



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 26th September 2024

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Present:

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C. P. A Blin	D. J. Mahoney
A. H. Brouard	A. D. S. Matthews
Y. Burford	L. J. McKenna
T. L. Bury	C. P. Meerveld
A. Cameron	N. G. Moakes
D. de G. de Lisle	R. C. Murray
H. L. de Sausmarez	V. S. Oliver
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S. P. Fairclough	R. G. Prow
S. J. Falla	L. C. Queripel
P. T. R. Ferbrache	P. J. Roffey
A. Gabriel	H. J. R. Soulsby
J. A. B. Gollop	G. A. St Pier
S. P. Haskins	L. S. Trott
N. R. Inder	S. P. J. Vermeulen
A. Kazantseva-Miller	

Representatives of the Island of Alderney

Alderney Representatives S. Roberts and E. A. J. Snowdon

The Clerk to the States of Deliberation

S. M. D. Ross, Esq. (States' Greffier)

Absent at the Evocation

Deputy A. C. Dudley-Owen (*indisposée*); Deputy M. A. J. Helyar (*absent de l'île*)
Deputy J. P. Le Tocq (*relevé à 10h 40*); Deputy M. P. Leadbeater (*relevé à 11h 30*);
Deputy A. W. Taylor (*relevé à 9h 41*)

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States of Deliberation

The States met at 9.30 a.m.

THE BAILIFF *in the Chair*

PRAYERS

The States' Greffier

EVOCATION

Billet d'État XVI

COMMITTEE FOR ECONOMIC DEVELOPMENT

9. Temporary and limited exemption to the Competition Law to enable Guernsey Airtel Limited to exit the market by way of acquisition by Sure (Guernsey) Limited – Debate continued

Article 9.

The States are asked to decide:–

Whether, after consideration of the policy letter entitled 'Temporary and limited exemption to the Competition Law to enable Guernsey Airtel Limited to exit the market by way of acquisition by Sure (Guernsey) Limited' dated 16th August 2024 they are of the opinion: -

- 1. To agree that given the broader benefits that can be secured for the jurisdiction, there are good public policy reasons to enact an Ordinance to create a temporary and limited exemption from the Competition (Guernsey) Ordinance, 2012 in order to enable Guernsey Airtel Limited to exit the market by way of acquisition by Sure (Guernsey) Limited.*
- 2. To approve the draft Ordinance entitled "The Competition (Time Limited Exemption) (Guernsey) Ordinance, 2024" as set out in Appendix 2 to the Policy Letter, and to direct that the same shall have effect as an Ordinance of the States, and*
- 3. If proposition 2 is agreed, pursuant to section 2 of the Competition (Time Limited Exemption) (Guernsey) Ordinance, 2024, to note the conditions listed in Appendix 1 to the Policy Letter on Sure (Guernsey) Limited by way of licence modification, and to direct the Guernsey Competition and Regulatory Authority to have regard to those conditions in considering any licence amendments if the Authority is notified of an agreement between Sure (Guernsey) Limited and Guernsey Airtel Limited pursuant to section 1 of that Ordinance.*

The States' Greffier: Billet d'État XVI, continuation of the debate, Committee for Economic Development – Temporary and Limited Exemption to the Competition Law to enable Guernsey Airtel Limited to exit the market by way of acquisition by Sure (Guernsey) Limited.

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The Bailiff: Deputy Murray.

Deputy Murray: Thank you, sir.

I would like to discuss two words in particular in terms of this debate, one of them is subscale, which has been touched upon but probably not sufficiently; and dichotomy. The dichotomy that I see is our wish, quite understandably, to be as fair as possible to consumers by virtue of, obviously, regulation and fair competition and I think we would all sign up to that, and have signed up to that in the past.

This is the problem, I think, with the suggestions being put forward by Deputy Falla who finds himself in this situation although, I think, it was probably echoed even more readily in the last debate by Deputy Gabriel who, on the one hand, was doing his very best to try to justify the need for a lot of competition on the Ro-Ro ramp but at the same time was recognising, and you could hear it in his heartfelt plea, that actually the limitations of a subscale market make that largely impossible and I think it was very useful that Deputy Kazantseva-Miller actually highlighted the fact that that does not mean that all elements of sea connectivity is then, actually, in the hands of one operator.

There are areas of markets that can be dealt with by competition, even in a subscale market and, I think, that is the dilemma that we are actually confronted with today and this is going to become an increasing problem for Guernsey going forward because we are a substantially subscale market in just about everything that we do.

The fact that, obviously, we are trying to do our very best to find a joint solution to the connectivity with the UK and, particularly, France with Jersey is an indication of how we have to be in a position to entertain different solutions to different circumstances rather than rigidly holding on to what we would ideally like to see which is a plethora of competitors in any marketplace that we tend to be operating in and, therefore, we would get the best deal for consumers. Now that works in some areas, it does not work in this one.

I have got particular experience in this marketplace because when Guernsey Telecom was actually a state-owned entity I was involved, at that stage, on the executive where we were trying to commercialise Guernsey Telecoms in an environment where the internet had gone crazy and GSM was the mobile service that we actually had in those days, again, run entirely by Guernsey Telecoms in a subscale marketplace that all kind of worked.

But technology moves on, we had to give up the network. Perhaps that was not necessarily the right thing to do at the time, but it was the only option that we had. We have not really got two networks universally across the Island at the moment we have, probably, business premises, by and large, serviced by competitors but the universal service is largely undertaken by one operator and it is the same in electricity markets. We would not expect, other than perhaps some minor networks for perhaps small business areas or small business units, we could not actually have two networks, the Island just could not sustain it. Commercially it cannot be done like that.

So we have to be quite pragmatic when we try to decide what to do in this situation and what has been created by Economic Development, with a considerable amount, I think, of consultation and engagement, they have created a window, in consultation with the regulator, whereby we can allow the opportunity for a commercial exchange to take place, which does not cost Guernsey anything, which I think, to Deputy Queripel's point, he probably misconstrued that we were getting involved in any shape or form, financially we are not, that is a matter between the two participants involved.

So there is no comparison between being bailed out, that is not the situation here at all. What we are trying to facilitate is the most effective network, mobile network in particular, that we can actually possibly have in a subscale marketplace like Guernsey. It is a very small marketplace and, therefore, we actually have to be more creative when we look at how we actually deal with this problem. I think that is what Economic Development have been, they have been very creative.

There is much less explanation in the policy letter about how they have approached this. They have been, I think, fairly evenly handedly looking at what the implications are one side or the other. We do not know what will happen if we leave this to the regulator, other than the very narrow view

that the regulator will take is likely to say no and then we will have what has been termed a disorderly exit by one of the participants who, clearly, is going to exit anyway one way or the other.

What we are trying to achieve here, I think, is an orderly situation which actually provides benefit for the Island as a whole. (**A Member:** Hear, hear.) That is actually what is on the cards at the moment. You have two choices: an orderly exit in which case, through considerable conditions that have been imposed on the larger operator, Sure, are actually being put into place to ensure that the competition that results as a consequence, is as fair as it possibly can be in a subscale market.

If we do not do that it will take both longer and, potentially, it will be more environmentally impacting to have competitors putting up masts all over the place to try to get into 5G. That is not what we want here. There is a rationalisation opportunity with this particular decision to be made that would benefit both the environment, it will benefit consumers and, yes, it will benefit, obviously, the major player but we actually benefit as a consequence.

So I would suggest that we actually entertain what is, frankly, a very sensible and pragmatic approach to our future connectivity, our wireless connectivity, our access to a 5G network in the most efficient and possible way that we can. And as for how the outside world might view the way that we are actually treating this at this point in time well, I think quite sensibly, as has been suggested in terms of the CPTT or CTPP, the international situation will not actually affect us until about 2027. So we have a window and we need to take advantage of that window.

Furthermore, I do not think it is widely understood that we can carve out some of these relationships as we move forward. That is quite common practice. It does not mean that we actually have to conform with everything when we actually take on a treaty. There are carve outs available to us and we will make use of them pragmatically as appropriate.

So there is no downside, internationally, to us treating it like this. What I think we are stuck with and what we are getting ourselves really too concerned about, is the idealistic proposition of regulation. As a small jurisdiction what did we do when Moneyval actually came across earlier this year? We introduced regulation at a rate of knots because we are a small jurisdiction and we can move very quickly when we have to and that is what is being asked for here. Rather than rigidly holding on to the ideal of a competitive regulator, take advantage of the opportunity that is in front of us for the Island's future benefit and please support this policy letter.

Thank you.

A Member: Hear, hear.

The Bailiff: Deputy Taylor, is it your wish to be relevée?

Deputy Taylor: Yes, please, sir.

The Bailiff: We will mark you as present.
Deputy Burford.

Deputy Burford: Thank you, sir.

So, well over two years ago, Members were invited to a presentation on the first iteration of this proposal. It was held in a tiny room at Les Côtis. At the top table, in addition to the President, sat not one but two telecoms CEOs, numerous senior civil servants and representatives of the Law Officers.

It was clear from this array of big guns that the Committee meant business. We were told in no uncertain terms why we must, at that time, invoke an exemption that exists in the Law to permit Sure to acquire Guernsey Airtel. I was far from the only Deputy that day with concerns. The question session was robust but I did not feel that all questions were answered satisfactorily.

I could certainly see the undoubted and immense benefit of the deal to the two telecoms companies concerned: Sure would have obtained a huge 80% market dominance, effectively a

monopoly; and Airtel could pack up and leave with an undisclosed sum in its back pocket, courtesy of Sure, rather than simply exiting the market.

The Committee – and this part is important – was originally relying on using Section 14 of our Competition Law to exempt this acquisition from the usual regulatory process. That part of the Law states that in order to make use of the exemption there must be exceptional and compelling reasons.

Eventually the Committee, presumably upon legal advice, had to admit that their grounds were neither exceptional nor compelling so, instead of just allowing the acquisition to go through the normal regulatory process set up for this purpose, set up to protect the consumer, so keen were the Committee to see this deal through that they have come up, instead, with the idea of simply removing Section 13 of the Competition Law for these two companies, which states that mergers and acquisitions must be decided by the regulator.

Deputy Inder: Point of correction, sir.

The Bailiff: Point of correction, Deputy Inder.

Deputy Inder: Deputy Burford has said the Committee came up with the idea, it was on the advice of the GCRA and the Law Officers. It is not the Committee's idea.

Thank you.

Deputy Burford: Well, I am quite pleased that –

Deputy Kazantseva-Miller: Point of correction.

Deputy Burford: I have not said anything else yet.

The Bailiff: Point of correction, Deputy Kazantseva-Miller. This better be good. *(Laughter)*

Deputy Kazantseva-Miller: Sir, I think it is really important that this is corrected, what Deputy Burford is saying is that we are suggesting to remove a section of the Law. There are various routes through which exemptions in the Competition Law can be enabled. One is through section 13 or 14. The other one, which is what we are pursuing, which is enabled by the Competition Law Enabling Provision 2009 Law under Clauses 1 and 5, which enables the Committee to enact ordinances. So there is absolutely a provision under the Competition Law 2009 (**A Member:** Hear, hear.) to bring the ordinance that we have got in place. I think it is completely misleading and incorrect to say that the Committee is trying to subtract section 13.

Thank you.

Deputy Burford: Thank you.

I will come to the point about ordinances shortly. But the point remains that in the actual Competition Law itself, there is not a section that just provides, under certain circumstances, for the Committee just to say, 'Right, we are going to exempt certain people.' The only way that can be done is by an ordinance. It is not a provision in the Competition Law, which is the point that I was making.

So, anyway, I thank Deputy Inder for his intervention because it has been said twice in this Assembly, at least in this debate, that the regulator recommended this particular route of suspending section 13. But if one looks at all the appendices and the policy letter itself, it is quite clear that what the regulator suggested was that section 14, which permits an exemption, that section 14 was available to use and the regulator suggested to the Committee that it used section 14, provided it could find the threshold of the exceptional and compelling circumstances.

There is nothing in the policy letter or in the responses in the policy letter from the regulator to say that the regulator has suggested this route and, unless I have any evidence of that, I have to assume that the regulator's suggestion was for the original and, to my mind, much better route. So I am open to hearing if the regulator has suggested this particular route because it does not state that in the policy letter.

I do have a problem with this approach and I think it is important that the difference between the two alternatives is spelled out and, I think, I have picked up on that just in my extemporising there. But it is the difference between the exemption that is written into Law and an ordinance being brought to make part of the Law not apply to certain companies for a limited period of time.

So I will move on. The legal advice in the policy letter says this exemption, the one we are now looking at doing, is defined as permission for specified companies to do something not permitted by Law and without any conditions attached. It says that this transaction represents an acquisition that will create a dominant undertaking of 80% in the telecoms market. It says that the regulator has not examined this proposal and that there is no failure of the regulatory process, it is just that the regulator has not been asked. It says that the States has resolved that we should have a Competition Law enforced by a regulator and the States has also resolved that Guernsey should participate in free trade agreements, including commitments to fair competition.

It says that the States should carefully consider whether it believes that the benefits that the Committee thinks might arise through this suspension outweigh the States commitment to our rule of Law. Reading between the lines, the legal advice could perhaps neatly be summed up in one sentence as, are you sure you really want to do this? That is my interpretation, I hasten to add.

We would be suspending a Law to enable a private company to exit the market with the best possible price for its market share and we are creating a virtual monopoly in the process in exchange for Sure, potentially, doing a few things faster and that does not sit well with me. On the issue of market share, Deputy Inder said yesterday that in terms of competition, 'nothing at all will change'. How on earth can he say that a market going from 60%, 20%, 20% to 80%, 20% is no change if, and it remains if, an MVNO sets up it will take a long time to get to anywhere near 20%. Further, we were told yesterday that Airtel had spent 16 years –

Deputy Inder: I am sorry, a point of correction.

The Bailiff: Point of correction, Deputy Inder.

Deputy Inder: I know Deputy Burford has got no intention of supporting this and never has done, but I do object to misrepresenting what I said. What I said yesterday, I made no mention of the market share whatsoever, what I remember saying is that once this transaction is completed in a year or so's time, nothing will have changed in terms of providers of mobile services. I made no reference to market split whatsoever.

The Bailiff: Deputy Burford.

Deputy Burford: Thank you.

Well, I think market split is extremely important because that determines whether we have got a monopolistic situation or not. It might be clear by now that I will be voting against these Propositions (*Laughter*) and although I felt very uneasy from the outset about them, I am not making a decision based purely on a feeling of unease.

I have read and digested the policy letter, including the appendices, which is where the important information is and taken on board the changes since the original proposals. I have sought various clarifications from the Committee and from others and I am of the firm conclusion that the case to sidestep the normal process and temporarily sweep the Law under the carpet has not even begun to be made.

