction and telecoms is still a very big proportion of the increase in cost of living. I know we are all using ... our electronic communications, it is not just a phone bill anymore, just about everything we do is on the internet and we pay to use the internet, so in short, I think there was evidence to suggest that notwithstanding the enormous focus that C.I.C.R.A. had on telecoms, it was not effective and they seemed to have developed a pretty difficult relationship with the telecoms sectors.

**Deputy K.F. Morel:**

What gives you the impression they developed a difficult relationship with the telecoms sector?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Because of the huge costs they have put upon the sector over the years.

**Deputy K.F. Morel:**

Which this decision to demerge has increased, as we have just seen from the correspondence.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Not necessarily.

**Deputy K.F. Morel:**

The cost of compliance will increase.

**The Minister for Economic Development, Tourism, Sport and Culture:**

The cost of compliance will increase, but if the studies and the work over and above the levy they pay to the Competition Authority, and there is a structure around that, if it becomes more effective, ultimately in the longer term the telecoms companies will not be having to find hundreds or thousands of millions of pounds year after year over and above the monies they are being charged at the moment. Colin, do you want to just refine that answer slightly?

**Director, Financial Services and Digital Economy:**

Yes. So in terms of the regulated sector licence fees, it may be the panel wants to come on to this later, but it is relevant to the question now. The information provided to us by the J.C.R.A. suggests that the fees in those sectors are going to be retained to no more than 5.7 per cent to allow for inflation. That seems a high ...

**Deputy K.F. Morel:**

5.7 per cent of what?

**Director, Financial Services and Digital Economy:**

Sorry, an increase of 5.7 per cent on the fees that they are currently paying. That seems a high figure, but the J.C.R.A. has done that for an inflation allowance and has said that its normal practice is to refund fees in-year if it does not use them. This year, for example, it is returning a substantial chunk of the Ports' fees back to Port of Jersey. It is my understanding also that the licence fee payers already paid fees in both Islands, reflecting the costs of their market share in each Island, so J.T. would pay a fee in Guernsey and it would also pay a fee in Jersey, but from the point of view of fee increase, the J.C.R.A. is indicating it is around 5.7 per cent.

**Group Director, Financial Services and Digital Economy:**

Yes. If I might also add, just in terms of the costs in the telecom sector, I think what we had seen over years preceding the delegation of responsibility to Senator Farnham, certainly from an officer perspective, is quite a large amount of litigation in the telecoms sector between the Authority and telecoms providers. Of course the Law allows for those hard powers to be used appropriately, but any regulator has a broader range of powers, including influence, and has softer powers to bring to bear. I cannot remember if it was the Bailiff or the Deputy Bailiff hearing yet another J.T. and C.I.C.R.A. case in court who said: "We do not want to see you both back here in terms of good use of public money." What we want to encourage from the J.C.R.A., appropriately, is that there is a balance of powers that are used. Of course the powers exist under the Competition Law or



Telecoms Law or those other powers they have, but to use the right balance of powers, think about the outcome they are ideally wanting to find from a solution and then acting accordingly, bearing in mind that those hard powers to exist at the very end of the process should they really be necessary to use.

**Deputy K.F. Morel:**

Of course one of the early criticisms of C.I.C.R.A. was that it had no teeth. It was then given teeth, used those teeth and now you criticise them for using those teeth. Would that be a fair summation of what you just said?

**Group Director, Financial Services and Digital Economy:**

No, C.I.C.R.A. has always had the teeth. It has had the 2005 Law, it has had the Telecoms Law, we have the Ports of Jersey Law, there is the Postal Law, so it always has had teeth.

**Deputy K.F. Morel:**

It had no power to withdraw licences.

**Group Director, Financial Services and Digital Economy:**

It has had prevailing powers under the Law, and as the Authority has asked for more powers, that has been considered in the normal manner in terms of the legislative powers afforded to any authority or indeed to the Government themselves to act. That is what we have asked C.I.C.R.A. to do over time, to say: "Do you have the appropriate balance of powers?" and much the same way in the financial services sector the J.F.S.C.'s (Jersey Financial Services Commission) powers have been added to over the years to deal with a broader range of situations.

**Deputy K.F. Morel:**

Those telecoms court cases, those which ended up in the Royal Court, which companies were they against?

**Group Director, Financial Services and Digital Economy:**

Principally those were cases involving J.T. and the Authority.

**Deputy K.F. Morel:**

Could you therefore surmise that perhaps it was the attitude of J.T. that forced the Authority to go to court and not so much the attitude of the Authority?

**Group Director, Financial Services and Digital Economy:**

That is a possibility. That is why we have also made representations to the shareholder function, that in an aggregate sense this is public money, whether it is spent by J.T. on litigation to challenge a decision of the Authority or if it is the Authority litigating to defend the decision that it has made. On balance, both parties need to be thinking about a prudent use of public money, notwithstanding that they also have obligations under the Law as well.

**Deputy K.F. Morel:**

So you would argue that the shareholder function has not been restraining J.T. appropriately?

**Group Director, Financial Services and Digital Economy:**

That is a matter for the shareholder function to answer rather than me. All we are saying is that in balance there are responsibilities in the Law that fall on both sides.

**Deputy K.F. Morel:**

Minister, one thing you could provide the panel with would be your assessment of the costs or the rising costs of telecoms products and services in Jersey, as you have said that the cost of telecoms products have risen over those times. Obviously one reason could be because people are using more telecoms products than they ever used before, so if you could furnish the Authority with your assessment of how those telecoms services have risen in price, that would be gratefully received.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Do you want a written assessment?

**Deputy K.F. Morel:**

Yes, to show us your summation of your belief that telecoms products have not reduced in price sufficiently.

**The Minister for Economic Development, Tourism, Sport and Culture:**

What I said in my previous statement was we no longer have a phone bill. J.T. is not just about providing phone services, it provides a huge amount of other digital services and most of what we do, whether as individuals or businesses or politicians or whatever, involves using the internet. Of course that is a service provided by the telecoms providers.

[12:15]

The costs, we will have to look at research. There are dozens, hundreds of different ...

**Deputy K.F. Morel:**

Given your statement, Minister, I would have thought the research would already have been done.

**The Minister for Economic Development, Tourism, Sport and Culture:**

We have research available, but you do not have to go back and look at the research to know that there are - and I have looked at these over a period of time - a number of packages. You could walk into any telecom provider and receive a number of packages which we are possibly all paying different tariffs on our services. Depending on what your usage is, some of them offer very good value; some of them might not. But what I am trying to say - and maybe I did not say it very clearly - is we are spending more of our money. We are spending more money, but we are getting a lot more from our money, so the overall cost of using this technology has increased, but what I would like to see out of competition in the sector is the cost coming down at a more basic level to consumers.

**Deputy K.F. Morel:**

You said that you have done that research, so I assume we can have that research by the end of today.

