

### **3.10 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding the use of J.T. funds, and those of the Jersey Competition Regulatory Authority on Court costs:**

Given the recent comments made in the Royal Court, would the Minister for Home Affairs in his role as sole shareholder in J.T. (Jersey Telecom) consider issuing a Ministerial directive so that J.T. funds and those of the Jersey Competition Regulatory Authority, are not unnecessarily expended on expensive court cases?

#### **Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):**

In the post-script to the Royal Court judgment, the court commented on how unfortunate it was that the parties had not been able to resolve matters between them. Indeed, the Treasury and Resources Department asked J.T. in advance of the court proceedings whether it was possible for J.T. and C.I.C.R.A. (Channel Islands Competition Regulatory Authority) to resolve their differences without legal proceedings so as to avoid unnecessary costs. The Treasury and Resources Department was advised that J.T. felt that its representations had not been taken into account by C.I.C.R.A.; J.T. further felt that it had little choice but to take the action that it did. The judgment may be regarded as bringing clarity to 2 fundamental important aspects of C.I.C.R.A.'s decision-making: firstly, the high threshold that C.I.C.R.A. must clear if its decisions are to withstand any legal challenges, and secondly, confirmation that C.I.C.R.A. must properly consider J.T.'s plans and representations as part of its decision-making process. The States has put in place the machinery to liberalise and regulate the telecommunications market; we need to allow this machinery to function. It is not appropriate for a shareholder to become involved in issuing Ministerial directives to J.T. on such matters. J.T. has an independent board that is charged with making such decisions.

#### **3.10.1 Deputy R.G. Le Hérissier:**

In the light of this episode and the number portability episode, both cases resulted in very extensive legal costs. Does the rapporteur not think it utterly strange that the taxpayer is paying for the Jersey Competition Regulatory Authority, the telephone user is paying for the Jersey Competition Regulatory Authority, the user of J.T. is paying for them; in other words, we are all paying for fairly pointless legal cases which with, for example, the proper application of mediation or the intervention of the Minister for Treasury and Resources, should have been avoided? Would the rapporteur not agree?

#### **Deputy E.J. Noel:**

I will agree that it is unfortunate that we have found ourselves in such a situation but hopefully, with the clear guidance of the court, such a situation will not arise in future.

#### **3.10.2 Deputy T.A. Vallois:**

Can the Assistant Minister advise whether he believes C.I.C.R.A. is sufficiently funded in order to carry out their role, which is an extremely important role within Jersey?

#### **Deputy E.J. Noel:**

That is not really a matter for the Treasury and Resources Department. As the good Deputy knows, C.I.C.R.A. comes under the Minister for Economic Development and that question is more appropriate for that particular Minister. I have no knowledge of whether or not C.I.C.R.A. is adequately funded or not.

#### **3.10.3 Deputy T.A. Vallois:**

Does the Assistant Minister not produce the Medium-Term Financial Plan for this Assembly to approve and therefore would he not be aware of the funding?

**Deputy E.J. Noel:**

As far as I am aware, C.I.C.R.A. has more than one source of funding, it does have direct funding from the Government but it also has funding from the people that it regulates.

**3.10.4 Deputy R.G. Le Hérisier:**

Would the rapporteur outline the situation under which Ministerial directives would be issued, or is he content for Ministerial abdication to continue?

**Deputy E.J. Noel:**

The Minister for Treasury and Resources will hold the independent board of directors of J.T, or indeed any public-owned corporate body, accountable; it is not the role of the Minister for Treasury and Resources to do their job for them.