I would appeal to those Members of this Assembly who are champions and proponents of the free market as the way to bring the best prices and services to the consumer. Of course, even the most avid free marketeers have long understood that monopolies represent a market failure and for that reason, even libertarian Governments have sought to put in place measures to resist monopoly control of markets. We have such a control in the Competition Law and in the regulatory process set up by the States for that very purpose.

At this point I should say that I know the GCRA may well not be held in the highest regard by some in this Assembly. It is true that there is a level of antipathy towards the GCRA as an entity, or possibly even towards some of its employees. When I have asked people to be specific about what they view as failings, however, I have not always received particularly concrete objections.

But nevertheless, on the current matter, I am forming my view of the regulator's role, specifically on the contents of its letters in the appendices of this policy letter and after a thorough examination, I find nothing there to take issue with. The arguments set out by the regulator in those letters are careful, logical and well considered.

Even the Committee does not rebut them to any extent and I would strongly caution Members from throwing their weight behind this policy letter based purely on antipathy to the GCRA because in doing so you will also be throwing local consumers under the bus, both in the short term and in the longer term once the much vaunted three year protections vanish.

If Members do have concerns about the Island's regulatory regime or the Competition Law, the solution of a mature jurisdiction is to review and amend them openly and transparently as recently proposed by the Committee and not simply to ride roughshod over the Law to facilitate a private market deal.

In discussions with other Members about this policy letter, and in the debate, one defence I have repeatedly heard and which is made in the policy letter, is that we must approve this in order to ensure an orderly exit by Airtel and I want to address that argument head on. It obviously implies that if we do not approve it, there will be a disorderly exit but nothing could be further from the truth and in the presentation yesterday the CEO of Airtel himself said that he has a reputation to maintain and he would not exit the market in a disorderly way. He also has two way contracts with numerous Islanders that carry weight. So Airtel is not going to be here on the Monday and gone on the Tuesday, leaving thousands of customers with a useless phone and no Instagram and queues a mile long outside JT and Sure.

Deputy Inder: Point of correction, sir.

The Bailiff: Point of correction, Deputy Inder.

Deputy Inder: Yesterday, I was in the same meeting because I chaired it, what the CEO of Airtel actually said, he did not say he had a reputation to maintain, this was not about him, he was talking about the brand Airtel and Vodafone and that is distinctly different from saying that the Chief Executive Officer said he had. That is different.

The Bailiff: Deputy Burford.

Deputy Burford: Sir, I was talking about the CEO of Airtel in his role as a CEO and not as an individual, I think that was possibly quite clear. In any case, there will be a period of notice during which customers will be able to choose from the remaining two operators who, doubtless, will be falling over themselves to woo new customers and they will make competitive offers accordingly. That is how a market works. Nothing disorderly about that. Indeed, it would be better for the consumer, it would preserve free choice and it would let the free market do what it does best.

Reputationally, Airtel is not going to do a moonlight flit. They have waited two and a half years from their original announcement, after all. What is certain is that the argument of a disorderly exit

has no substantial basis and does not begin to justify the major step of sweeping this Law under the carpet. (**A Member:** Hear, hear.)

265 I now want to address the point made in the policy letter that the regulator cannot take into account 'wider jurisdiction benefits, economic, social and environmental'. So let us look at those benefits in turn. Firstly, economic. Once all the fluff and hyperbole is shaken out of the policy letter, the economic benefits amount to an investment in Guernsey of up to £17.3 million. Higher amounts include Channel Island wide investment as well as stuff already committed to and underway and
270 note the phrase 'up to', this theoretically includes everything from £0 to £17.3 million.

Secondly, any successful company in a fast paced environment, such as mobile telecoms, is going to have to invest regardless. Now on to social. Creating a virtual monopoly does not create a social benefit for consumers. Quite the contrary. Lastly, environmental. This hinges on fewer masts. While no one really likes masts they have been around for years now and we are used to them.
275 There is already a mast sharing requirement in any case and, moreover, technology is moving so fast that a point may well come in the future when masts are superseded anyway. Dismantling a few masks really does not amount to much of an environmental argument and most certainly not one on which to take the serious step for the benefit of private companies of sweeping the Law under the carpet.

280 Let us now look at what the policy letter is calling the remedies put forward by Sure to mitigate the potential risks of the acquisition. Remedy one is about reallocating spectrum. On this point the regulator says the following:

We would note that it is not within Sure's gift to cede spectrum to another operator and we do not see any release of spectrum, post-acquisition, as a meaningful commitment.

The most credible remedy is remedy two, the potential launch of the MVNO. Indeed, in its 2023 letter the regulator cited such a move, together with a commitment from Sure to set mobile roaming
285 rates at a more reasonable level, an area where Airtel has been particularly competitive, as being the kind of criteria they would wish to consider if approving the acquisition. Which begs the question, if these things are now on offer why not let the regulator handle this?

The policy letter says Sure will launch a credible MVNO and cites an intention from the Co-op but if, for any reason, the Co-op decides not to proceed – something hardly unprecedented – I
290 cannot see how Sure can force them. Any currently signed contracts must be subject to many things –

Deputy Kazantseva-Miller: Point of correction.

295 **The Bailiff:** Point of correction, Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: I am really sorry, sir, to have to interrupt but they have got a legally binding contract. The MVNO has to happen if this merger goes through and the Co-op, they have signed a contract subject to this merger; it is not an if and when or potentially, it is a legally binding
300 contract signed between two commercial parties. I think it is extremely important we really do not misrepresent (**A Member:** Hear, hear.) what is on the table.

Thank you.

The Bailiff: Deputy Burford.
305

Deputy Burford: It was stated yesterday, sir, that this contract is subject to various things and so, therefore, we cannot have any total certainty about this. But anyway, moving on, we then have remedies three, four, five and six, which are all elements of the same thing but perhaps they have been set out over four remedies to try and make them look more impressive.

310 They are generally all about what tariffs Sure will implement for customers of Airtel who, if on a contract, will have zero choice under this States' sanctioned deal but to move to Sure and, as one

might expect, Sure says it will honour the terms of their contract. Now this is no big deal for Sure, indeed, it is the very least that should be expected and we discovered yesterday that these basic tariffs are not even Airtel's best offers anymore.

315 Telecoms is a fast advancing market, deals get better and cheaper all the time. Fixing customers on data deals is not a hardship for Sure so these four commitments really cannot be seen to be anything of any significance and certainly no basis on which to take the serious step of sweeping the Law under the carpet.

320 Remedy seven is about the rollout of 5G. Interestingly, the details in remedy seven about 5G, and those in paragraph 4.15 about 5G, are at significant odds with each other. But that is the least of my worries with this policy letter. I am advised that it is the latter paragraph which is the correct one.

325 I do question the level of economic benefit claimed from an earlier rollout. From the Committee's point of view, I understand why they put numbers on such things, in this case a £2.7 million benefit to the economy because such numbers are, essentially, irrefutable. To put that figure in perspective, it is less than one tenth of 1% of GDP, hardly a sum to justify sweeping a Law under the carpet.

330 Finally, for this part, remedy eight says Sure will make its network comply with the incoming higher security specifications between six months and a year sooner than they might otherwise. There are national and international standards to which operators must adhere. The potential time concession by Sure is no reason to sweep the Law under the carpet.

335 So, that is what is on offer. With the exception of the MVNO commitment, all of these other remedies are simply things that should or will be done regardless, or a potential slight speeding up of things that they are going to do anyway. It really feels as though the Committee is desperately scratching around for justifications for its proposed actions and I suspect that is because it is. In the case of all these remedies I would say, again, what is the penalty on Sure if they do not materialise or do not materialise in the timeframe promised?

340 I asked this question of the Committee on Tuesday and the answer I received was that the States has no way of enforcing them. I was told the Committee is relying on two words in Proposition 3, where the States asks the regulator to, 'have regard to these conditions'. However, if instead we allowed this deal to go through the normal regulatory process, now that there is the potential of an MVNO which the regulator suggested in its 2023 reply, the regulator would be able to not only set but also enforce effective preconditions and I rather think it might extract more from Sure, whose keenness to make this acquisition is not in doubt, than the Committee has done.

345 Indeed, the policy letter tells us that these remedies are things that Sure has offered, rather than the things that the Committee has demanded. I doubt the regulator would soft pedal as much. The Committee states that the regulator does not take into account wider economic benefits for the Island, however, again, if one consults the appendix to the policy letter it is clear that the regulator has responded to such areas insofar as they have been used as a reason to let this deal go forward without the normal oversight and consumer protection that would normally be in place.

350 Their considered response at the time was that the considerable economic market and consumer risks, as an outcome of the acquisition proposed by the parties to this transaction, are yet to be matched by clear benefits that can be both objectively assessed and shown to be solely contingent on the acquisition proceeding. In other words, we will get most of these things anyway.

355 On the subject of consultation responses from the regulator, I question the Committee as to why we have letters from the GCRA in 2022 and 2023, but nothing in relation to this latest modified proposal in 2024. Over several emails I was assured that there had been dialogue with the regulator, but I was not offered access to any of it.

360 We are being asked to make an extremely significant and potentially reputationally damaging decision here and the Committee has not sought to provide us with the regulator's view on its latest proposals. I wonder why that is. Were they concerned that such views would undermine the supposed remedies in this policy letter, or maybe the Committee was confident of getting its policy letter through and felt it did not need to bother.

I did consider a sursis on this policy letter to await an analysis from the regulator, so that we could be fully informed before making such a significant decision, which does not in any way seem to have the interests of Bailiwick consumers at the forefront. But on balance, there is so much that is troubling me that I will simply vote against it.

Continuing on the theme of stuff we have not been allowed to see, the Committee employed its regular consultants, Frontier Economics, for their view. I asked to see that report, but was told that as it contains commercially sensitive information, it would not be published. The report was shared with the GCRA and I, therefore, have to rely on their reporting of it in the appendix together with the scant mentions in the policy letter. The regulator states:

it is apparent that Frontier Economics is not persuaded of the benefits from the undertakings offered.

In terms of the acquisition itself, what do we know? Well, we know that Sure is the likely highest bidder for Airtel's market share but we, as Deputies, certainly do not know that Sure were the only bidder. For all we know, JT made a lower bid and if that is the case then if Members approve this policy letter today, they will be taking the serious and exceptional step of suspending a Law to enable a departing company to leave the Island with a bigger cheque in its back pocket than otherwise and creating, what has been described by the regulator as a virtual monopoly in the process weakly mitigated by potential and unenforceable promises.

Now on to P&R's letter of comments. The Rules of Procedure provide for P&R to submit a letter of comment. Of course, there is no requirement or need for it to state how the Members of the Committee intend to vote but they have chosen to do that which, respectfully, rather negates the point of a debate if minds are made up in advance.

P&R say that this policy letter should be supported because it balances ensuring consumer protection with showing that Guernsey is open for business. But it does not ensure consumer protection for all the reasons I have outlined, indeed, it risks putting consumers in a monopolistic situation and I am unsure how sweeping a Law under the carpet in order to allow a business to shut up shop shows that Guernsey is open for business. Indeed, I would not want us to gain a reputation for being so open for business that if our Laws prove inconvenient we will simply suspend them for a while for selected companies.

So, in summary, I will not be supporting the suspension of the Law. I do not think suspending a relative part of the Law paints a favourable picture of our jurisdiction's commitment to good governance and, most importantly, I do not consider that it serves the consumer well, either Airtel customers or mobile customers generally.

In closing, I return to where I came in. The impressive and highly powered line-up at the presentation, the dogged attempts at finding a way around the Law, the refusal to let Deputies see the consultant's report, the failure to obtain and publish a response from the regulator to the latest proposals and the potential unenforceability and general weaknesses of the mitigating factors, all combined to convince me that the only option is to reject these proposals. We have a system for dealing with acquisitions in this market sector, let it do its job.

Thank you.

The Bailiff: Deputy Meerveld.

Deputy Meerveld: Thank you, sir.

I came into this debate minded to support the Committee's proposals but listening also to the objections and harbouring my own concerns. But last night I spent the whole evening thinking about this proposal and trying to step back and measure it by two yardsticks, one of which Deputy Murray mentioned earlier, pragmatism and practicality; and then viewing this and saying, right, I share concerns of Deputies, Deputy Gabriel yesterday and Deputy Burford just now, about how we are interfering in a regulatory mechanism that we have established. I shared Deputy Blin's concerns over potential monopolistic practices and how they may be exploited to price gouge our customers, members of our community and businesses and how those can be exploited. I share Deputy Dyke's

concerns about whether the assurances and guarantees that Sure have given for investments, etc. can be directly linked to and enforced as part of the deal going forward.

415 But having taken those yardsticks, practicality and pragmatism, measured them against this deal and the situation we find ourselves in, I am now strongly supporting the Committee's policy letter and I will explain why. The reality is Airtel is exiting the market; they told us this two and a half years ago. (*Interjection*) I have been a loyal and happy Airtel customer for a decade plus and I will be sorry to see them go, but I understand the commercial realities they operate under and that it is inevitable
420 they are going to go and I have heard nobody here argue that there is a business case for Airtel staying in this market or anybody other than the two other incumbent operators, JT and Sure, being the company that acquires it. There is no argument for a third party company having a good investment opportunity to buy into Airtel's 20% market share, so they are leaving.

In fact that departure could have precipitated a very different debate in this Assembly if we had
425 20% of the mobile phone users in this Island concerned about that key infrastructure, which their lives rely on, being removed and, potentially, a disorganised exit from the market and us trying to look at ways of supporting those individuals and trying to solve that problem.

But luckily, we are not in that situation. We are in a rather unique situation whereby we have one of the incumbents, yes the majority market shareholder, Sure, wish to buy out Airtel and they said
430 in return for allowing that deal to progress they are willing to invest tens of millions of pounds into our infrastructure and accelerate its implementation. (*Interjection*) So there is a tangible benefit.

Then you come to, okay, so why has this not gone through the normal regulatory process? Well, interestingly enough, we have a competition regulator. Now, I cannot tell you how many times, as a States' Deputy, I have been in working groups or Committees and said, 'Ahh well the practical,
435 pragmatic thing to do is this' and being told, well actually, our terms of reference, our mandate does not allow us to do that; and guess what, a competition regulator is not set up to approve a deal that would, effectively, hand a practical monopoly to one of the incumbents. It is actually set up to do exactly the opposite.

So I can see why there is a requirement to either use exemptions or a vehicle through the existing
440 Law, as Deputy Kazantseva-Miller mentioned, there are facilities to be able to go in there and say, let us suspend part of that and let this Assembly make a decision on the balance of probabilities.