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, I did not say I had done any research. We have referred to a lot of research ...

**Deputy K.F. Morel:**

You did, Minister, you just said: "Yes, we have done our research."

**The Minister for Economic Development, Tourism, Sport and Culture:**

I am not going to argue over semantics.

**Deputy K.F. Morel:**

It is not semantics, it is ...

**Director, Financial Services and Digital Economy:**

If anything, it might be the stats growth, the R.P.I. (Retail Price Index) growth.

**Group Director, Financial Services and Digital Economy:**

It may have come out from the work of the Inflation Strategy Group as well, I think in terms of telecoms as a proportion of household expenditure.

**Deputy K.F. Morel:**

The reason being, Minister, is we are trying to understand your reasoning for the decision.

**The Minister for Economic Development, Tourism, Sport and Culture:**

You are not accepting my reasoning. I am telling you my reasoning. I have got the science behind it. I am making decisions as a Minister.

**Deputy K.F. Morel:**

I am looking for the evidence that you used to decide these and you brought in the cost of telecoms as one of the reasons for your decision and so I am asking for the research that you did just say 2 minutes ago you had done. I would like that by the end of the day, please.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I will withdraw that then and say I am not sure that we have carried out any specific research in relation to the statements I am making to you, but information is widely available on the cost of telecommunication services, so we will have a look at that. It might well be that we produce a bit of updated research, but I would think that is probably for the work of the Competition Authority itself as they delve deeper into competition within the sector. Sorry if I was unclear.

**Deputy K.F. Morel:**

Given that one of the reasons behind the demerger was because you did not believe C.I.C.R.A. was effective as a pan-Island regulator, did you communicate those concerns to C.I.C.R.A.?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, I did. We had ... I cannot remember how many meetings, but at least one, possibly 2 meetings where we talked about the challenges in the sector.

**Deputy K.F. Morel:**

When were those meetings?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I cannot remember the dates. I do not have the dates and times.

**Deputy K.F. Morel:**

Was C.I.C.R.A. given any opportunity to become more effective and fit for purpose, in your view?

**The Minister for Economic Development, Tourism, Sport and Culture:**

We are only pulling out of the joint arrangement. It was as much about, as I have said before, the fact that I think we have made an administrative arrangement, and we might as well have made an administrative arrangement with the U.K. (United Kingdom) or France or the Isle of Man, because

despite some pan-telecoms interests we have different economic aspirations, different Competition Laws and different views between the Islands. I felt it was not a very comfortable or sensible arrangement, given the work we need to do to fight against the increasing cost of living in our own jurisdiction.

**Deputy K.F. Morel:**

You were given political responsibility in January 2020 for competition and then you wrote to your Guernsey counterpart on 17th February 2020, so let us say one month, approximately, he had. How did you inform that judgment in such a short period of time? What evidence was used to inform that judgment in such a short period of time?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think I have given you all the reasons this morning as to my thinking behind it.

**Deputy K.F. Morel:**

In a letter dated 13th March to you and Guernsey C.I.C.R.A. said: "Given the recent endorsement of C.I.C.R.A.'s approach and decision-making from the independent review by Kassie Smith Q.C. (Queen's Counsel) the positive outcome of the last review meeting with the Jersey Chief Minister and the delivery against the 2019 work plan the board looks forward to understanding Senator Farnham's rationale and his aims and objectives for a separated Authority." Minister, it appears that C.I.C.R.A.'s view was that it was running effectively and this had been endorsed by the Chief Minister just a couple of months earlier. Is that an accurate description?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I took a different view.

**Deputy K.F. Morel:**

You took a different view from the Chief Minister?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I take a different view. I made a decision.

**Group Director, Financial Services and Digital Economy:**

I think it is also fair to say that for a period of time, certainly during the back end of 2018 and through 2019, officers had been regularly expressing concern at chair level, and on the stand down of the previous chair and the interim chair appointment expressing concerns about the lack of broader competition surveillance and market studies of the Authority. We recognise that prior to that the Authority were very consumed by the Competition Law case with ATF Fuels, but beyond that they

had not then gone into a process of market study, so a number of involved conversations had taken place with the chair, Michael O'Higgins, and then more recently with the interim chair, Paul Masterton, expressing some of those concerns as officers around the lack of that market study work. Again, that was a discussion the officers had with the Minister when he took on those responsibilities. There is a bit of a back story there as well.

**Deputy K.F. Morel:**

We are interested in that back story, that is for sure.

**The Deputy of St. Mary:**

Going on from that, you mentioned the concerns in which you had conversations with the chair. Do you know whether the chair discussed those concerns with the executive board of C.I.C.R.A.?

**Group Director, Financial Services and Digital Economy:**

That is up to the Chair to do in terms of his relationships with other board members and with the chief executive of the Authority, but officers had made those concerns known in the past. I think previous Ministers, whether Senator Routier, or I think going back even further, Senator Ozouf, certainly Senator Ozouf quite publicly expressed concerns about the effectiveness of the Competition Authority in its purest sense. I think it is a longer standing history. Whether it is agreed with or not, I think there are some other elements of dissatisfaction with the effectiveness of the Competition Authority in delivering on that core brief for consumers and businesses.

**The Deputy of St. Mary:**

So it could be a problem of communication between the chair and the executive staff, possibly?

**Group Director, Financial Services and Digital Economy:**

That would be something you would have to ask board members of the Authority about who have been involved in those conversations, but suffice to say concerns had been expressed.

**Deputy K.F. Morel:**

Did officers at any point communicate in writing to C.I.C.R.A. their concerns, as you have just described?

**Group Director, Financial Services and Digital Economy:**

No, and ultimately officers will share their concerns with Ministers if those are grander concerns we feel something needs to be done about. I do recall a dinner that Senator Gorst and I had. It was during his tenure as Chief Minister, with the chair of the Competition Authority, and it is going back at least 2½ years expressing some of those forward-looking views now that the large Competition

Law case was resolved to have that forward-looking view around more market study work that prompted consumers to understand the work of the Authority better, to see how that can directly benefit their lives and cost of living.

**Deputy K.F. Morel:**

Correspondence between officers shows that officers were discussing as early as 8th January the Minister's belief that a demerger would be worthwhile and should be something to move forward with. This was communicated on 17th February to Guernsey. Between that 8th January and 17th February when it was communicated to Guernsey, did officers make C.I.C.R.A. aware of the concerns that Ministers had?

**Group Director, Financial Services and Digital Economy:**

Officers have continued to make concerns known in an informal sense to the chair of the day and it is for the chair to consider the effectiveness of the Authority as a whole with other board members, so yes, that has happened. Informally we have had conversations with our counterparts and officials in Guernsey from time to time, checking in as to whether they are of the same opinion as us.

**Deputy K.F. Morel:**

But they were informal, not written?

**Group Director, Financial Services and Digital Economy:**

Informal correspondence, yes.