So we are faced with Airtel leaving the market, us making a decision whether we want to allow a deal that is in place, that has very tangible benefits to the Island, to go through or whether we want to interfere or interject or allow the regulator, as it stands, to effectively block that deal in the
445 hope that JT might step up and buy it on pennies on the pound because if we block Sure, then I can guarantee that JT are not going to be paying a top dollar to buy that.

Also, what I can also guarantee from a business perspective is that, first of all, this deal has been on the table, we have been talking about it for two and a half years. We have delayed implementation of 5G by two and a half years because, as Sure, I would not invest in that
450 infrastructure until I know whether this, and I am looking at this purely from a business perspective – Sorry, I will not be giving way.

Deputy de Sausmarez: Point of correction, in that case.

455 **The Bailiff:** Point of correction, Deputy de Sausmarez.

Deputy de Sausmarez: It is factually not correct to say that this has delayed the implementation of 5G. As I mentioned in my speech yesterday, JT, the other provider beyond Sure and Airtel, has already, indeed, begun rolling out its 5G enabled network and has invested very significant sums of
460 money into that.

The Bailiff: Deputy Meerveld.

Deputy Meerveld: Okay then, let me try and rephrase that. I am sure it is delayed Sure's investment in the market because they are waiting to know whether this deal goes ahead (A Member: Hear, hear.) and if this deal is rejected then I am sure that they will wait, no pun intended, I believe that they will wait, again, for potentially another year or two to see how the dust settles and where the customers of Airtel eventually land before they make an investment decision or decide to commit the levels of capital. So, it is likely to further delay Sure's investment in our infrastructure.

So they are using a vehicle within the provisions of the Law to suspend the Law for a limited period to enable the transaction to go ahead. That is a judgement call that we have to make, whether or not this is in the best interest of the Island. But then that brings us back to okay, monopolies.

I do not like monopolies, they are open to abuse and that has to be a concern for everybody in this Assembly, that a monopolistic position and international courts generally recognise greater than 70% market share is a monopolistic position, and we are looking at 80% plus here for Sure after this deal, can be abused but we have got a regulator in place. (A Member: Hear, hear.)

The purpose of that regulator, they can step in and act as the competitor and actually control pricing in the marketplace, so if there is gouging there is a mechanism that we can rely on, that we already have in place as the States of Guernsey, that would control that going forward and, of course, this limited exemption is specifically for one deal for a few months and then we are back to the full Law as it was intended.

Both Deputy Falla and Deputy Burford harped on about free markets and how we should allow free markets and businesses to get on and do things and behave in the way they should. That is a bit ironic because this is not a free market. This policy letter is actually saying allow free market to act in a free market. If these were two banks instead of two telcos, this deal would have happened two and a half years ago.

We have seen considerable consolidation in our banking sector and we continue to see it but we do not step in as a Government and start debating in this Assembly. Guess what, it is not a regulated industry in that way; this is. We are interfering in a free market and this is actually, if you want a free market then actually agreeing with the Economic Development policy letter is the way to go. You are stepping out and allowing two companies who have agreed a deal. (A Member: Hear, hear.)

Again, Deputy Burford referred to us enabling Airtel to walk away with a bigger cheque and I can guarantee that if we do not approve this deal it will be a very small cheque that we will get from JT as the buyer of last resort; and it is absolutely right, they are walking away with a deal that they have agreed and they are happy with. Do not know what the deal is but, obviously, they support it.

That is a free market, that is the definition of a free market: two businesses agreeing a transaction and proceeding with it. Us turning down this policy letter is actually us interfering in a free market and preventing those businesses doing what they want to do. So what we have to ask ourselves at the end of the day is, there is a reality Airtel is leaving the market, it can be orderly or disorderly and we can argue all day about what it might look like if we turn the deal down, but the fact is there is a deal on the table.

Ironically, because this is a regulated market we have received assurances and guarantees from Sure that we would never get if two banks merged, that they would guarantee to improve and to invest, they may do that on their own business volition, on their own business plan, but we would not receive the guarantees and assurances which Sure has indicated will be linked to the licence arrangement. We would not have the recourse to go back through a regulator if they did not deliver that and say, enforce that.

So we are getting a better deal because it is a regulated industry. We have got something that has been presented to us where we have a company willing to invest tens of millions in key infrastructure for the Island, which we can neither afford to do nor do we have the expertise to do ourselves.

515 So when you analyse all of these things and look at it from a pragmatic and practical perspective, I cannot see how you reach any other conclusion than to say, yes, let the free market do its thing, let this deal go ahead with, at least, some assurance that it is a regulated industry, we do have a regulator there, that the negative aspects of a monopolistic position will not come back to bite us and our community. That is something we will have to watch and we will also have to watch that
520 Sure does meet its guarantees, but I just cannot see how blocking this deal, forcing Airtel to sell out to JT as buyer of last resort, pennies on the pound is going to help our reputation or help develop our industry.

Deputy Burford: Point of correction.

525 **The Bailiff:** Point of correction, Deputy Burford.

Deputy Burford: Can I just pick up on this because it is twice that Deputy Meerveld has said this now. The point is by voting against this we do not know that we will be blocking this deal for the simple reason that this latest deal, which includes the MVNO and other concessions, has not
530 even been put before the regulator. That has been made clear. So we do not know what the regulator would decide on this latest deal with its mitigations in place.

Thank you.

535 **The Bailiff:** Deputy Meerveld.

Deputy Meerveld: Yes, I do not necessarily think that is a valid point of correction because earlier I stated the mandate and the Law of the regulator does not enable them to turn around and approve a deal on this basis, it actually creates a monopoly, it goes directly against what they have
540 been instructed to look at and how they perform but it is a reaction.

The deal is, or what we are proposing today, is a practical and pragmatic solution (**A Member:** Hear, hear.) to a company exiting the market who have been telling us for two and a half years that they are on their way out and if we refuse this deal to today, I suspect that they will have to make their choices and they will leave. (**A Member:** Hear, hear.)

545 So I implore Members to support the policy letter, as is. I came into this minded to support it, but sharing the concern of Members; but having sat down and looked at it practically and pragmatically last night, at length, and played it all through in my mind I cannot see that there is a good choice, to jump into the unknown, reject the deal, block, effectively, Sure and Airtel doing the deal that they have commercially, in a free market environment, come to. I do not think we are in a
550 position whereby we want to take that decision because, again, we are introducing risk. We do not know what that rejection will do and, I think, the deal we have got on the table is good for Guernsey and we do have the protections built in the future that it will not be abused.

Thank you, sir.

555 **The Bailiff:** Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Sir, thank you.

It is been very useful to hear Members' concerns yesterday, and especially today, and I hope through this speech to be able to address them and to allay some of them. The decision today is
560 about enabling significant private investment into Guernsey securing our position as one of the most connected jurisdictions in the world within the next 18 months or blocking this investment which will lead, for sure, to worse outcomes.

This policy letter is all about the benefits to Guernsey, not Airtel or Sure, and this will accrue by allowing us to use this exemption rule. (**A Member:** Hear, hear.) Just to really bust the myth we are
565 somehow bypassing the Law, sweeping it under the carpet, the Competition Law has various enabling provisions through which an exemption route could be followed and we have chosen this

legal route available under Clauses 1 and 5 of the Competition Enabling Provisions Law 2009 to enact exemptions ordinances. I really want to draw Members' attention to that enabling Law because it is absolutely critical to show Deputies that we, absolutely, have those tools in the box to follow the legal provisions to act in the interest of the public.

The Competition (Enabling Provisions) (Guernsey) Law, 2009 says that the States have the:

Power to enact Ordinances in relation to competition.

1. The States may by Ordinance make such provision as they think fit in relation to ... (c) the merger and acquisition of undertakings.

In Clause 5 it further goes to specify that:

Specific matters for which Ordinances may make provision.

5. An Ordinance under section 1 may, without limitation, make provision in relation to the following matters – ... (b) exceptions, exemptions, derogations from any such prohibition, restriction or regulation ...

– on the grounds of whether it is –

- (i) in the public interest,
- (ii) as a matter of public policy,
- (iii) for the benefit of consumers ... [or it is]
- (iv) on social, community, economic and other grounds,

Just to repeat to Members, to allay those concerns that we are somehow bypassing the Law, these tools are absolutely within the Law for us to act if we think there are benefits to be accrued to the public and this is the core of this policy letter. (**A Member:** Hear, hear.) We have to use the exemption route because, at face value, the GCRA, acting under the Competition Law framework, would struggle with this merger if it was looking purely at competition grounds. On face value the market size of Sure may go up to 80%. So, purely on competition grounds, that may be problematic.

But as a reminder, it was the GCRA that originally suggested that we use the section 14.13 under the Competition Ordinance and since then we have also discovered we have got a number of routes through which to act; and they thought it was important that the Committee considers this case because of the implications of public interest and public policy grounds arising from this potential transaction. This is a really unique situation because it is, absolutely, for the first time since the Competition Law came into effect, because we are talking about a unique market and there are few markets like that remaining because the rest are owned by the States.

Talk about electricity, the water market, the provision of harbour and port infrastructure, we pretty much dominate all the other markets where such oligopolistic situations arise where a market can only support a couple of players because of the extent of capital investment required and we have got the subscale market. It is exactly the points that Deputy Murray was making. Obviously we used to own Guernsey Telecom, we sold it, so we now have to deal with what we have got.

So we have got, right now, I would say, double standards. We have limited or no competition regulation in those markets where the States has, effectively, a monopoly. (*Interjection*) Back to mooring fees, the harbour is not subject to competition regulation. Deputy Roffey brought forward a policy letter to take tariff regulation in-house away from the regulator. In fact, we have put regulatory barriers preventing competition, for example, to establish secondary –

Deputy Roffey: Point of correction.

The Bailiff: Point of correction, Deputy Roffey.

Deputy Roffey: I think it is important that people understand that GEL is absolutely still subject to the Competition Law. Price regulation and the Competition Law are two totally different things.

The Bailiff: Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Sir, we have established, in places, regulatory barriers preventing competitors from entering markets such as the inability to establish a secondary infrastructure grid, such as the electricity grid. So this is absolutely a unique situation with very high levels of capital investment and innovation required and as we heard from the CEO of Airtel, increasingly the technology cycle is shortening. So the investment that is currently required to upgrade the networks, you have got a much shorter period through which to make money on that term of investment.

He also gave examples of how the tiny size of our jurisdiction simply cannot maintain more than two network providers and we saw useful comparisons to significantly larger markets where you have got two players and multi-million markets where you have got three players. It was accepted, we certainly found that there was acceptance by most Deputies in the room yesterday when we had the briefing from Sure and Airtel to Deputies, Deputy Burford, Deputy de Sausmarez, Deputy St Pier that consolidation in the market was necessary.

So, if the need for consolidation is accepted – that is certainly what it seemed like – then what Deputies need to determine today is whether there would be more benefits accrued to Guernsey, I repeat to Guernsey, by enabling this merger to go ahead or by blocking it. That is the binary decision through which the Assembly should review this exemption route.

So will it bring more benefits to Guernsey? I hope by reiterating the points that have been already mentioned the resounding answer is, yes, but I want to go, in detail, through the benefits that will, through legally binding conditions that will be attached to the licence of Sure, not if and when and possibly, this will be legally binding remedies and commitments that will be attached to their licence condition.

First, security and certainty that existing plans and tariffs for Airtel customers will stay for up to three years. A seamless transition for Airtel customers who do want to stay after their contracts expire instead of what would happen is that they will have to find a new operator with new tariffs and plans. Commitment to build a new 5G network within 18 months; 18 months from the end of this exemption period is 2026. New network with no high risk vendors ahead of any UK deadlines and in Guernsey, we do not even have right now regulation with HRVs, a new network that is more efficient because of the merger with the existing mast infrastructure, so there will not need to be any further need to build masts.

Being on Planning, we know how contentious masts are, so we are ensuring more efficient infrastructure in Guernsey and not proliferation of masts that we do not need and one which is probably the one of the most critical ones, is the launch of the virtual operator, the MVNO, which has been established to be the Co-op within 12 months of the merger going ahead.

Again, I want to reiterate that it is not a maybe, it is not could it happen or not, this is a legally binding contract that has been signed by these two commercial parties that is guaranteed to bring a provider into the market. I do want to clarify something that, effectively, the Co-op will not be a network operator, they will not be building out their own cables and putting in masts which will go against that sustainability principle of maintaining just two providers, JT and Sure, they will work on top of Sure's infrastructure.

So it would be a completely different business model through which a competitor will come in, which is going to be more sustainable for all parties because they will not have to incur the massive cost base of building out their own infrastructure. So those are not all the remedies that I have specified.

So, if the deal goes ahead, it will represent an immediate injection of up to £35 million across the Channel Islands because, again, the benefits of this transaction is not just Guernsey, it is about for Sure to have the combined deal across both islands. So, let us follow the counterfactual line of thought which some Deputies were developing. The counterfactual is, what would happen if this deal does not occur and the arguments presented were that the investment and all the benefits would, somehow, magically accrue anyway.

Why? Why do you think that is the case? It is simply not the case because by this logic, if we just thought all of these new technologies, all that new investment, all the investment that companies should be investing in Guernsey should happen, well I want to ask Deputy Burford or Deputy de Sausmarez why have we not got fibre infrastructure previously without the States coming in to co-invest with a commercial partner by injecting £12.5 million of taxpayer funding to accelerate this deployment, this universal fibre rollout would not have happened?

It is exactly the same question for thinking that, magically we will have 5G at some point, because at some point it will happen. There is absolutely no guarantee that it will happen because businesses make decisions based on having a business case.

I give way to Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, yes. It has been made quite clear to us all the way through and, in fact, was reiterated yesterday that the rollout of 5G will, of course, happen not least because the providers, including Sure, are under a legal obligation to put in a new network so that they do not have any high risk vendors in that network.

So it will happen, it was made quite clear to us it is just a question of timing. The whole business case is predicated on the fact that this transaction enables a larger market share for Sure, which then gives them greater commercial confidence. So it really is an issue of quantum of investment and timing. So it is when rather than if.

Deputy Kazantseva-Miller: Well, I do want to correct Deputy de Sausmarez because actually high risk vendor legislation does not exist in Guernsey. So right now, Sure and no other telco, is under any obligation to update the network. Yes, potentially, 5G will come but the question is about how quickly it will come in, how big the coverage will be and this goes back to the case of business investment.

The reason the fibre programme worked out is because the States was putting in the additional funding to make the business case for Sure to upgrade the network by 2026 and it is going to be exactly the same situation where most likely – I am not giving away sorry Deputy de Sausmarez – where the States will have to come in, at some point, to guarantee quicker and faster rollout. All for what, this uncertainty, while we could have that through legally binding commitments within 18 months, 2026.

So, as I said, there is absolutely no guarantee that 5G investment will come within the scale and coverage that currently we could get through this deal. There will be no guaranteed security and transition for Airtel customers so, for example, customers on the basic tariff currently paying £9.99, so that tariff is still absolutely in existence, I know Deputy Falla could not find it through the chatbot but we are being told that it is absolutely available, it is just the chatbot is not configured to look into tariffs. If customers on the cheapest tariff wanted to go to Sure and JT the cheapest tariff would be £14.99. So there will be an immediate price increase if this deal does not go through.

But one of the most important reasons why this merger will be beneficial to customers, which is the absolute core consideration Deputies absolutely should be making, is that if the merger does not go ahead there will be no MVNO, no mobile virtual network operator, no Co-op. This is absolutely key. So instead of guaranteeing to have three players within 12 months – I repeat, guaranteeing through legally binding conditions to the license of Sure that you will have three players – instead you will be going down to two players, less competition.

So if you block this transaction, there will be less competition, there will be less choice, there will be less investment, there will be worse national critical infrastructure. That is simply a fact. The MVNO deal, as I have said again, has been signed between the Sure Co-op and it is subject to the merger going ahead. It is a binding commercial agreement. No merger, no MVNO. (**A Member:** Well said.)

So I do want to make a note to say that while Sure's business case is based on the assumption that they will be able to keep, hopefully, a substantial number of Airtel customers but there is absolutely no guarantee that their market share will be at 80% because they will have to work very

hard to ensure they keep their Airtel customers happy because if not, they will just go somewhere else.

So we could be in a situation where if Sure is actually being outcompeted by the Co-op and JT because they might have duly quite aggressive customer acquisition strategies they may not be able to secure the market share they hope to. But they will still have those legally binding conditions attached to their licence that they still have to make happen: the 5G rollout, ensuring the basic tariffs, launching a new network with no high risk vendors, all of those things will still be in place.

So in summary, we will effectively have a win-win situation for all. When we launched the digital framework earlier this political term and secured the fibre rollout programme, we had three key pillars of the Digital Framework. Pillar one was all about the infrastructure investment required. Pillar two, skills. Pillar three innovation and entrepreneurship.

We were not predicted to be able to achieve universal 5G rollout on a new network with no high vendors by 2026, that was not on the agenda. So, if we help secure this merger we would achieve beyond our expectations, way in advance, in terms of when it would happen, an absolutely key pillar of the Digital Framework. And the best part of it, Members, with zero – I repeat zero – taxpayer funding!

I am sure I do not have to remind Members of the years and decades of underinvestment in infrastructure we have had through our trading assets, through our schools, through our hospitals, etc. So this represents a huge opportunity of investment for Guernsey and I really worry about the cavalier attitude of some Deputies in terms of actually appreciating that investment, private investment of zero taxpayer funding investment, into making us one of the most competitive and digitally technologically enabled islands of the world.

I do not take that for granted. I thank them and other businesses on the Island who continue to want to invest in this Island when we are failing to do so. So any Deputy who has stood here and said they were pro-economic growth, pro-investment for business, such as Deputy Falla and others, there is only one correct answer to this policy letter today and it is to go ahead with it, because there are no better positive benefits to not making it happen.

Please, Deputies, make the right decisions today. This is not a joke, this is actually quite serious. In your choice today you have got the opportunity to catapult Guernsey ahead of pretty much I would say Jersey, probably for the first time in a long period of time, for us to be by 2026 one of the most connected – and I am not saying this lightly, I mean one of the most connected – literally, jurisdictions globally with no risk new networks, future proofing our economic prosperity for years to come. Or you can just let it go because something else might come up. So I hope the choice is very stark and clear in terms of the responsibility you have got for ensuring and enabling economic investment, private sector investment into the future of the Bailiwick.

Thank you.

The Bailiff: Deputy Le Tocq, would you like to be relevé?

Deputy Le Tocq: Thank you, sir.

The Bailiff: Deputy St Pier ... Oh, Deputy St Pier.

Deputy St Pier: Sorry, Deputy Soulsby, Presiding Officer's word is final. *(Laughter)*

I think everybody has accepted that the market size in Guernsey is sufficiently small to sustain three mobile network operators, that case has been made and the debate really is how we get from three to two.

It seems to me that there are four alternatives. We, first of all, just let the GCRA do their thing. Now that seems to be off the table because they seem to have indicated that they are unlikely to approve the transaction hence their suggestion of using section 14.1. So, that is the second option, using section 14.1 and I will come back to that because that is the principal issue of concern for me around this policy letter. The third is to use this particular route that is in front of us today. Or the

fourth route is to simply do nothing and leave market forces to reorder the market as and when Airtel give notice to withdraw.

770 **Deputy Burford:** Sir, point of correction.

The Bailiff: Point of correction, Deputy Burford.

775 **Deputy Burford:** Sorry, I do apologise, but I think it is really important to note on Deputy St Pier's point one is, and the Committee have confirmed this indeed in the meeting yesterday, that the regulator has not been asked for its opinion on the latest version which includes an MVNO and that MVNO is a substantial departure from previous proposals. So we do not know whether or not the regulator would approve it.

Thank you.

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The Bailiff: Deputy St Pier.

Deputy St Pier: Thank you.

785 I do accept that the regulator does not appear to have been consulted on these particular set of proposals, or at least it is not apparent from the policy letter. The other theme of my speech, obviously looking to pick up perhaps slightly different points to those made by others, is I think there has been, what I would term, quite a lot of loose or sloppy talk, some of which is in the policy letter and some of which is in the debate around this.

790 So we have been told there are two gateways and that is what we were told yesterday: section 14.1 and this one. I think we need to be very clear that the one that is in front of us today does not currently exist. We are creating that new temporary gateway using the Enabling Law, exactly as Deputy Kazantseva-Miller has set out. But I would contend that those broader exemptions, the section 5 of the 2009 Law, was intended to provide broader exemptions not narrow transaction specific exemptions. The 2009 Law does not refer to individual transactions.

795 Now, that does not mean it cannot be used in the way that it is being used. Indeed, if it could not be the Law Officers would have advised that and we would not have it in front of us today, we would have something else that sought to enable this transaction. So the 2009 Law is being used but it is being used to create a new gateway. It is not a gateway that currently exists without that decision. So I think it is just that use of the term two gateways I would contend is slightly sloppy.

800 The other issue I want to come back to is this whole question of section ... No, perhaps I will return to that in a moment. So there is been a lot of talk about, well, there are legally binding conditions attached to this and, again, we heard that language yesterday. But let us be very clear and paragraph 1.15 of this letter makes it very clear that these commitments are recorded as draft licensing conditions and Proposition 3 is to direct the GCRA to have regard to these conditions in considering any licence amendments.

805 So they are not legally binding, not today, and they will not be even if the Propositions succeed. It will then be out of our hands and it will become a bilateral matter for the GCRA and Sure to, in accordance with all the other processes around the regulation of telecoms, to insert those conditions into the licence. So it is, again, sloppy to describe them as legally binding, they are not. 810 The policy letter is right, they are merely, at this stage, draft.

We have also been told, Deputy Kazantseva-Miller again, referred to the Co-op deal as being legally binding. Indeed, the policy letter makes it clear that that agreement has been signed earlier this year but it is conditional on a licence being granted by the GCRA. So, once again, it is not technically correct to refer to it as legally binding. It is conditional upon something, not only this exemption being granted today and the deal going through, but also a second condition is the granting of a licence. So, sloppy – 815

Deputy Kazantseva-Miller: Point of correction.

The Bailiff: Point of correction, Deputy Kazantseva-Millar.

Deputy Kazantseva-Miller: I do not believe we are expecting the GCRA to grant a licence. They will modify the existing licence based on the direction that will be given by the States of Deliberation. But I do not believe we are expecting an additional licence for the merger will be given.

The Bailiff: No, that is not the effect of Proposition 3. The effect of Proposition 3, as it is currently drafted, is not to give a direction in accordance with section 2 of the proposed time limited exemption. That is correct, isn't it, Mr Comptroller? There is nothing saying that it is a direction, whereas the draft ordinance says that there will be a direction. Or there can be a direction.

Mr Comptroller: Yes, the draft ordinance says that the States may, by Resolution, direct. But the Resolution is slightly different.

The Bailiff: Proposition 3 is not a direction, it is saying to have regard to it.

Mr Comptroller: Yes.

The Bailiff: If they wanted it to be a direction it would have to explicitly say direction.

Mr Comptroller: Yes.

The Bailiff: The reason I make that point, Deputy Kazantseva-Miller, is that that is not the effect of the Propositions as I read them. Deputy St Pier to continue, please.

Deputy St Pier: Thank you, sir.

What I was actually referring to in the connection with the MVNO with the Co-op was page 26 of the policy letter in Appendix 1, 'the Co-op will require a licence from the GCRA before it can offer services'. The point I was seeking to make is the agreement signed between whoever it has been signed between, Sure and the Co-op in February, is not legally binding until that licence is granted.

So Deputy Kazantseva-Miller has made much play of the benefits to Guernsey and I think that, again, the policy letter does seek to do that quite well, explaining the wider benefits. But actually, I think, we also should be focusing on the benefits to consumers and there is an argument and, I think, it is incumbent on us in this debate to look at those arguments, as to whether actually it would be better for consumers and the market if Sure and JT were to compete for Airtel's customers.

Airtel's customers, if this deal goes through, will be bound into their existing contracts, they will not be able to take advantage of any JT aggressive competition, as was suggested by Deputy Kazantseva-Miller, until the end of their contract at which time they would have an opportunity to move. Of course, as anyone who has been involved in mergers and acquisitions knows, they are always, or they can often be disruptive for the business and for the business's customers and consumers and that can cause disruption. So the concept of a perfect, orderly exit and transfer of all customers to Sure, again, I think is perhaps not recognising some of the realities of mergers and acquisitions.

Deputy Kazantseva-Miller also said that there is zero taxpayer funding. That is true in relation to this transaction and the matters before us today but included within all the benefits described in this policy letter, of course, are the benefits of the Island being fibered up which, of course, is subject to millions of pounds of taxpayer funding and we should not forget that that is very much part of the benefits to the Island that Deputy Kazantseva-Miller described.

As I said, I think my focus really is on seeking to understand why we have not used section 14.1. I think it is probably worth just spending a moment actually examining what that section says so that we can, hopefully, get an explanation from someone before the debate is over as to why it is not suitable.

Exemption by Department, obviously, that referred to the previous departmental system of Government, on grounds of public policy.

The Department may, after consulting the authority as to the terms and conditions of the exemption when it considers it necessary or expedient to do so, exempt a merger or acquisition. Subsection 2, the States shall not, by Resolution, specify a merger or acquisition for the purposes of subsection 1, unless satisfied that there are exceptional and compelling reasons of public policy making it desirable to do so.

So, that is what the Law says. Paragraph 2.6 of the policy letter says:

In practical terms this would mean that the Committee would first have to put a policy letter to the States ...

– well we have got that here today, so they could have done that –

... making the case for an exemption on the basis of exceptional and compelling reasons of public policy ...

875 Arguably, that is what this policy letter is seeking to do,

... and subject to the States making such a Resolution ...

– which, again, we are being asked to make Resolutions today –

... the Committee would then consult with the GCRA on the same and publish the advice and the Committee must then publish its reasons. In order to simplify this process, the Committee has chosen to first consult with the GCRA.

880 So that seems to be the only explanation as to why we have gone this route. It is just a little bit easier to do it in one step rather than in two. But, again, slightly sloppy language: the Committee has chosen to first consult with the GCRA but it has not chosen to consult on this deal, or if it has we have not seen that advice appended because we have only seen the advice appended from the GCRA on the previous deal.

Paragraph 2.7:

Accordingly, appended to this paper are the GCRA's reviews ... [and] it can be seen that the GCRA is not persuaded that, from a competition perspective, there are exceptional or compelling reasons of public policy ...

Fine, so far so good, but also, so what? It is not a GCRA decision.

885 Under the Law it is a Department decision subject to a Resolution of the States. So I do not understand why the Committee has not gone, 'Thank you very much, GCRA, we do not happen to agree with you, we think there are exceptional and compelling reasons and we are going to go to the States with a proposal under section 14.1, you can tell us what you think formally after that and we will move on from there.'

890 It is that which I still am struggling to understand why we have bypassed that. It may come in the next paragraph, paragraph 3.1 of the policy letter, where we are told that:

... the Committee considers that there are ...

– now we are using new language here –

... broader reasons of public policy that go beyond pure competition considerations.

895 Now my question is, have the Committee been advised that these broader reasons are not exceptional and compelling within the Law? If the answer is yes, in other words, if they have been told that the reasons are not exceptional and compelling then, I think, there is a case for having gone towards the route that we are now being presented with, i.e. what I described as the third option when I opened my speech.

Deputy Kazantseva-Miller: I thank Deputy St Pier for giving way.

I can absolutely confirm that we have never been given advice that there are no exceptional reasons; it is a Committee decision, ultimately, so we have never been advised otherwise.

Thank you, I hope that helps.

Deputy St Pier: I will give way again.

Deputy Inder: Thank you, Deputy St Pier, for giving way.

I knew I had to do it now because Deputy St Pier is very technical and I really did not want to miss anything he said. I think, if I can think back, I think you have got to accept sometimes that our Committee is not evil, this came to us via officers and none of this was actually in our manifesto.

When we took the advice over 14.1 initially, the exceptional and compelling generally felt like too high a bar, almost an emergency and I do not think the Committee wanted to abuse that position or come to the States and say that it was exceptional and compelling, whereas the broader reasons seemed a more reasonable argument for the States.

So I think that was a judgement call by four Members of the Committee. We did not want to abuse that exceptional and compelling because the bar was too high and we thought there were broader reasons and this is why we are here today and I think that is as good a response as I can give.

Thank you for giving way.

Deputy St Pier: Thank you, Deputy Inder and Deputy Kazantseva-Miller, for those interventions because I think it is really helpful for the States to have heard that and to understand that because, indeed, I was going to say if you had not been advised that there were not exceptional and compelling reasons, or the broader reasons were not exceptionally compelling, then we would have gone this route. But you are explaining that, actually, you do not feel that that bar had been met, but it is not as if you have had definitive advice that that bar has not been met.