**Deputy K.F. Morel:**

I have a letter here from Richard Corrigan, Group Director for Financial Services and Digital Economy dated 10th January 2020 and in this you communicate concerns with the Authority's operations. You have just stated that you did not write to them between 8th January 2020 and 17th February, but here I have a letter that said you did.

**Group Director, Financial Services and Digital Economy:**

No, no, what I was saying is we do not routinely put every bit of communication into writing. As I said earlier there were a number of phone calls with the chair, with the interim chair and with counterparts in Guernsey from time to time expressing concerns.

**Deputy K.F. Morel:**

But you did just state that you did not put it in writing.

**Group Director, Financial Services and Digital Economy:**

There is a range of correspondence over a period of time. I said routinely we do not put every item of discussion into a written form. Some of that will take place by telecommunication.

**Deputy K.F. Morel:**

Group Director, is it routine - as you used that word - to send a letter as being reissued in date? This letter was picked up by the Competition Authority after 18th May 2020. In it, this letter states certain concerns that it has, but the dates read: "10th January 2020, 18th May 2020 reissued." Now, correspondence from C.I.C.R.A. shows that they have not been provided with the original of this document, which was apparently sent on 10th January 2020. They have been provided with another electronic copy. No email was sent on or around 10th January 2020. The only copy they have, which was found by accident in the middle of the COVID crisis, was found after 18th May 2020 with this revised date and it was found behind a letterbox in the C.I.C.R.A. lobby. Is it not ordinary, as we do in Scrutiny when corresponding with a Minister, we send an email with a P.D.F. (Portable Document Format) of the letter and then we may well post it as well? In this case it appears that no email has been sent or certainly posted and it was a reissued date. Can you explain that?

**Group Director, Financial Services and Digital Economy:**

I cannot explain if C.I.C.R.A. have not checked their post properly. You would have to ask members of the Authority.

**Deputy K.F. Morel:**

No, between 10th January and 18th May they checked their post on a daily basis. There was no letter in their letterbox at any point. You found it necessary to reissue.

**Director, Financial Services and Digital Economy:**

I can clarify this for you.

**Deputy K.F. Morel:**

If you may, because Richard Corrigan has written this letter.

**Group Director, Financial Services and Digital Economy:**

It was written on the date. C.I.C.R.A. has said subsequently they have not received the letter. A letter has been reissued to C.I.C.R.A.

**Deputy K.F. Morel:**

Why was it not sent by email?

**Group Director, Financial Services and Digital Economy:**



It was sent by post, which should be a perfectly trustworthy form of communication.

**Deputy K.F. Morel:**

Do you have the original 10th January version of that letter?

**Group Director, Financial Services and Digital Economy:**

On electronic file there will be a letter, there will be a copy.

**Deputy K.F. Morel:**

Yes, and would you provide this panel with that original 10th January letter?

**Group Director, Financial Services and Digital Economy:**

It is identical to that one in terms of ...

**Deputy K.F. Morel:**

I would like the electronic file, because I would like to go through the metadata in that file to ensure that it was written on 10th January.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think he is saying he does not believe us. He is trying to accuse us of playing some sort of trick. We can provide you with the evidence. I think Colin might have a salient point.

**Director, Financial Services and Digital Economy:**

Yes, I remember the letter. So there were some staff changes going on at the time. The letter was sent, to the best of knowledge and my emails, but in later conversations it was clear that J.C.R.A. had not received it, so we reissued it with a new date. So 10th January issued, I think it was reissued 18th May. That was about the governance around the work programme, the funding and the S.L.A. (Service Level Agreement)

**The Minister for Economic Development, Tourism, Sport and Culture:**

That is correct. I guess the question is why we posted it as opposed to sending it by email, but if they asked for a hard copy then I presume that is fine. We will have to answer those questions.

**Director, Financial Services and Digital Economy:**

Part of the problem is that I was also out of the office from March because of all the COVID lockdown. If there is a hard copy to be found, it could well be in the files so we would need to have a look at that.

**Deputy K.F. Morel:**

I believe C.I.C.R.A has requested that hard copy and it has never been provided to them.

**Director, Financial Services and Digital Economy:**

They may well have questioned that, but I remember it and I remember passing it. I have got evidence of it being passed to Richard for his consideration and signature.

**Deputy K.F. Morel:**

I would like the original 10th January electronic copy provided to this panel, please.

**Director, Financial Services and Digital Economy:**

If I can find it, I will provide it.

**Deputy K.F. Morel:**

Why would you not be able to find it in your electronic files?

**Director, Financial Services and Digital Economy:**

Okay. Yes, I shall go and look for it.

**Deputy K.F. Morel:**

It will be there.

**The Minister for Economic Development, Tourism, Sport and Culture:**

We are not in a court of law here. I refer you to the looks and the attitude you are giving us now are not in line with the code of conduct between Scrutiny and these sorts of meetings should be held with more civility, please. I have asked you that before. I do not like the accusations you are making to officers. We will provide you with the information that you are asking for. Let us just try to keep this ...

**Deputy K.F. Morel:**

Minister, would you be able to point out where I made any accusation and where I acted uncivilly?

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, no. You quite clearly from your questions are putting us in a position ...

[12:30]

**Deputy K.F. Morel:**

Questions are not accusations.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I understand you are saying you do not believe ... it is quite clear you are saying by some sleight of hand we did not send an email, so we have concocted another one at a later date and posted it. We will give you the evidence you asked for, but let us try to keep it a bit more civil. We are not here trying to trick. There is no sleight of hand.

**Deputy K.F. Morel:**

I have not been uncivil. Minister, at no point have I been uncivil and at no point have I made any accusation. I have been very quiet, I have been very calm and I have only asked perfectly pertinent questions to understand the Government's decision-making. If there is a query about the dating of a letter, which is a very pertinent letter, then it is absolutely right that we are provided with the evidence to show that the letter was sent and that officers acted truly and with integrity. It is entirely correct that we are provided with that information. To suggest otherwise again raises only further questions, Minister.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes.

**Group Director, Financial Services and Digital Economy:**

We have agreed to provide correspondence.

**Deputy K.F. Morel:**

Electronic correspondence of that date.

**Group Director, Financial Services and Digital Economy:**

We have agreed to provide that.

**Deputy K.F. Morel:**

Because we will look to check that it was written on that date.

**Group Director, Financial Services and Digital Economy:**

And we have agreed to provide that.

**Deputy K.F. Morel:**

Thank you. It is funny how when the hard questions come that I become uncivil.

**The Minister for Economic Development, Tourism, Sport and Culture:**

They are not hard questions. Your demeanour ... I am sorry, I am really struggling with the style of your questioning here. It is not so much about the subject; it is about we are quarrelling over whether an electronic copy was sent. We will provide you with that information. You clearly did not believe ...

**Deputy K.F. Morel:**

I find it hard to understand where my style was in any way impolite or uncivil or in any way. I did not raise my voice or anything, so I find it very interesting that you have come to that conclusion.

**The Deputy of St. Mary:**

Sorry, I do not want to extend the conversation at all. My one observation is that it strikes me as odd that this letter dated January, a fairly meaty letter, the department might have expected some response to it and the lack of response might have identified the fact that they might not have received it.

**The Minister for Economic Development, Tourism, Sport and Culture:**

The officers have explained that they sent it ...

**The Deputy of St. Mary:**

It is a general administrative point.

**Group Director, Financial Services and Digital Economy:**

It is a very good question. Officers were otherwise busy from late February through until the point we ultimately reissued the letter with COVID-related matters.

**The Deputy of St. Mary:**

It was sent on 10th January. I thought there might have been opportunity even before COVID came into play to have chased it. That is the only point I want to make.

**Group Director, Financial Services and Digital Economy:**

No, the J.C.R.A. were being asked to reflect on the work programme that was going to be the subject of funding and we also recognise that the J.C.R.A. has some resourcing issues at the office, so we do not necessarily expect a very prompt turnaround of correspondence. Indeed, the resourcing issue that they have is one of the things that the Minister is looking to put right in appropriately funding the Authority for its work going forward.

**Deputy K.F. Morel:**

A very quick and easy question: Minister, was a ministerial decision written to make this decision to demerge J.C.R.A. from C.I.C.R.A.?

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, a ministerial decision was not made or has not been made as yet and I think with hindsight it perhaps should have been. Again, I think events overtook us somewhat. The ministerial decision was signed to set up the arrangement, so we should have an official ministerial decision and we have spoken recently to officers about that, to suggest that we do - now that we are approaching the end of the process - rectify that.

**Deputy K.F. Morel:**

Will any legislative changes be required in relation to this decision?

**The Minister for Economic Development, Tourism, Sport and Culture:**

No.

**Deputy K.F. Morel:**

On what date did you take the decision to demerge C.I.C.R.A.?

**The Minister for Economic Development, Tourism, Sport and Culture:**

As I said before, the decision was ultimately taken by Guernsey, because when we spoke with Guernsey and then I wrote to them expressing our strong preference, they wrote back to us saying that they did not want to participate in further discussions and they were going to end the arrangement on 30th June. As we got into the COVID situation I did write and say: "Do you think it is worth, given that we are in unknown territory ..." and we were all approaching the COVID crisis and we did not know what the huge financial impact would be on both Islands. I thought it would be sensible that we perhaps did put on hold any further talks on whether we end the arrangement because of that. Guernsey then wrote back and said no, they were going to go ahead with it. I think you could construe the date that the decision became final would be 4th March 2020, when Guernsey notified us that they were accepting the separation proposal and fixing a transfer date for 30th June.

**Deputy K.F. Morel:**

Of course there is a difference between 4th March in the sense of when the decision was put into effect and the making of that decision in your own mind. On 8th January one officer in the Department for Economic Development wrote to another in the Chief Minister's Department stating that: "The Minister believes that C.I.C.R.A. no longer works effectively as a pan-C.I.(Channel Islands) regulator and that there is considerable merit in moving to an insular model ..." so that was

8th January. The officer went on to describe also: "... including a merger of Trading Standards and the Consumer Council with the J.C.R.A." but we will pick up on that later. On 10th January this letter was apparently sent. It makes no mention in that letter of the decision that clearly you were making - if not had made - in your own mind. Why was this not mentioned in that letter?

**The Minister for Economic Development, Tourism, Sport and Culture:**

So you have come to the conclusion that I had made a decision in my mind ...

**Deputy K.F. Morel:**

No, I have come to the conclusion that an officer wrote to an officer saying: "The Minister believes that C.I.C.R.A. no longer works effectively as a pan-C.I. regulator and there is considerable merit in moving to an insular model." That is the conclusion I have reached because it was in correspondence between officers.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, so that was the opening of discussions with Guernsey and that was my view, but I was prepared, as the letter stated, to listen to Guernsey to see if there was any strong disagreement from Guernsey with that and there was not. They concurred with it and set a date for ending the arrangement.

**Deputy K.F. Morel:**

We will go to Guernsey in a minute, because they did not exactly concur with that. I think that is stretching things a little bit. So why was the idea that C.I.C.R.A. was being thought of as an entity that should be demerged not mentioned in this 10th January letter, given that officers were clearly talking to each other about your thinking at that time previous to this letter being sent?

**The Minister for Economic Development, Tourism, Sport and Culture:**

You are talking about the letter I sent to Guernsey?

**Group Director, Financial Services and Digital Economy:**

No, my letter of 10th January.

**Deputy K.F. Morel:**

From Richard Corrigan to C.I.C.R.A. It does not mention - and it was sent after - that officers had said that you were clearly thinking about splitting up C.I.C.R.A.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I am not sure I understand. Perhaps you can ...

**Group Director, Financial Services and Digital Economy:**

No, so I think the correspondence between officers of 8th January deals with your concerns about the Authority and that you may be minded to split and revert to an insular Authority from the current C.I. arrangement. My letter of 10th January to the Authority is on a different matter altogether. It is about their business plan. The Minister has not made a decision as at 10th January to demerge the Authority because at that point he has not spoken to his counterpart in Guernsey.

**Deputy K.F. Morel:**

So you did not think it was suitable to write it into that letter?

**Group Director, Financial Services and Digital Economy:**

No, because the Minister has not made a decision, so it would not be appropriate for me to communicate that to the Authority at that stage, no.

**Deputy K.F. Morel:**

During a previous hearing, Minister, you mentioned that part of the reasons behind the demerger was because of the differences between Guernsey and Jersey political legal systems. Since 2010, when C.I.C.R.A. was established, how many times has that particular difference between legal systems caused issues?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I have no idea.

**Deputy K.F. Morel:**

No idea?

**The Minister for Economic Development, Tourism, Sport and Culture:**

No.

**Deputy K.F. Morel:**

Did you think there was a lack of focus from C.I.C.R.A. on the effective function of markets and on whether C.I.C.R.A. was visibly acting in the consumer interest?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Sorry, can you say that again?

**Deputy K.F. Morel:**

Did you think there was a lack of focus from C.I.C.R.A. on the effective function of markets and on whether C.I.C.R.A. was visibly acting in the consumer interest?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Sorry, what ... I am just trying to find ...

**Deputy K.F. Morel:**

Did you think there was a lack of focus on the effective function of markets by C.I.C.R.A.? So the effective functioning of markets, all markets. Did you think C.I.C.R.A. did not focus enough on the effective function of markets?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I am slightly confused, because C.I.C.R.A. is an administrative arrangement. Do you mean the J.C.R.A. as part of C.I.C.R.A.?

**Deputy K.F. Morel:**

Within C.I.C.R.A., yes.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think I have already said that. I did not feel that competition was working across many sectors of our economy.