So that is interesting. I have to say, for me, it would seem to me the obvious route would be to use the route that was provided for in the Law, rather than creating a further gateway. I will simply make a further point in relation to the question of disorderly exit. Now disorderly exit is not a term that is used in the policy letter, thankfully; however, it has been one that is been used around the debate subsequent to its publication and I guess that is because the language of the policy letter talks about an orderly exit by doing this deal with Sure and, therefore, the supposition is that if you do not go that route then the alternative is disorderly.

However, and I think others have made this point, that actually Airtel, of course, or Airtel-Vodafone, do have a good commercial reasons for not simply walking away from their customer base. They may not wish to continue to invest in their mobile network for obvious reasons, if they are intending to exit, but that does not mean they are going to abandon their cash positive income stream and it is in their interest to ensure the orderly transfer of their client and customer base to new operators.

Indeed, there are, of course, licence conditions that they cannot simply walk away as well and, indeed, Economic Development's Director of Business & Economy, in an email copied into the President, said yesterday, I believe these do require a period of time to enable a clean exit of the market. Indeed, at yesterday's meeting it was indicated that the licence condition could be a three-year exit period. So, I think we need to, again in the interest of avoiding loose language around this topic, dispel the myth of a disorderly exit, it is not appropriate to use that term.

I think the final point I wish to make is to understand what the consequences are of the Assembly rejecting the Proposition and this, sir, was the question that I was going to ask His Majesty's Comptroller to reflect on overnight and he has kindly done so and emailed me back and, no doubt, will confirm it to States' Members. But I put it that actually, of course, section 14.1, the other gateway, the only gateway that currently exists, would still be available to the Committee and to approve this transaction and, indeed, the Comptroller has confirmed that that is the case. If I just, perhaps, quote him correctly:

I will confirm that Sure can ask the Committee to consider using section 1 again but I think I need to point out the difficulty of using the section 14.1 route, given the reservations for the Committee set out in the policy letter.

And Members can read that for themselves in paragraphs 2.5 to 3.2, which is what I have quoted from extensively already.

955 So the purpose of this speech is really just to tighten up some of the language around this in a technical way that Deputy Inder has said. Where am I on this policy letter at the moment? I absolutely, as Deputy Murray has said, think we do need to focus on the outcome. I just remain deeply, deeply uncomfortable by the routes that we have chosen and would so much have preferred for the Committee to have used the existing gateway that they already had within the Law.

960 So I am struggling with that and if other Members can help persuade me that this particular route is the right route ... but at the moment (*Laughter*) I am inclining towards abstaining rather than anything else, because of my level of discomfort for us not going the section 14.1 route which I think was perfectly achievable.

I will give way to Deputy Blin.

Deputy Blin: I thank Deputy St Pier for giving way.

965 With what he was saying in that sort of troubled moment of the decision, we know what is good for Guernsey plc and I just wanted the opportunity to actually almost add to that, to refer back to the strong speech of Deputy Kazantseva-Miller, where she was saying this is not a joke, this is serious, we have to do this, it is all the benefits. (*Interjection*) So, on that basis, I wanted to add something for Deputy St Pier, but also for Deputy Kazantseva-Miller; it was the point I did not actually do yesterday when I was doing my part, which was about one aspect to bear in mind, it is the wholesale roaming cost.

970 So this is a significant concern and it could harm ... and I am going to mention this specifically because it could harm the tourism sector, because at present three operators means that the overseas operators have substantial negotiating power when it comes to agreeing reciprocal roaming agreements and the overseas operators with net roaming onto local network, i.e. countries with tourists visiting Guernsey, they have that interest in getting the lowest possible unit price and this is reflected in those roaming rates of the 60%, etc. lower than EU wholesale.

975 Now once we do this merger it is going to cut that down significantly and it can lead to higher prices. Now, to be fair, I am going to also add the comments that were shared by –

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The Bailiff: Is this a speech?

Deputy Blin: It is a giveaway

985 **The Bailiff:** Get to the point.

Deputy Blin: Well okay, it is just I am adding that because we are at the point of where we are concerned about what it is. I am referring to, I fully agree with Deputy St Pier on this, but I wanted to strengthen the point that this is something else. The decisions, we know what is right for Guernsey but by doing what we are doing we are also creating other potential marketing damage.

990 I thank Deputy St Pier for giving way.

Deputy St Pier: No, thank you.

995 So my final point, really, was it was put to me yesterday and I think, in essence, this was Deputy Murray's point, if you are seeking to focus on the outcome to get to a particular place then you should not really worry too much about how we get there and that is the bit which I am struggling with and trying to articulate why I am concerned about not using the section 14.1 route.

1000 I think it is easy to dismiss the international trade issues because, well, that agreement has not yet come in place so we are sneaking in under the line. It is just not a good look that we are choosing to go this particular route when we have had a perfectly acceptable alternative already embedded

in the Law that the Committee has consciously chosen not to use because it believed that a gut instinct, based on what Deputy Inder has said, that there were not exceptional and compelling public policy reasons.

The case in the policy letter is all built around the public policy need for this. So I cannot quite reconcile in my mind why they could not get comfortable under section 14.1. So I am hoping that, as I said, that will be addressed by any others who speak on this, perhaps Deputy Ferbrache can throw some of his legal expertise and light on it for my benefit or, indeed, anybody else who is left to speak, sir.

Thank you.

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Thank you, sir.

I think fellow Members of P&R would agree that I have been, probably, the most sceptical about this policy letter on the Committee. I struggle with the matter and I totally understand the position of those who have spoken against it or actually feel they do not quite know how to vote. This feeling of, is there something we do not know about? Why should we be supporting this business when we do nothing for others? What are we missing?

I do think the policy letter could have made more of the benefits to the Island, justifying the exception we are being asked to accept. I have been, genuinely, undecided how to vote on this matter until this debate. But there are two things that have made me decide to vote the way I will and those are Deputy Le Tissier's speech and at the other extreme, what I heard when at the Labour Party conference earlier this week.

Starting with Deputy Le Tissier. Now, I might have heard this wrong but I am sure he said something along the lines of, how are the workers' rights protected by this deal? Is there any guarantee they will keep their jobs? My goodness, I never saw Deputy Le Tissier as a standard bearer of workers' rights (*Laughter*) but then I never saw Deputy Queripel holding a torch for market forces either, (*Laughter*) certainly after his speech promoting above inflation increases in the minimum wage a couple of weeks ago.

But, honestly, this idea that everything will be okay anyway, that hey Sure have the money and if they want to stay here when they are obviously making money and will need to invest anyway, why should we help them? It does not stand scrutiny, well not if you care about where the Island is headed and I mean now.

Let us take the workers first and, actually, from a personal point of view this really matters to me probably above everything else. We can scupper this deal today we have, as Little Mix would say, the *Power*. (*Laughter*) But really, saying no today will create huge uncertainty among the Airtel workforce. I suspect they will look for jobs elsewhere in our market and will get them. Airtel will not be able to service its customers. Customers are left in limbo with contracts that cannot be properly serviced.

Whilst Airtel might want to maintain the reputation, whether there is an orderly withdrawal or not, they may have that ability taken away from them and just have to leave anyway. The workers who are left will be made redundant and need to look for jobs. So I am sorry but I do have to disagree with Deputy Burford and given I had the opportunity to hear from Deputy St Pier, him too. What might make sense on paper will fail in the real world.

Far from the deal making matters worse for workers, as Deputy Le Tissier seems to think it will, the opposite is the case. It will give them job certainty as well as providing an opportunity for more jobs on Island and this leads me to my experience at the Labour Party conference. It was very obvious that Labour was shedding its old Corbyn garb and have, over the last few years, been courting business. There is a reason for that, it is only through listening to industry and an understanding that Government has a role to play in supporting it, will there be real economic growth (**A Member:** Hear, hear.) and that is what we are seeing here. Government is being asked

to support business, but with that will come accelerated investment that will boost our economy.
(A Member: Hear, hear!)

Members, only yesterday the President told you what a parlous state our finances are in.
1055 (Interjection) We cannot continue as we are, (Interjection) we do not have the luxury of voting against something that just does not feel right, (Interjection) that we should not intervene. Let us face it Government has not intervened enough over the last decade, nowhere more so than when it comes to housing and I know from being on the wrong end of that battle and now trying very hard to say, I told you so. We need to take risks and Government needs to be an enabler, not a blocker.

1060 A vibe, I have felt is that we do not want to help these guys make more money, they are going to have to invest anyway. Well, of course, it is very likely that Sure will need to invest as technology advances. I do not disagree, but how quickly they invest is another matter (Interjection) and the longer we wait the more we will fall behind our competitors. It was 10 years ago when I was on Commerce & Employment when we were talking about 5G, we are still talking about it, it is not
1065 rolled out across the Island yet and now there is 6G that has come along.

The model that this policy letter will enable is simple, Sure acquire Airtel. They acquire a workforce that has only had to think about the change in branding on their shirts, rather than having to write a CV and hope they get a job as good as they have now. So productivity should be maintained. They acquire a lot of new customers, which means they have an increased income
1070 stream that enables them to invest faster than if they were in a bunfight with JT, who, let us not forget, are owned by the Government of Jersey.

Profits increase and because it is a regulated entity, the States gets more much needed income to support our health and care services and invest in affordable housing. I will not give away. Deputy de Lisle spoke about how he had always wanted to bring in the Competition Law; well I was on
1075 Commerce & Employment with him in my first term and he will be aware that I have never been a fan. It is, just like our planning system, something we brought in from the UK and I am yet to be convinced it has made much of a positive difference to local people.

You may ask why we only have one competition regulator, surely we need two to ensure the consumer is best served. But that aside, when it comes to competition Deputy Burford says, we are
1080 going from 60%, 20%, 20% to 80%, 20%. Well it is not going to be, necessarily, the case with the MVNO, of course, but even if it was true that is what we have now with broadband, which is regulated to ensure that there is no abuse of market dominance.

Now, I do agree Deputy Burford and Deputy St Pier make good technical points although none, I would suggest, give any reason why this policy letter should not be supported. A big focus on the
1085 technical, but little on the bigger picture. It is obvious we need to support this policy letter and it goes beyond the narrow Propositions set out and here I declare an interest. Like Deputy Meerveld I have been a happy Airtel customer for a long time. Great service and I am sorry they need to leave but it has always been obvious the market could not sustain three providers. We are, as Deputy Murray likes to say, subscale. Perfect competition is very difficult in our tiny market.

1090 Sir, the technology world is fast moving and I do not mean over years, but months and in some cases weeks. The future is digital and if we are to diversify our economy and, indeed, sustain our finance industry we need to do all we can, as a Government, to keep up with the fast paced innovation. We do not have time to pontificate and wait a year for the regulator to say yes, let alone block it completely.

1095 Far from our reputation being damaged by supporting this policy letter, and I would question how a Committee responsible for developing the economy would ever even contemplate bringing anything that would do that, our reputation would be enhanced. Supporting this policy letter shows we are open for business, it is a win-win, that is why I will support this policy letter and urge Members to do so too.

1100 **The Bailiff:** Deputy Parkinson.

Deputy Parkinson: Thank you, sir.

The debate I wish we were having would be one about the proper role of competition regulation in Guernsey and the regime that was suitable to the needs of the Island. Too often Guernsey is trying to apply solutions that have been imported from larger jurisdictions and which simply are not appropriate in our smaller markets. As Deputy Murray has said, we are subscale and in Guernsey very often there is only room for one player in the market.

I cannot remember who said it, I think Deputy Burford said, that monopoly is evidence of market failure and I just do not agree with that. I think in Guernsey monopoly is very often the only practical solution and sometimes those monopolies are owned by the States of Guernsey and I am involved with some of them.

So we have had a difficult history, I think, over the last 10 years or more of life with the GCRA because, frankly, they seem to have tried to import control systems and so on, which are just inappropriate and we need to think very carefully about, well what is appropriate for Guernsey? One cannot help feeling that this whole debate has come about because Economic Development are worried that the GCRA will simply take the view that more competition is good and less competition is bad and, therefore, put some kind of spanner in the works and this is not a good place to be.

In the telecoms market there is certainly not room for three suppliers, I think, we all agree on that and, indeed, I think we are lucky to have two. So, while I understand the principled response of Deputy Falla and Deputy Burford that if we have a GCRA we should let them get on with their job, my problem is I think that they have the wrong concept of what their job is or, rather, we have not set for them clear enough boundaries to make it clear what we want them to do.

The pragmatic solution in this case is clearly to allow the transaction to proceed without further Government interference. Our energies should be directed to building a regulatory model that works for us. The alternative to allowing Airtel to sell the goodwill of its Guernsey business is to destroy that goodwill by what some people call a disorderly exit. If Airtel just exits the market the other operators will, no doubt, pick up the customer base that they have, no doubt increasing their marketing spend to try and attract those customers but, of course, Airtel will receive nothing for the value of its customer base and I do not think that would serve any useful purpose.

So I think the pragmatic solution here is to support this policy letter. But please can we, at some point, have a complete review, I think ED are already undertaking it, of the regulatory model and, particularly, the competition regulatory market in an Island which is full of natural monopolies. They are not all State-owned, there are monopolies in the supply of tarmac, the supply of gas, anybody can name half a dozen and, really, the only sensible approach we can take, I think, to these monopoly industries is where we feel there is price gouging taking effect, to have some kind of price control system in operation but we cannot interfere in the forms of business that are undertaking the trade because they are inevitably going to be sole suppliers.

The Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, sir.

I preface my remarks by saying that I actually very much agree with what Deputy Parkinson said, that I do not believe that the system of regulation that we set up in this Island back, really it came together with the time of the first commercialisation of some of the States' trading assets quite a few years ago now, was the correct one. I think it is overly cumbersome and I think it very much imported tools that worked, or possibly worked, in far bigger communities and far bigger economies but do not necessarily do here. So I am delighted that that is being reviewed by Economic Development.

Although I would draw a big distinction between price regulation and the Competition Law, they both sit with the same body over here, but they are two very different functions and I think they need to be viewed separately. However, that is the general, we are talking about a specific instance here and I am uncomfortable. The message I am getting from States' Members, basically to use an old fashioned term, is that the ends justify the means and it is dressed up in the words pragmatism, but I am hearing that the ends justify the means.

I find that a difficult political approach. I think the ends are very important but when you set up legal restraints and pathways, I think that simply to set them aside when they are not convenient is really quite a radical act to take. I do fully accept, absolutely, and I think everybody in here fully accepts, that having three mobile networks in Guernsey is no longer practical or economic. I am not sure it ever was, actually, and I was completely convinced of that at the Economic Development presentation on the first policy letter on this subject, which took place in that funny little room at Les Côtils. The argument put forward there about the ever accelerating investment cycle was pretty much overwhelming, I think.