**Deputy K.F. Morel:**

And not in the consumers' interest?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes.

**Deputy K.F. Morel:**

Again, I know you have, but just for the record can you describe what you think would be the key advantages of having a separate Authority?

**The Minister for Economic Development, Tourism, Sport and Culture:**

The key advantages will be a much stronger focus on ensuring there is working competition across all sectors of our economy, with a focus on reducing the impact of any increase in the cost of living and inflation.

**Deputy K.F. Morel:**



Have you seen any of those advantages so far, in the short time? I appreciate it is a short time.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I do not think any impact. I mean, our inflation has dropped from 2.7 per cent to the June quarter to 0.05 per cent, but that is purely a result of COVID. So it is hard to tell, but I would think it highly unlikely that there has been any difference as yet, given the current circumstances.

**Deputy K.F. Morel:**

Before the formal separation took place C.I.C.R.A. advised in a letter to you dated 13th March that: "The demerger would increase the challenge of co-ordinated oversight across the jurisdictions with the potential for increased delay between the Islands to progress matters that are mutually beneficial to both. Critically, this will also bring additional and unnecessary complexity to regulation of the telecoms sector, including not least the 5G rollout and spectrum allocation. It is also apparent that it will result in significantly increased and duplicated costs that could be avoided. It will also increase the cost to businesses, in particular the regulated sectors, costs that will in all probability be passed on to consumers." Do you agree with that assessment of the risks of the demerger?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I noted their view on that. I did not agree with that and I think we alluded to some of that earlier, but no, I do not.

**Deputy K.F. Morel:**

Have you tried to do any calculation of the increased costs that will be passed on to the consumer?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, we have looked at that.

**Deputy K.F. Morel:**

Could you pass that on, thank you, to the panel? How are you planning, if there are increased costs, to mitigate those issues?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Are you talking about increased costs to the taxpayer or increased costs for the regulatory ...

**Deputy K.F. Morel:**

Increased cost of regulation of the sector, so increased costs to those companies, essentially to the telecoms and other regulated companies.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think Colin explained that before. Colin, would you reiterate that?

**Director, Financial Services and Digital Economy:**

So in the licensed sectors the J.C.R.A. advice to us is that the increase is being held to an inflation amount of up to 5.7 per cent, but as I have explained the J.C.R.A. has also said its practice is to refund fees if it does not need them in the year. I also believe that we will review that 5.7 per cent figure later in the year just to make sure it still looks like the right sort of figure that they want to charge. They are trying to hold it within the bounds of inflation in the regulated sectors.

**Deputy K.F. Morel:**

With regard to co-operation, take 5G, for example, do you believe the M.O.U. (memorandum of understanding) is sufficient to ensure that telecoms operators are able to roll out networks across the C.I., as they are all pan-C.I. operators?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I do not think there will be a great deal of difference. I think, if anything, we can have a stronger relationship between the 2 entities. I believe the M.O.U. will deal with it, but the M.O.U. can be amended accordingly. If we find any shortcomings in the M.O.U. we can amend that. The principle is, and I think there is strong political ... on both sides of the Channel between Guernsey and Jersey we realise the importance, now we are separate entities, of having that ability to work closely together on these issues. I am confident that we can achieve that.

**Deputy K.G. Pamplin:**

Apologies to the Minister if things got heated, but I think that could be because I am collecting a suntan sitting in the only suntrap in the room. I am also aware of time. We have got 15 minutes and I will try to whittle through these. I want to focus on the Jersey-Guernsey element here. There are a few grey areas, if we can whittle them out here. On what date was Guernsey notified of the decision? Because I note in the statement that your counterpart gave to the States of Guernsey, in his speech he described it as an intention to terminate the pan-Island sharing, so could you clear up when the decision was? Was that the phone call or was it not on 17th February?

**The Minister for Economic Development, Tourism, Sport and Culture:**

The decision or the phone call, the phone call we had with Guernsey was to share with them my view, which I did in a very forthright, but polite way. We do have a good working relationship with Guernsey. I worked with the Minister on a number of other issues and we followed that up with a letter.

[12:45]

**Deputy K.G. Pamplin:**

Yes, on 3rd March.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, so I suppose we indicated a strong desire to do that, but we left the door open for them to come back with any views.

**Deputy K.G. Pamplin:**

Then the letter was confirming ...

**The Minister for Economic Development, Tourism, Sport and Culture:**

We had their letter of 4th March.

**Deputy K.G. Pamplin:**

Yes, so in that small period of time you did not get a significant response back, so you followed up with the letter?

**The Minister for Economic Development, Tourism, Sport and Culture:**

No.

**Group Director, Financial Services and Digital Economy:**

The advice to the Minister at the time was to exhaust all possible avenues, so to have the conversation with Guernsey and to give Guernsey the opportunity to come back with options as they saw it, but they then pressed on and made a decision that they would move forward with their own Assembly.

**Deputy K.G. Pamplin:**

It is interesting, because in their speech to the States of Guernsey he says that: "Whilst my committee was aware during 2019 that the States of Jersey had a different view of the future of the pan-Channel Islands C.I.C.R.A. model they felt issues that could be addressed within the model ..." and then he goes on to say: "It was a surprise to myself, the decision." So that suggests that they were not, I would imagine, supportive of the move, which maybe gives reason why they did not respond to your original phone call. Have you had any more conversations to explore that with your counterpart?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, as we went into COVID-19 we had another ... sorry, I have had so many meetings over the last few months. Did we have another conversation?

**Group Director, Financial Services and Digital Economy:**

There was a follow-on with Deputy Parkinson.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, we did. We had a further letter and we had another conference call or Teams meeting where again we said should we just defer this decision until we have a better understanding on the impact on our economy of COVID-19.

**Deputy K.G. Pamplin:**

So there is an email exchange obviously that the panel has seen around 2nd April. Interestingly, Guernsey have said the position remains unclear. Is that because what you are saying there is obviously COVID, March, we know what started to happen, that your decision changed slightly to a pause because of the impact of the pandemic? So the response by Guernsey said: "We are now unclear" but it seems like going through the timeline they carried on.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, I mean, they were very clear after an exchange of correspondence they were going to proceed with it. Deputy Parkinson made that clear on a follow-up phone call I had with him, that they had considered it and they were going to proceed.

**Group Director, Financial Services and Digital Economy:**

Yes, there was a ministerial meeting here in Jersey on 7th April and at that point Senator Farnham had discussed possibly deferring the separation and the follow-up call with Guernsey was arranged to have that conversation, but subsequent to that, on 22nd April, Deputy Parkinson made a statement to Guernsey's Parliament and that crystallised the decision to separate into 2 insular authorities.

**Deputy K.G. Pamplin:**

This is interesting, because when you said earlier, right at the beginning of the hearing today, that Guernsey made the decision for you because they went off and did it. Therefore, do you feel like you could not turn the tide, you could not say to them by April because of COVID because they had already decided: "No, we are going to carry on"? They had a very different view. Now, we do not want to get into the nitty-gritty of how both Islands have responded to the pandemic, but do you feel like you lost control of it there, because obviously Guernsey decided: "No, we are going ahead" and how could you have stopped it at that point? How could you is what I am trying to get at?

**The Minister for Economic Development, Tourism, Sport and Culture:**

We could not. That was their decision. I guess I was slightly surprised. I had not really changed the view, but I did feel that we needed to separate for the benefit of our economy, but I did think it was sensible to say: "Look, shall we take a rain cheque here?" Initially we thought we would see the year out with the Competition Authority and start from 1st January next year and I think we did loosely discuss those dates in the telephone conversations we had. I think we were surprised that suddenly they had had our views on it and then without any reference back to us we learnt, I think second-hand, that they were going to take the proposition to their Assembly to end the relationship on 30th June, which then took us a bit by surprise because (a) we suggested should we just hold on because of the COVID pandemic, and (b) that was not in line with the discussions we had where we would run it to the end of the year and allow a more sensible period of time to put things in place. So I think it ended up quite well because that forced us to expedite the process and put the new chair and new structure in place much sooner.

**Deputy K.G. Pamplin:**

But again by proxy they have come to the same conclusion that you have indicated in your previous answers, because he goes on to say in his statement - and it is always unfortunate when he is not here - but he says later in his speech to the Guernsey Assembly that it has become apparent there is material benefit to the Island in having this extracted from the C.I.C.R.A. operating model, but it just seems that somewhere in the line they decided to go for it and you were saying no.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I was not really saying no. I was just saying would it be sensible just to pause. At that time, we were thinking the J.C.R.A. would be re-established from 1st January. It is much tidier to do it at the end of a year. They decided to expedite the process and end the relationship on 30th June.

**Deputy K.G. Pamplin:**

I guess your previous answer helps clear up my next question about the email chain again that indicates that the Jersey Government were informed by the Guernsey Government that they were going to announce the decision to separate on 22nd April and set out a timeline for completing the separation, which you mentioned was 30th June. Then you subsequently released a press release on 23rd April informing the public of the split. Did the announcement from Guernsey basically then encourage you to take action and also make the announcement the next day? The timing is ...

**The Minister for Economic Development, Tourism, Sport and Culture:**

Certainly, yes. Once Guernsey had made that decision we felt we had to make a public announcement.

**Deputy K.G. Pamplin:**

Yes. Is that a missed opportunity for a joint statement? It does seem again this whole political tit-for-tat, Guernsey went first, we have got to follow, I know some people may take a different view, but it just feels odd to me that it was a combined Authority. You have had conversations and meetings and stuff, it just feels odd that you have come to the same conclusion so therefore where was the joint press release to say: "We have discussed, we have gone back, we are separate jurisdictions but we have both come to this conclusion"? It seems like a missed opportunity.

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, I agree, but I think Guernsey made it absolutely clear from the second conversation I had with Deputy Parkinson that they had decided to follow that course of action, so ultimately we had come to the same conclusion.

**Deputy K.G. Pamplin:**

Do you think also because of the pressure on the counterparts, because there was going to be a general election in Guernsey much sooner and then they changed their date for the election, which is just about to go ahead, that they were under different timeline pressures because you could have been dealing with a completely different government?

**Group Director, Financial Services and Digital Economy:**

That did come through in officer conversations with my counterpart across in Guernsey. There were different time pressures in Guernsey to make decisions and crystallise things before they had the end of a parliamentary term. Obviously the very basis of government is very different with the committees and the policy letter process that they tend to go through. The committee had made the decision rather than just simply Deputy Parkinson himself, because there is not that same executive power that is invested in Ministers here in Jersey.

**Deputy K.G. Pamplin:**

That is curious, because who is to say what happens in an election and what the Guernsey people decide to vote for, but there could be a different body, different counterpart and different feel and they think: "We want to go back." Do you know what I mean?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, I am not sure and I would not want to comment publicly on their political thinking, but that could have well been a contributory factor, that they had an election and they did not want any loose ends after the election, just in the same way as we do here. We often try to complete as much of our legislative programme as we can before an election. That might have been their line of thinking.

**Deputy K.G. Pamplin:**

They have also indicated they have got some big implementations going on. I guess in hindsight what have we learned from this? It seems on our take that things could have been done a bit differently. What do you take away from this? It seems to me there are obvious lessons to be learned from this. It just seems to be something I cannot put my finger on, but maybe you can.

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, I cannot really.

**Deputy K.G. Pamplin:**

Would you have done anything differently, I guess?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I do not think so. I hear the questions you are asking and you are damned if you do and damned if you do not. The other day we were being accused of doing too much consultation by States Members and Government and we should be making fast and quicker decisions, and when you try to make fast and quicker decisions based on, I will admit, more political instinct than scientific research and I am prepared to accept responsibility for that if this does not work.

**Deputy K.G. Pamplin:**

It is just clearing up the accountability, is it not? At one stage it was Guernsey saying: "Oh no, this is all Jersey" and then now: "No, no, it is all Guernsey" and I think that is just clearing it up.

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, no, I take full responsibility for the demerger because it was me that suggested it and we got the conversation going. Then things did get blurred with COVID because we all got swept away with that. We have, underneath the COVID work that we have been doing, been trying to keep all the business as usual going as well. Just to be clear, we had the initial phone call where we suggested this was our preferred course of action, I followed that up with a letter and then Guernsey responded on 4th March accepting the demerger, the final decision and setting the date for 30th June to complete.

**Deputy K.G. Pamplin:**

Then it is clear when you suggested: "Because of the pandemic we should defer" they had made their decision?

**The Minister for Economic Development, Tourism, Sport and Culture:**

They said no.

**Deputy K.G. Pamplin:**

Because they had already proceeded the work and they were in a different place?

**Group Director, Financial Services and Digital Economy:**

My recollection of conversations with my counterpart is that the committee had already met in Guernsey, so the Committee for Economic Development had met and basically determined a course of action and then they were basically locked into that course of action, which was then communicated back to us, that they did not wish for any further delay and that for their own reasons 30th June was decided to be the preferred date to achieve a separation back to insular authorities.

**Deputy K.G. Pamplin:**

That is it for me; I am conscious of time.

**Deputy K.F. Morel:**

We started 5 minutes later so we will finish at 1.05 p.m.

**The Deputy of St. Mary:**

I have a few questions on consultation, and to a certain extent the overlap of what has gone before, so apologies if I duplicate. Generally speaking, it is clear that there was very little consultation with stakeholders. In hindsight, do you wish you had consulted more in making this decision or in communicating your concerns to Guernsey in the first place?