So, sir, I have no objection to Airtel leaving the Guernsey market and I fully accept that even if I did object to that I would have zero right to stop them leaving anyway. Of course I understand, as Deputy Parkinson has just said, why Airtel would quite like to be able to sell their local business and get paid for it, rather than just shutting it down when they have put a lot of work, and presumably money, into building it up. How much they will be paid for it, we simply do not know and there is no reason, I suppose, why we should. I think it must be a fairly significant amount and that, in turn, shows how much of a market advantage the deal will hand to Sure because Sure would not pay a significant amount for Airtel if it was not handing them, in their view, a very significant market advantage.

So I do not object at all to the fact that Airtel would like to be paid for their customer base if possible; who in their right mind would not, sir? And I have certainly got nothing against Airtel as a company, in fact it is my SIM card of choice whenever I visit India and I was quite charmed by my chat with its owner, Sunil Mittal, when he jetted into Guernsey from India to launch his local operation at St James, something that he told me he saw as a stepping stone into Europe for Airtel. It did not quite work out that way, but it was an understandable strategy and I think well worth a shot.

Nor do I agree with those who cast doubt, yesterday, on the benefits of the Co-op entering the mobile market using the Sure network. Members will know I have a soft spot for all Co-ops and for the Channel Islands Co-op in particular. I think we need a wind farm here, we would really do well. The wind through the window is whipping the papers out of my hand here.

I think Deputy Falla did an excellent speech yesterday but I think he was absolutely wrong when he said that the Co-op would simply provide extra shop windows for the Sure product. There is nothing at all about using another operator's platform, which prevents a new competitor from offering a unique product with a number of USPs and even becoming a significant market disruptor and yet there is something about this whole Proposition which made me feel really uncomfortable the first time around and which has my thumbs pricking even more violently on this occasion.

The only way I can describe my deep reservations about pragmatism and the ends justifying the means and everything I have heard in this debate so far, and I know it will upset some, but it just feels to me far too close to the way a banana republic would behave, (*Laughter*) albeit in Guernsey's case I know it would be a Fairtrade banana republic. (*Laughter*) I know, yesterday, in relation to the Ro-Ro ramp licensing I said, and I definitely agree with Deputy Murray, that not every situation in a small economy benefits from competition and I completely stand by that.

Sometimes in a small marketplace offering exclusivity in return for an SLO that sets out minimum requirements can be more beneficial. But, Members, that is not what is being suggested here. Economic Development want to retain a normal, competitive telecoms environment with three players and, I think, they are right to do that. But they also want to circumvent the Competition Law in order to allow one of those competitive players in the field to move from being simply the dominant player, with circa 60% of the market share, to being the overwhelmingly dominant player with circa 80% of the market share and, I am sorry, that does not sound very healthy to me.

I know we are being asked to do that in return for a promise of very significant baubles. Promises of investment which, yes, would probably be made anyway but will be made more quickly depending on how we vote today and that, to me, although it is attractive, we are being asked to make a trade off, 'You will get the accelerated investment if you hand us a total dominant position in the marketplace.' I am sorry, I cannot help bananas springing to my mind.

What next? Should we suspend the Law to let M&S take over Waitrose, so long as they promise a few million pounds' investment in new retail concepts for the Island? It feels all wrong to me. Another thing in this process which felt all wrong to me was yesterday's presentation. Now I did not go, I probably would have done if it had just been an ED presentation, although I have to say that the lunchtime of a States day is about the worst possible timing I can think of as far as the ergonomics of attending, but I would have made the effort.

But frankly, I felt – I did, I am sorry if my principles feel ludicrous to some, but I felt – all wrong for a people's Deputy be sitting down over sandwiches being lectured by two companies, both of whom stand to benefit greatly by suspending the Law of the land and telling me why I should come back here after lunch and vote to do just that. One will be paid, presumably, millions for a business which, sadly, failed to fly as much as it wanted to, if we vote to suspend the Law today and the other will be handed total market dominance on a plate by the local Government of Guernsey.

Of course, they are going to urge us to exempt them from the established Law of the land. Why wouldn't they? That is not to say that I, it may sound like I am, but I am not opposed to this takeover, not at all. If the view of those who administer the Guernsey Competition Law is that it would not harm the interests of local consumers then fine and we have heard from Deputy Kazantseva-Miller that, actually, if this deal goes through there will be more competition in the market because of the Co-op coming in, there will be three, whereas if Airtel were to just leave there will be only two.

So if there is such an overwhelming competition argument for this going forward, why hasn't this new deal been put before the competition authorities? After all, in Jersey, I know the market share is different down there and I know it is not exactly the same, they would not be creating a monopoly player, but their competition authority opposed, as I understand it, the first deal, but that did not involve the Co-op coming in, I have forgotten the name of the initials, but playing on somebody else's pitch, as it were, but then when that came in they said, 'Okay, now we are able to support it.'

So, if the competition advantages are there, that we are being told are her there, then I would have thought, unlike Deputy Meerveld saying they just cannot approve it, it is against everything they say, if it is really true that there would be a more competitive situation, I absolutely do not understand, begin to understand, why it could not have been put forward in that way and if it was not permitted then I think it is Deputy St Pier who is right and section 14 of the Law allows a different approach if Economic Development felt it met that threshold. It is quite a revelation to hear today that they do not actually think it meets that threshold; I was quite surprised to hear that.

So I am very happy that this deal could go ahead so long as the consumers are protected. But, effectively, to put aside such considerations or formal consideration of that aspect and to put two commercial firms above the Law, or rather not above the Law that is unfair, outside of the Law for the rest of this year in return for the promise of investment – which I think is extremely important, I do not deny that, but investment – which, I believe, in a competitive marketplace would be demanded of those players anyway because their competitors are, as has been said, JE are investing in 5G, I think the idea that Sure could just sit on their hands and not do so is probably naive. But to actually put those considerations aside, well, frankly, I feel that I am being played like a kipper.

Yesterday some questioned what impact, in my view, what such a dodgy deal would have on Guernsey's reputation. Today I ask, why did you have to ask? Isn't it obvious and it is not good. There are a few other things that were said yesterday which confused me. Apparently, if we vote Contre to this deal, and we are not voting Contre for the deal, the deal will still be there, will still be able to be considered, we are voting Contre to suspending a section of the Law, it will mean Airtel making a disorderly exit.

As some others have said, what the heck does that mean? Surely if Airtel go it would mean 20% of local mobile subscribers having to choose, over a period of time, and it will be a period of time, between moving to Sure or moving to Jersey Telecoms. What is so disorderly about that? I take Deputy Soulsby's point that maybe some of the staff, when they see the writing on the wall, will leave but it is two and a half years since Airtel said they were going to be leaving and so far that has not happened *en masse*. So I still believe that that will be able to be handled.

1260 In many ways I prefer that scenario to the one where every Airtel subscriber with a contract is actually forced to go to Sure. What if they just left Sure, on a point of principle, only to have their custom forcibly sold back to the company they quit? I confess, I could have been in that position myself. I was so upset with one appallingly unfair aspect of Sure's billing that I left them. As it happens I went to JT so I will not be forced back to them, but I could just as easily have taken out a contract with Airtel just to be handed back to Sure, and I have to say, I would be mightily annoyed.

1265 Either way, I do not see a vote against this Proposition leading to a disorderly exit. Rather, I see a vote in favour, I am sorry I have to say, as an unhealthy example of big business pulling the strings of Government to maximise profits.

Another thing said yesterday was that Competition Law was getting in the way of market forces, I think it was definitely Deputy Kazantseva-Miller that said that. Well, of course it is, that is what it was designed to do. Left completely unchecked, market forces tend to lead towards complete market dominance for one player, particularly in smaller markets and history tells us that on the road to market dominance that ever expanding player will provide excellent value. Of course they will, to drive out competitors, but once they achieve it the story tends to change considerably.

1275 That is exactly why countries bring in competition laws to say you can get as big as you like through organic growth, so long as that growth is of a fair nature, but the Laws control anybody achieving market dominance through takeovers. That is the very essence of competition legislation everywhere and it is the very reason why Guernsey brought in its own Competition Law.

If you tell the authors of that initiative that not many years later their successors in this Assembly will suspend a key section of the Law with the express intention of deliberately handing one player, in a competitive market, an extraordinary 80% market share, I do not think they would have believed you and yet that is precisely the proposal before us today. Some have said they understand the principled arguments but they are being pragmatic, I can say I understand the pragmatic arguments that are put forward, but to me that feels wrong, it smells wrong and I cannot vote for it.

1285 **The Bailiff:** Deputy Leadbeater, would you like to be relevé?

Deputy Leadbeater: Yes please, sir.

1290 **The Bailiff:** Thank you very much I forgot about that earlier.
Deputy Ferbrache.

Deputy Ferbrache: Sir, until the last speaker I thought that everybody who had spoken had spoken in good faith and whatever view they took, whether they were for or against the proposals, they had put balanced remarks. To hear somebody refer to himself as being played like a kipper and this would be a banana republic decision, I think, is unfair (**A Member:** Hear, hear.) and I think we are in a democratic institution, we are in a parliamentary Assembly, 38 of us will make a decision. We will make it on the basis of what we have heard and what we have read. So I very much find Deputy Roffey's comments as reprehensible.

1300 Now in relation to where we are, Deputy St Pier, rightly, said look – I am summarising his speech – 'I have got concerns about section 14.1, I have got concerns about it.' Frankly, so do I as a lawyer and I know he was throwing me that challenge and expecting me, I think, probably to give that reply.

1305 But it is explained in the context of the policy letter. Deputy St Pier may not accept what is being said except I think what we are being told is, look, it is not really exceptional, etc. because section 14.1 has got to be read with section 14.2, those are put in context so, therefore, what is being put forward is something that is legal because if it was not legal, the Law Officers would say, 'Look this is illegal, you cannot do it, it is improper.' They have not said that. So, if the States were to approve it, it is legal.

1310 What is good is the balance. Sometimes, and I have said it many times that we, and our predecessor Assemblies debate things *ad nauseam*, but I think here this is an important debate. The

reason for a debate was really very well expressed in a very considered speech made by Deputy Meerveld earlier this morning because he said – if I have got it wrong he will correct me – ‘I came into this debate, more likely than not, probably on the balance of probability, likely to vote for these proposals. I then heard what other people have said, both over a period of time and I had,’ – he did not use the word concerns, but I had – ‘to listen to what they said.’

But what he then said is, ‘Look, I thought about it for some hours last night, gave it considered consideration and I came to the conclusion that I have come to’ and made the speech that he did today. A very balanced and measured speech. There was a great American President called Harry S Truman and he said:

The simpler the things are, the easier they are to understand and the best decisions are made when things are simple.

He said that, and he was a great statesman.

When he left his office in 1953 he and his wife travelled back in the train, hardly anybody noticed them. I wonder when Deputy Trott leaves his office at the end of June next year, whether he will leave without a fanfare. We will see, but that is a matter that we can address in the due passage of time.

But in relation to this we are in a pragmatic situation. I share the view of Deputy Soulsby. I think, if we were to make the decision that we are asked to make by Economic Development, it would enhance our international reputation because we would have been seen to have considered it over a period of time. (**A Member:** Hear, hear.)

Now, when I was President of P&R, the Principal of Bharti Airtel, as it is actually called, came over to see us, he flew from India to see us. He sat down with us and he explained in ordered, measured, reasonable terms why the market was not big enough, everybody, I think, that has spoken has said it is not big enough for three operators and why Airtel had tried it, it had cost him a lot of money and his company a lot of money but they had to exit it.

He used the phrase, and my colleagues who were present there can correct me if I am wrong, he used a phrase that there had to be an orderly exit. That is what he said, there had to be an orderly exit and, frankly, if they had to write off the whole of their investment, he did not say this but to me looking at it, his personal wealth and bearing in mind he has just recently, if I have read the publications right, purchased or is in the process of purchasing 24% or 25% of BT, that he can probably afford, his company can probably afford to write off the whole investment. So they are not doing it for commercial gain in the sense that they need the money.

Deputy Soulsby has dealt with the employment protection aspects of the matter and people getting their jobs and being protected. But we have got to look at the reality of where we are. We are 64,000 people and when Deputy Le Tissier said yesterday, effectively, why are we helping Sure, why did we help Sure to put in the fibre cable, well, they probably would not have done it.

We put in a third of the cost, £12.5 million they put in £25 million. Now we have only got 64,000 people in Guernsey, it is going to take them a heck of a lot of time to get back their £25 million and here they are proposing that, over a period of time, they will invest – and Deputy Burford is right, up to £17.1 million or £17.2 million or whatever the precise figure is., the likelihood is it will be at that figure or thereabouts because things move so quickly – they will invest that money, it will create jobs, it will create investment in our economy and one of the greatest things that we need is mobile communication, we need internet provisions.

Now, the Bailiff spoke yesterday about the 10,000 days that Deputy Gollop has been a servant of our community. I was listening to Melvyn Bragg’s programme on Radio 4 as I was driving down today and the world has been in existence, apparently the universe has been in existence for 14 billion years. So 10,000 days is a long time and I wish I could have finished that but I had to come here, it is with due respect, I heard the speeches of some today more interesting.

But in relation to that, we have got the 10,000 days of Deputy Gollop and he has been continuous and my States’ service has not been continuous. But I actually joined the States’, if I add another three years before Deputy Gollop, another thousand days. So, my service goes back to 11,000 days

ago, or thereabouts in relation to the States, Deputy Roffey's would be another X thousand days because he was 1982.

1365 But the point in relation to that, for the first three years of my time as a States' Member, I was on the States' Telephone Board. The President was Deputy Mike Burbridge, the Vice-President was Conseiller Ivan Rihoy and we had many, but we had three real quality civil servants in Ken Gill, Linda Page and Ron Keel.

1370 If you had have asked them what the word woke is, they would have thought it was yoke spelt wrongly. (*Laughter*) They were civil servants of the old form and they came to us and said, and bear in mind I was in my early 40s then, not elderly as I am now, they came to us and said, we have got to bring in mobile technology to Guernsey. We could set up a mobile technology thing because people used to be carrying around these mobile phones that are that big, they could just about get a signal from England but it was clear that the technology was coming.

1375 I thought, why on earth would anybody want a mobile phone in Guernsey when you can get anywhere within 15 minutes. (*Laughter*) Could we live without mobile phones now? So that was set up and those three good Guernsey civil servants were saying, *sotto voce* because they were not chest thumpers, they were saying six months later we said you would get this far and this many subscribers, you have actually got that many. Three or four times the multiple in six months because the service was there and people wanted it.

1380 I was not in the States in 2002 when Guernsey Telecoms was sold to Cable and Wireless and even when I left the States at the end of April 2000 as a member of Advisory & Finance which was then our senior Committee, the contemplation of Guernsey Telecoms going just was not thought about. It came about very quickly after 2000. That shows just how quickly this market moves and by, I think it was, May 2002, somebody can correct me if I am wrong, the deal was done. So, within a couple of years the deal was done.

1385 Now Guernsey Telecoms during my tenure had celebrated its 100th anniversary in 1996. It was set up in 1896 and the world was different. I have not only referred to the three civil servants, I can remember the President, who had much affection for, I can remember the President saying look, I am a bit worried if we raise the periodic fee for the landlines because we might not get re-elected. I think we were going to raise it about £2 a quarter or whatever it was. That was a serious
1390 consideration in those days. We are in a different world now, we are in a completely different world.

1395 Now, Sure is controlled from Bahrain. It is a Guernsey company, but it is controlled from Bahrain. I believe they are very well run, remember it was originally Cable and Wireless and then some years later Cable and Wireless became Sure in Bahrain. They actually operate in lots and lots of small jurisdictions, we might actually be one of those, they have actually set up in Toledo, which the States' Greffier and I visited recently and they had only set up, I think, seven or eight months before their IT system and it did not work very well, but they did set up their IT system. In relation to that, the States' Greffier's electric lights did not work very well in his bedroom, but never mind, that was by the by in connection with whoever.

1400 We are in a position whereby Deputy Gabriel, I hope he is well he has got a smile, but he said yesterday you do not have a dog and bark. Well, the regulator has already barked, it is referred to in the policy letter and we could go into the technicalities, it had not had the recent deal put to it, but you could keep brewing things and stewing things and in the end the tea is undrinkable. (*Laughter*) What has happened is the regulator – I do not criticise the regulator – has got a job to do, and the regulator would be saying, I am as sure as I can be, no pun intended, I am as sure as I
1405 can be, the regulator would say, quite properly, after due consideration, 'Well, we are going to create a monopoly because we are going to give somebody a possible increase from 60% to 80% or whatever the exact arithmetic is. That is not going to do us any good.'

1410 Now, Mr Mittal, when he came to see us, and I have great respect for him having met him on that one occasion, he was not threatening a disorderly exit. But the fact is it would be, it would be disorderly because Deputy St Pier referred to a three-year run off period effectively. That is in essence he did not use that phrase but I think it is what he meant.

We all know as soon as the deal is done people are not going to subscribe to Airtel, you are not going to go to a new provider that is not going to be there in two or three years, they are going to go to Sure or Jersey Telecoms. Now, we are a small community but we punch above our weight but we have got to be realistic, 64,000 people, if we had one provider we would still be very small in the world of telecoms.

To invest, and I take the point that Deputy Queripel made about nobody came to bail him out when his business failed and, of course, most of our businesses in Guernsey employ 10 or less people. They are small businesses and they are the rock of our community. He referred to the collapse of R G Falla and said why are we helping them? Well, I have known the Principle of R G Falla since we stood together many years ago on our first day at Elizabeth College as scholarship boys; he is 5822, I am 5823. So we have known each other a long time and you could not have a more principled and decent businessman, in my view, than that particular person.

But we are in a position whereby, and the point has been superbly made by Deputy Kazantseva-Miller about the benefits and why we have got to do this particular project, if we do not do it there will be – and it is my phrase, nobody else has used it in the context of Mr Mittal or anybody else or Sure or anybody else – there will be a disorderly exit, because it will happen, they will go and it will not be as ordered as it can be and if I were Sure, and they are probably not as petulant, well nobody is as petulant as me, if I were Sure I would be saying ... why on earth, we try to do the best for ourselves, we are a commercial world, companies want to make money; how terrible. They want to prosper, they want to employ people, they want to grow the economy. If I were Sure I would say, 'Well, we have got other places that we need to develop in our empire, Guernsey is, obviously, a commercial backwater, let us leave it.' The kind of businesses that operate in the finance sector need top quality internet services. When I looked at this some time ago, Guernsey was 44th, it could move up to sixth or seventh, I think, if we go through all of this, I cannot remember the exact arithmetic.

For Guernsey Finance to be able to say, 'Look, we are going to have one of the best internet mobile capacities in the world. This little tiny Island just off the French coast ...' I am sounding like Victor Hugo now just in relation to that, '... can offer these services.' It is a selling point beyond prevention. It does not matter if I could just about dial a landline and get the service in relation to that, that does not matter. It matters to the international community, it matters to where we are. Please support these proposals.

The Bailiff: Deputy Trott.

Deputy Trott: Another typically entertaining speech from Deputy Ferbrache and I would like to start by assuring him that when I do leave public office, it will not be by train. But many references over the last 24 hours to the number of days some people have served and, I think, Deputy Ferbrache just said that when he was first elected it was some 13,000 days ago. Well, Members of the Assembly, if Deputy Ferbrache's time sheets are to be believed he has been a practising advocate for 147 years!

Deputy Ferbrache: Point of correction. *(Laughter)*

The Bailiff: Point of correction, Deputy Ferbrache. *(Interjection and laughter)*

Deputy Trott: I want to start, though, where Deputy Ferbrache left off and that is about the connection, that world class internet connectivity has, the benefits it has, for our international finance industry. That, I think, is understood and accepted by all. What may not be understood and appreciated is that the owners of Sure, or at least the management team that controls Sure that are based in Bahrain, are being extremely helpful in providing access for Guernsey Finance into that Middle East centre and we hope that business flows will be significant over the years ahead. Of course, that is good for them as well because the more financial services businesses that there are here the more services of Sure and other providers will be required.

1465 Deputy Roffey referred to this deal as dodgy, in his view, well; I do not know what the definition of a dodgy deal is because I have never been involved in any (*Laughter*) but I know what it is not. A dodgy deal is not a dodgy deal when you have a willing buyer and a willing seller and that is precisely what we have here.

1470 So I am going to tell you, in simple terms, because I think sometimes that is better in a debate such as this, why the Policy & Resources Committee offers its unanimous support to the Economic Development Committee in this initiative. We will still have three mobile providers in the Channel Islands. Direct, necessary and welcome investment of tens of millions of pounds follows a positive decision today and the transaction is a positive enabler for our Island's economy. The proposed exemption balances ensuring Guernsey is open for business and investment, while equally ensuring that competition is maintained and consumer outcomes are maintained. For me, it is an absolute
1475 no brainer.

The Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, sir.

1480 Well this has been the most interesting debate, I have to say, I think it has probably swayed my view. Could I start by making a point that I think should be made. We started this debate discussing the Trans-Pacific Partnership and whether it would prevent us from entering into this arrangement. I am slightly horrified by that, that agreements are being entered into that could stymie what this Assembly, the Government of the people, wants to do without really knowing about it, voting on
1485 implementing it and that sort of thing. I do think that is a very big point we need to worry about. Am I being tapped from behind? (*Interjection*) Yes, okay.

I do understand, I gather from the debate that there may be some opt outs that we can achieve within a time limit. Perhaps the States' could know about all these things and we might be able to discuss them because I do think that is quite important.

1490 Right, going on to the to the main point, I tend to be a pragmatist, on the pragmatic side of arguments; it is a way of getting things done in the least painful way, so I tend to agree with Deputy Parkinson on that.

The way this proposed new Law has come to us, I am not particularly worried about, it is a perfectly legal way of handling things to override the Law that is in place by an amendment to it; that is what one does all the time. What I am curious about is that four years ago this was just the
1495 sort of Law I would have liked to have seen to allow us to deal with GP11, but it did not seem to be possible at the time. (*Laughter*) Anyway, I am very envious at the way that this managed to get done.

So I am content with the way the Proposition has arisen. I think it is perfectly responsible for this Assembly, if it chooses to as the Assembly of the people, to change a Law and effectively to override
1500 what would otherwise be the GCRA decision making process. But having said that, the GCRA are there and they have commented on the initial proposals that were put to them and they made two points that I thought were valid as to what might have improved the arrangements.

The first was the setting up of the MVNO bringing in the Co-op as, effectively, a third operator, a virtual operator, as being an important point and this deal appears to do that, assuming that the
1505 contract entered into by the Co-op is implemented. The effect of that, if it works, will be to cut down the 80% that Sure would otherwise have. So we are talking continually about an 80%, 20% split, well that 80% should slip somewhat. Some customers, presumably, will go to the existing operator, Jersey Telecom, and some will, presumably, go to the Co-op, assuming it is successful in marketing its new business and, presumably, the Co-op will have quite a large customer base, a loyal customer
1510 base, who are, I think, they call them members or shareholders. So presumably the 80% that we are assuming will stay with Sure will actually be split in some way, so it will not be quite as high as that. Anyway, that condition suggested by the regulator has been implemented, it would appear.

The other one, and I might have to ask the Comptroller to help me with this, the other suggestion was that Sure could make a positive commitment to set all international roaming rates at levels that
1515 better compare with mobile provider customers in other jurisdictions. They have not really done

that in these conditions. There are some short-term commitments which appear to be useful to me. So this has been taken into account, to some extent, but I do have a legal question if I could ask the Comptroller.

When this arrangement is entered into, assuming it is if this Assembly passes it, does it preclude the regulator coming back at a later date to impose conditions such as that one, i.e. lower roaming rates more consistent with international rates? That is a question, shall I leave it with him? If the answer to that is yes, I would feel a lot better about this this Proposition. But we have heard from P&R, from Deputy Kazantseva-Miller and others about how important it is that we should sign up with this deal to give Sure the certainty to spend the money that we need.

Deputy Kazantseva-Miller: I thank Deputy Dyke for giving way.

Just on that point, the regulator will still be able to undertake market reviews, pricing reviews on any products or services that any of the telcos, or anyone else, in the market provides. So they will still absolutely maintain the regulatory function and competition function (**A Member:** Hear, hear.) on roaming fees. So if they wanted to do a deep dive study into roaming fees, specifically, completely separately to this acquisition, they absolutely continue having those powers to do that.

Deputy Dyke: I thank Deputy Kazantseva-Miller for her helpful intervention.

We have also heard from the Chief Minister that our relationship with Sure seems to be somewhat symbiotic rather than parasitic. We are going to have to work with them going forward, they are putting a lot of effort into improving our digital arrangements. So, given that we are going to lose Airtel anyway, it seems to me that the pragmatic thing to do is to do the deal with Sure and allow them to take on Airtel, knowing that we are setting up the third player, the Co-op, to come into play here which, hopefully, the Co-op being the sort of organisation it is, will produce good rates for people that are on a tight budget.

So I think, overall, this proposal seems sensible to me. But can I pick up on a point that was raised earlier by Deputy St Pier, namely the drafting of Proposition 3? Should Proposition 3 be slightly amended to conform with the drafting of the Limited Exemption Law to provide a direction to the regulator to –?

I will give way.

Deputy Inder: We sort of pre-empted that conversation, to a degree with Deputy St Pier and we are just going to put an amendment in, myself and Deputy Kazantseva-Miller, quite quickly just to make that change and make that direction to satisfy Members of the Assembly.

Deputy Dyke Right, I thank Deputy Inder for his intervention. So there will be a direction in Proposition 3. Well, I think, given all that on balance the Proposition seems sensible to me and I would be in favour of proceeding with them.

Thank you.

The Bailiff: Mr Comptroller, do you still need a little bit of time to think about the question posed by Deputy Dyke?

Mr Comptroller: Sir, I do not think I do, actually. I mean, it seems to me the authority is under a statutory duty to continue to review competition within the Bailiwick, within Guernsey, and to have regard to the impact on competition of arrangements such as the one the States will sanction. Having said that, it also has to take into regard directions that the States gives it, but subject to that caveat, it is under an ongoing obligation, as I interpret the legislation, to continue competition, the effects of competition, to be reviewed.

The Bailiff: Deputy Moakes.

Deputy Moakes: Thank you, sir.

I thought I would start off, I was going to stand up and speak when Deputy Dyke was speaking, but I thought he was in mid flow so I would wait. It is the same answer. He raised a query about, were there any issues with doing this with future trade deals? It was something that crossed my mind and I have asked that question on numerous occasions aimed at the right people in External Affairs and within Government who do those deals and every time I have asked that question in a different way, the answer has been no. So that was a key concern of mine and one that has been completely put to one side and I have been told on, as I say, numerous occasions, that it is absolutely fine. So that is just to answer that question.

I am not going to say very much because lots of people have said things already. As politicians we are expected to consider all manner of opportunities, and threats for that matter, and then make decisions that we believe are in the best interests of Guernsey. I do not think anybody here today has said anything which they do not believe is in the best interests of Guernsey. We may disagree on certain things but I think everyone has got the Island's best interests at heart and it is not always easy, is it?

Sometimes we can feel conflicted, even overwhelmed, and this is a very complex matter. We have a number of choices, I think, originally we thought there were two; I think, Deputy St Pier suggested there might be four, in fact. But whatever, there are choices here. I have been in this process for quite some time and I have to'd and fro'd going backwards and forwards and I have listened to all of the arguments but I actually believe, truly, what is in the best interests of the Island is what this policy letter suggests.

The deal would benefit Guernsey and it will benefit it both socially. I mean who does not want fast broadband, who does not want 5G; it benefits everybody. So consumers, businesses, etc. and economically it benefits the Island as well. Look at how the world is changing, look at how more and more businesses, more and more products, more and more solutions are reliant on superfast broadband, our reliance on 5G, our reliance on connectivity.

We constantly talk about the need to diversify our economy, this type of investment, this type of infrastructure enables us to attract a whole new breed of people and businesses to the Island and that is what we want, surely. We want to diversify our economy, we want to keep up with trends and with what is going on in the rest of the world and I genuinely believe that this deal, if it goes ahead, will help us to do that and help us to do that more quickly than would otherwise be possible. And let us face it, we have had this conversation about competition and lack of competition; there will still be three providers on the Island which, as anybody who went to the session yesterday over the road will have seen, is significantly more than many islands and many countries for that matter, with huge populations compared to our own.

So we are actually very fortunate to be in the position we are in today and we will be very fortunate to be in the position we will be, if you agree with this policy letter. Plus, with all this incremental investment into the Island happening sooner than perhaps was previously envisaged.

So my attitude is, as you have probably guessed from this very short speech, I am in support of the policy letter. No surprises there and I am also on Economic Development and I would ask you all to vote in favour of this so we can move forwards and get on with that investment as soon as is humanly possible.

Thank you.

The Bailiff: Deputy Haskins.

Deputy Haskins: Thank you, sir.

I have listened closely to the debate. I have actually quite enjoyed the debate. I did prepare a speech but most things have been mentioned so I see no need to repeat them. I think Deputy Kazantseva-Miller's speech contained most of the points that I wanted to make. But there is one aspect that I would like to add in and it carries on from Deputy Moakes there about diversification and seeking opportunities for growth and, I am sure Members will not be surprised, that is AI.