**The Minister for Economic Development, Tourism, Sport and Culture:**

As Minister for Economic Development, Tourism, Sport and Culture, Ministers and officers tend to have strong relationships with businesses. We get lobbied a lot. Businesses often lobby, putting their own interests ahead of the Island's interests. I felt that if we would have consulted with the regulated entities, their duties and responsibility are predominantly to their own businesses and I did not feel that anything would be achieved or gained from consulting with the regulated entities. I am not sure if that is correct or not. Another Minister might take a different view to that. I am not sure that it was entirely appropriate or necessary. We talked about this, Richard, if you could add your view to it.

**Group Director, Financial Services and Digital Economy:**

Yes. I think if you go to any business they will have a view and that view may be reflective of their own experience of dealing with the Authority over time, their own concerns about cost or effectiveness and that you would get a broad range of views in from that consultation. The Minister



felt at the time and during certain conversations that from all the feedback from various sources 24/7 that you tend to get that this was the time to look to effect some change and deliver a more effective Authority in the best interests of Islanders and particularly of consumers of services, whether those are consumed in a personal or a business capacity. The decision was determined that we would go ahead without an extensive consultation exercise.

**The Deputy of St. Mary:**

I will come back to that aspect later. Going back, and Deputy Pamplin has raised this already, the moment of decision. The statement was sent or issued by the Director of C.I.C.R.A. saying: "C.I.C.R.A. will revert to being separate authorities from July. A decision to withdraw from the C.I.C.R.A. model has been made by the Jersey Minister for Economic Development and Tourism. The Guernsey Committee has accepted that decision." Do you accept that is a true situation, that you have made the decision and Guernsey have accepted it, or are you suggesting that you would have liked more time to discuss, but Guernsey ...

[13:00]

**The Minister for Economic Development, Tourism, Sport and Culture:**

That was the preferred option and it remained my preferred option and that was the outcome I was hopeful of, but the correspondence speaks for itself. Guernsey clearly listened to our preferred view and had a committee meeting and decided that was the way they wanted to go as well. I think it was a collective decision. I do not know if it is really relevant. They could say that I made the decision, they made the decision, we both made the decision, but ultimately a decision was made. The only thing here that causes a little bit of confusion is as we have got into COVID I said: "Hold on a minute. Do you think we should just hold off on this given the unknowns of what is going on around us?" and they said: "No, we think we should proceed" and so we proceeded.

**The Deputy of St. Mary:**

Leaping forward, and I will go back to my schedule in a minute, but Richard earlier on mentioned about concerns having been raised with the chair of C.I.C.R.A. on certain issues, but later on, on 14th March, the interim chair of C.I.C.R.A. was saying the C.I.C.R.A. board was surprised to receive the decision by Senator Farnham. Again, that would denote that despite ...

**The Minister for Economic Development, Tourism, Sport and Culture:**

Just because they said that does not mean that ... I presume that ... ultimately we made a decision.

**Group Director, Financial Services and Digital Economy:**

Yes, so concerns about the effectiveness of the Authority had been expressed to the previous chair and to the interim chair of the time, but it was to the Minister ultimately to communicate any decision around the split rather than for an officer to do it. It was not for me to decide about the split, so if the Chair was surprised by a definite decision to split that is quite different.

**The Deputy of St. Mary:**

What I am getting at though is if in talks between the Chair and officers here those concerns had been communicated, why should he be surprised at the ultimate decision? Had he ignored or not responded to your concerns?

**Group Director, Financial Services and Digital Economy:**

You would have to invite the interim chair as at that time, invite Paul Masterton in for a hearing and ask for Paul's view on that. I am absolutely certain that communication had been made to Paul by telephone call over a period of time expressing concerns and to some extent some of those concerns were shared.

**Deputy K.F. Morel:**

Can I just come in? I appreciate you communicating concerns, but did you communicate the possibility of ending the administrative arrangement around C.I.C.R.A. and the demerger?

**Group Director, Financial Services and Digital Economy:**

I cannot recall if that was specific, because again that is not for me to make a decision, if that was in Senator Farnham's mind.

**Deputy K.F. Morel:**

No, but I think that is the point. The interim chair's point was that he was surprised that that particular element had not ever been raised to him before.

**Group Director, Financial Services and Digital Economy:**

That is up to the Minister in terms of how that is ultimately communicated but the interim chair and his predecessor had had it made clear to them in telephone conversations over a period of time that the Government of Jersey had concerns with the way in which the Authority was going about elements of its competition brief in terms of the lack of market studies and so on.

**The Deputy of St. Mary:**

You have already commented that you did not think there was much merit in consulting before, although some of the respondents would say otherwise. Moving on to specific people, was the

decision discussed with the C.I. Political Oversight Group, which presumably is in existence for such things?

**Group Director, Financial Services and Digital Economy:**

I do not recall that it was. The C.I. Political Oversight Group does not have any formal standing. I recall you did speak to the Chief Minister about your decision ahead of time, but I am not a standing member of the Political Oversight Group for the C.I. co-operation. I do not recall it being tabled.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I discussed it with the Chief Minister and Senator Gorst. I think it was tabled in one of their meetings.

**The Deputy of St. Mary:**

Does that call into question the raison d'être of the group, if something as important as this they were not consulted on?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I do not sit on that group currently.

**The Deputy of St. Mary:**

I am not saying you do, but I am just saying it is formed for a reason.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I discussed it with the Chief Minister and Senator Gorst and you would have to ask the Chief Minister. I think it was touched upon at one of their meetings, not at an official, but I think it was noted at one of their meetings. I certainly do not think it has had a detrimental effect on the overall relationship between Jersey and Guernsey. We work together on so many things and things start and stop and come and go.

**The Deputy of St. Mary:**

So in another forum we need to ask questions as to what that oversight group is responsible for and how it feels it should be consulted properly?

**The Minister for Economic Development, Tourism, Sport and Culture:**

Possibly, yes.

**The Deputy of St. Mary:**

Again, it goes back to the consultation with Guernsey. Did you consult specifically with the Guernsey Committee for Economic Development or was it just by way of there was no formal consultation with them at all?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I suppose my initial phone call you could say was a consultation because I phoned them up and said: "Look, this is our train of thought. What are your views?" I followed that up with a letter and they said: "Well, it has come a bit out of the blue" but officers have been discussing it. I am not sure whether their officers had been keeping their politicians informed of the discussions that had been had at officer level; I could not comment on that. That is not a matter for us to comment on. Then the correspondence is there. I think they thought about it. I think politically it was a surprise to them and they thought about it and came back and said they had discussed it at committee and the committee said: "Okay, if that is what Jersey wants we have looked at it and concurred with it." I think although it was a surprise to them, after thinking about it they realised, as Deputy Parkinson said in his statement to the States of Deliberation in Guernsey, that they can derive some benefit out of it for Guernsey as well. I think upon reflection although they were surprised, when they thought about it they agreed.

**The Deputy of St. Mary:**

I think the thrust of the panel's questions is why should they be surprised? Could it have been done not on a more softly-softly approach, but a more measured approach and might have had greater consultation, not just with them but with other parties? You might have arrived at a solution or been able to work out what the problems were. To my way of thinking, it all goes back to the Oxera report as to a vagueness in relationships and that maybe that should have been strengthened a lot earlier.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Yes, we could have done and we did leave the door open. I did not phone Guernsey up and say: "We are cancelling it. We are pulling out." We said: "Look, we are minded to do this." We gave them the reasons why, followed up with a letter and asked for their response. Rather than asking for more discussions, they came back and said: "We agree."

**The Deputy of St. Mary:**

So in fact you are saying it was not your decision to untangle the joint relationship, it was theirs? There appears to be a dichotomy between the statements issued on this.

**The Minister for Economic Development, Tourism, Sport and Culture:**

I think both Islands agreed at the end of the day, but I would probably have to study the correspondence. I think technically it was on 4th March when we received their letter confirming or saying that they were going to end the relationship.

**The Deputy of St. Mary:**

Going back to individual responses, we received them from a number of parties - J.T., Shore, Air-Tel, Jersey Post, Consumer Council and Citizens Advice - and none of them had been consulted. I appreciate the point that you were perhaps wary of receiving different views, but to a man they appear to have expressed concerns about the additional costs that might arise from this, which is one of the reasons why the relationship was formed in the first place. Do you not, on reflection, think that there should have been greater consultation with these entities?

**The Minister for Economic Development, Tourism, Sport and Culture:**

No, I remain satisfied with the process we followed. I think you sometimes have to take action when you think things are not right. Perhaps if COVID-19 had not arrived when it did, that might have led to some further discussion on it, but it is clear that Guernsey, although it was a surprise to them politically, when they did discuss it came to the same conclusion. I am not sure what any further consultation would have changed and I certainly was not worried about receiving a range of different views. I maintain it is the right decision and my only interest is working for the people of Jersey and working to improve the economy to the best of the ability of myself, my Ministers and my team. That is the only thing that is underpinning this course of action, to try to improve competition across our markets while retaining viability in business and helping with our fight against inflation. Inflation had been under control for some time, but we still have got that parity between the U.K. and Jersey and the Inflation Strategy Group. I think we have had Scrutiny hearings on it. It set a goal and an aspiration in the months and years ahead of trying to reduce that gap. The strong economic advice we received was that competition, improving competition in our economy, was the key lever to that. I think that is at the heart of what was driving me.

**The Deputy of St. Mary:**

To finish off, from what you said, the clear point is to improvements to be made for the future, but that is not for now and I will hand back to the Chair.

**Deputy K.F. Morel:**

Very quickly, the last question I have is the Competition Regulatory Authority (Jersey) Law 2001 states that: "The Minister may, if he or she considers that it is desirable and in the public interest to do so, give to the Authority written guidance, or general written directions, on matters relating to corporate governance." That is paragraph 1. Paragraph 5 says: "The Minister shall not give guidance or directions under this Article without first consulting the Authority." The matter of the

makeup of the J.C.R.A. within C.I.C.R.A., the change of the board and so on, appear to be matters of corporate governance, so do you feel that you were not legally bound to consult with the Authority, as paragraph 5 says: “The Minister shall not ... without first consulting the Authority”?

**The Minister for Economic Development, Tourism, Sport and Culture:**

I do not believe so. My advice did not suggest otherwise.

**Deputy K.F. Morel:**

Just quickly, did you consult law officers as well? We know the Chief Minister did with regard to the delegation of responsibility. Did you consult law officers with regard to this decision?

**Director, Financial Services and Digital Economy:**

No, we did not. First of all, there were no directions or guidance issued in relation to this particular point, but we have always understood governance effectively to be something like these statements of internal control, the accounting system around the way that the Authority operates. We would not have seen corporate governance as straying into the territory of a political agreement between 2 governments about how to structure their competition authorities.

**Deputy K.F. Morel:**

It clearly affects who chairs the panel, the boards and things like this. That is where it enters into corporate governance because it has a direct effect on the board.

**Group Director, Financial Services and Digital Economy:**

A new chair was being sought at that point in time in any event, but irrespective of that the Minister did not issue a direction under the Law and therefore there was no requirement to consult.

**Deputy K.F. Morel:**

No, but maybe you should have.

**Group Director, Financial Services and Digital Economy:**

That is a matter of a subjective view. The Minister did not issue a direction and therefore was not required to consult.

**Deputy K.F. Morel:**

One last question, Minister. With regard to Guernsey, do you think that the speed with which the decision was made, the way it was made, Guernsey’s surprise - as they have said - at the decision, do you think that making a decision in this manner could have a detrimental effect on mutual trust

between the Islands and what we claim politically is our constant drive to increase relationships between the Islands? Do you think the manner in which this decision has been made ...

**The Minister for Economic Development, Tourism, Sport and Culture:**

I do not think it will. We work collaboratively on so many things and there are so many other things where we celebrate our differences as well. Jersey and Guernsey, as well as being part of the C.I., in the past - working with other areas of my portfolio - worked closely. The C.I., when we are looking at marketing ourselves as a tourism destination, for example, once you go outside of our key tourism markets, the C.I. in some parts of the world are more recognisable as the C.I. than Jersey and Guernsey. We have a strong track record of working together on the British-Irish Council, other political issues, together as Crown dependencies working together on COVID-19. There are a huge number of examples where we work well together and long may that continue. We need each other. But there are issues like this and sometimes we do not agree or we do not concur or we just agree to go our different ways and I do not think there will be any long-term impact on our relationship. I have a strong working relationship with my counterparts in Guernsey and in some areas we work really closely and in other areas we have different cultures. I think the short answer is no, I do not think it will have a long-term effect.

[13:15]

**The Deputy of St. Mary:**

I will just make an observation. I think the same question should be raised on the C.I. Political Oversight Group, who have a bigger agenda.

**Group Director, Financial Services and Digital Economy:**

From an officer perspective, as all of this was going on, my wider team were collaborating with Guernsey around the coronavirus Business Disruption Loan Guarantee scheme, which was incubated here and was rolled out in parallel with Guernsey and the Isle of Man. We were sharing on a pretty open basis some of the economic support measures we were looking to put in place, again recognising some similarities that we have in the challenges facing both the Islands from COVID at that point in time, so it certainly has not spoiled the patch from a collaboration perspective among officers, just to add to what the Minister said about the material relationship.

**The Minister for Economic Development, Tourism, Sport and Culture:**

There is some important ongoing work now on travel links and transport providers to and from the C.I., so good work continues.

**Deputy K.F. Morel:**

Thank you, Minister and officers. As I started, I will end. We are barely halfway through so we will be scheduling another hearing in a similar vein to continue. Thank you very much for your time and for your answers. It is very kind.

**The Minister for Economic Development, Tourism, Sport and Culture:**

Thank you very much.

[13:16]