1620 So, artificial intelligence. The advancements are coming quicker than we understand and AI needs more computing power and more data transforms. (**Deputy Trott:** Absolutely.) So why not make sure, no pun, that investment in 5G, which is 100 times faster than 4G, is undertaken sooner rather than later.

1625 The global AI market is growing at an astonishing rate, 30% year on year. A compound annual growth rate of 30%. We are not entirely sure of the effects of all these advancements to our economy but one thing is for sure, it is coming, it needs more data and it will be a rapid demand. So, to me, it absolutely makes sense for rapid investment in fibre and 5G. Indeed, we have already invested in fibre, accepting this policy letter ensures the investment needed in 5G.

1630 So what happens if we say yes? We get assurances of three competitors and large, rapid investment in 5G; and if we say no, well we are not sure. Maybe it will be accepted, maybe not and that entity has to look through the lens of competition but if it fails, then we will get one less competitor and no assurances of rapid 5G investment and we do not know what the exit will look like. This, sir, Members, as Deputy Trott said, is a no brainer.

1635 **The Bailiff:** Deputy Matthews.

Deputy Matthews: Thank you, sir.

1640 When I first heard about this debate, actually, my first thought was something along the lines of here we go again because it seemed very similar, actually, to 20-odd years ago the debate around the sale of the then Guernsey Telecoms to the then Cable and Wireless and in that circumstance what essentially happened was that an awful lot of promises were made by Cable and Wireless about future investments and benefits that could, potentially, be had by Guernsey by approving the sale of what was the State-owned operator then, Guernsey Telecoms to Cable and Wireless.

1645 Now, I think whether or not you take the view, as Deputy Roffey, that States' Members have the potential to be stitched up over that sort of thing, or whether it is just a case of the usual optimistic selling, this is the job of business is to sell what they might be able to offer, the benefits of what they might offer, to politicians and make promises which may or may not be possible to be fulfilled in the future, and in the case of Cable and Wireless and Guernsey Telecoms, many of the promises actually were not fulfilled. There were all sorts of expectations that they were not able to offer, they were operators of submarine cables that they said would be able to connect us up to and they had some sort of traffic shaping technology that, actually, they sold off very soon afterwards and so much of it actually did not come through as expected.

1655 So I guess the question, really, would be is it a case of that sort of thing happening again? Are we made promises about things that may or may not be delivered or may not be as relevant as we would expect them to be once the deal is done? Because once the deal is done, it is very difficult to go back on it and say well, actually, that is not what we meant, it is done and the sale has been made. Twenty-odd years ago we did not have the benefit of a regulator to advise the States and now we do. So you would think that we would be much better advised about the pros and cons of an acquisition because it is a complicated business.

1660 One of the hopes about mobile communications is that there would not be the same constraints on competition as there are with normal phone lines, because with phone lines you are very much restricted to having a single operator that can dig up the roads and put the cables in the roads. It is just very difficult to have multiple operators who can do that and the thought was, once you get mobile operators, well you can have dozens of them. They can all come and set up and we can have great competition between many providers and that is exactly what we, to an extent, we did have. 1665 We have had three, but I think as technology has progressed the fact is that – and I do not think there is any argument, everybody has said – we cannot really have multiple operators anymore.

1670 So what has happened with mobile is where we did have dozens of operators, or the potential for dozens of operators, in the UK and three over here, it is really now coming down to we cannot have that because the cost of setting up networks, the cost of providing the infrastructure is so high

that you cannot have many operators. So two is about the max or two and a bit, I think, is probably about the max that our size of market can sustain.

But an acquisition like this does have an awful lot of implications which are actually difficult for us, as an Assembly, to look through, because Sure will not only be a mobile operator, they are also, of course, our main fixed line operator. And this distinction between mobile and fixed line has diminished, actually, over time because under voice communications there was much more of a distinction where people thought why would you have a fixed line home phone when you can walk around with a phone. But, actually, when you look at the situation now, data is far more important now than voice communications and, actually, there is a big competition between mobile operators because the type of bandwidth that you can now get is approaching that which you can get through a fixed line, although nowhere near as big as you can get with a fibre connection, and people do use both.

You either use your Wi-Fi connection connected to your home phone or you use your mobile connection and the two actually are competing with each other. So that is one of the disappointments, really, about the fact that we have not had an awful lot of advice, or there seems to be a feeling that the regulator is not able to advise us other than in a very narrow scope about whether this deal is good for mobile communications or not.

Some speakers have said, and the position of Economic Development seems to be, that the competition or the regulator would be confined to only looking at this in the very narrow aspect of is this good for mobile consumers or not and would likely reach the conclusion ... In fact, it is not likely they say it will not.

In their letter of 2023, they just come out and say the acquisition represents a more adverse outcome for consumers relative to other alternatives. So I think they are saying that, in that particular context, it would not be good for mobile consumers and Economic Development's position is that well, yes, that may be true but there are more benefits across other parts of the Island.

But specifically, the most important thing is about the fixed line market itself. Why can the regulator not look at telecoms as a whole? Because the most important thing is to look at the whole telecoms business including fixed line as well as mobile communications. Which makes you wonder why we have a regulator at all, why do we have a regulator if they are not able to advise us on these types of mergers and acquisitions, because looking at the sorts of things that we would want to be looking at, as well as the fixed line aspect as well as just the mobile market, there are all sorts of other questions about whether roaming is going to be improved or not by this acquisition and all the different pricing plans.

I have not got it in my head to be able to go through and look at what Airtel offers and whether they will be better off under Sure or not. Usually mobile operators keep changing their plans all the time, so whether or not they are good or not is a difficult job to do and it is the sort of job that is good for a regulator to do.

So it is disappointing really that they have not been able to do that and I wonder, really, why we have not been able to do that because in the letter from the regulator in 2003 they did offer, so it is Appendix 3D ... because I think what most people would really like to see is some advice from the regulator about whether this is a good deal or not.

But that is what I think ... because there has been a lot of conversation or a lot of speeches have said if we vote against this we will be blocking the deal. Deputy Murray has said that, Deputy Meerveld said that and I think Deputy Kazantseva-Miller said we are facing a binary choice of either we approve this or we block the deal Really, for me, the best outcome would be to allow the GCRA to be able to assess the deal and tell us whether this is a good deal or not and maybe, perhaps, offer some differences or modifications to the acquisition that might be even better, so we would get the best of both worlds.

We would let the acquisition go through, but it would go through having been looked at by market experts who can go through and look at all of these pricing plans and look at the wider context of the telecoms industry and say, yes, if you provide these concessions then it is a good

deal. I do not know why that cannot happen because in their letter, they seem to imply that that was possible; in fact, the condition that they placed on it, or the minimum that they would need to see, was this implementation of an MVNO.

So, if it is possible for that to happen, I would wonder why it has not been done that way and I would ask the President of Economic Development why it is not possible to allow this to progress through the acquisitions process of the regulator to allow the acquisition to take place but through the processes that the regulator has to enable that to happen. That is the question that I would have for the President and that, actually, will be, I think, decisive for my vote because I think that the acquisition should probably take place, it seems like the most reasonable thing to happen, but I would prefer it to take place in the context of the regulator assessing what is the best deal for Guernsey consumers rather than allowing big business to say, well look, this is going to be great and we just accept it. It would be better, I think, to have the professionals who know the market to review it than for us as an Assembly to make that decision. So if the President was able to answer that, in his summing up, that might sway my vote either way.

Thank you, sir.

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you.

I am glad that Deputy Ferbrache reminded us of, thanking you, sir, for reminding me, I have served 10,000 days in the States' Assembly and sometimes it feels like longer than that. *(Laughter)* But Deputy Ferbrache and Deputy Roffey, the two Peters, preceded me in terms of being around at the beginning and, therefore, I am perhaps less wedded than some Members are to the concept that the regulator's empire or role or realm is something not to be touched because I go back to the era when we did not have a regulator and we had political committees running telecoms, electricity and other things.

That era had disadvantages that the States ruled against, but it certainly had its advantages too because it meant that people on those boards were practical people who all, in one way or another, had a democratic mandate and they were relatively cheap. We have imported into our system this model of regulation and, like Deputy Parkinson, I do not think it has achieved everything that it could be achieving per place of our scale.

Deputy Matthews reminded me I worked with his father, not just as a Deputy but in the Consumer Group, and we were, in those days, very impressed with meeting the regulators because, of course, our lobbying purpose was the consumer. But I think we have heard from many speakers today, from Deputy Soulsby, Deputy Murray and others, that other considerations now are arguably more important. We are not just consumers, we have to focus on developing, as speedily as possible, infrastructure that is game changing and effective for us.

So much has been said but there are a couple of points that do mystify me. In the letter of 24th November 2022, Deputy Inder is written to by CICRA, actually, and the point is made on the third paragraph, 'I understand that, in principle, the Committee,' meaning Economic Development:

considers that there are exceptional and compelling reasons of public policy making it desirable to exempt the Transaction ...

So clearly, as far back as 2002, Economic Development was considering that route, which has been identified as part of the Law. I would argue that if public policy is about the public good, and all of these are hard to define and might be what the Committee or the States of the day say it is, that delivering significant investment in our structure is a clearly a compelling reason of public policy, especially as one of the leading competitors are exiting the market. One has to mention here too, that the three competitors have also been working on the Jersey market and you could combine the Channel Islands, really.

It is interesting that Sure, which has a Guernsey base have, I think, acquired 48% of parts of the Jersey market, whereas JT, for all its strengths as a state-owned entity, has not gained much more

than 20% of the mobile market here. So it looks like Jersey customers are more likely to go for Guernsey than the other way round.

1775 The other point is, is some Members have been worried about the 80% monopoly situation but that, surely, is a function of consumer choice because the consumers in Guernsey, despite some Members saying, me too, that they have had good service from Airtel over the years, have not gone by more than a fifth for Airtel or JT. Sure has remained the monopoly provider, having a higher proportion of customers here than the base one in Jersey.

1780 That would imply, actually, a degree of customer satisfaction because I do not think there is anything to prevent new customers or even existing customers deciding when Airtel go that they would not change to JT. Of course, they might go for the mobile network, where appropriate, as well the new Co-op idea. So I do not feel that there would be anti-competitive practices and if there are then the regulator, where we have that model, needs to step in.

1785 Going to the executive summary of the regulator's letter that I mentioned earlier, they mentioned public interest exemptions and so on and they point out:

Sure has offered commitments to address the presumed anti-competitive effects of this Transaction but it appears, on the basis of the information provided, that these would be achieved whether or not the Transaction goes ahead ... Furthermore, because the commitments are behavioural (i.e. things that Sure commits to do in the future) rather than structural (e.g. divestment of an asset ...), they are likely in any event to be less effective and more difficult to monitor and enforce.

The argument is also made:

... the information that has been provided to GCRA is not sufficient to enable it to carry out a full competition analysis, on its face, the Transaction has features that risk generating a substantial lessening of competition, with Sure gaining a market share of 70-80% on at least two markets in Guernsey.

1790 My argument would be that the regulator hinted, strongly, in that letter and maybe other correspondences that they were unlikely to agree to the proposal. It also offered a gateway of using Article 14. So I would not say they were prejudging it, but they were giving a strong indication that their interest was the reduction of consumer choice rather than, necessarily, the scale of investment provided.

1795 What mystifies me is part of the presentation that we had yesterday – and, yes, I do share Deputy Roffey's concerns that sometimes presentations are partial and do not include all Members because not everybody is able to go and you possibly have commercial representatives and that needs to be flagged up but, nevertheless – the argument was made and it was made, I think, a year ago in the Carol Hines room at the Les Côtis as well, that Guernsey is an outlier, and Jersey too really, of being very small communities in terms of population that have had three providers.

1800 The mystery, with hindsight, is why Airtel came, although as we heard from Deputy Roffey, they had a business plan in mind. Bearing in mind many countries with millions of population only have two, we are clearly a bit saturated by three and that is what puzzles me that the case was not an open and shut case to the regulator, that Guernsey did not need three providers anymore because, clearly, we were having problems with competition.

1805 I think the regulator, deep down, would accept that argument and would, therefore, perhaps go along the lines of mitigation with onerous remedies and requirements. But I think the deal that Economic Development seems to have arranged with Sure is a substantial one. I wish I had their negotiating skills at times because they have delivered a lot of commitments to enhance, to invest, to move quicker towards 5G or even maybe 6G, to keep existing contracts – I agree on the roaming point – and to hopefully maintain staff to use the network wisely and allow a new mobile network
1810 to come in in a niche way.

For those reasons, and given the fact that we are an Island that is subscale, as Deputy Murray and others have pointed out in terms of mobile provision, I do not see why we should not support Economic Development today and I think we do need a bigger conversation about the role of a regulator and whether we were actually better served by a lighter touch and more political boards.

1815 I think we here, we cannot ... one Member, I think was Deputy Le Tissier actually, said that we
should have small Government and non-interventionist and hand things over to professional people
who know what they are doing. In a way that can be seen as an abdication of Government because
if everything is done by a professional elite of statutory officials and based on their criteria, what is
our role here? Why have we 38 Deputies, maybe we do need less because our role has lessened
1820 over the 10,000 days I have spent here? Our numbers have lessened and our role has lessened; and
I think this is an example where, at a time of great international tension and technological change,
we actually need to make a decision and be dynamic and not allow things to drift on for several
years again and support Economic Development today.

1825 **A Member:** Hear, hear.

The Bailiff: Well no one else is rising to speak in general debate. Deputy Inder, you have given
information that there is an amendment being prepared. I understand it will be available shortly.

**Procedural –
Lunch adjournment; order of business**

1830 **The Bailiff:** Rather than lose time now what I am going to propose to Members – and this is
principally to accommodate attendance at Jack Honeybill's funeral this afternoon – is that we sit
until one o'clock and we then adjourn until four o'clock which will enable those who want to go to
the funeral to go to the funeral.

He was a respected Member of this Assembly and the timing of the funeral is such that if those
of us who want to attend are able to attend, then that would be the way forward. Then I am going
1835 to propose that we interpose between now and one o'clock prioritisation of legislation. So, that is
the procedural motion, I know it is in multiple parts, but the principle is let us sit until one o'clock,
let us put some business in for now, then we will come back to the amendment as and when it is
available to be circulated because there is no point in me inviting Deputy Inder to reply to the
1840 debate when he has got an amendment that he wants to lay before the States.

So we sit till one o'clock, we do some other business in the meantime and then we resume again
at four o'clock this afternoon. That is the motion. We go to vote. Those in favour; those against?

Members voted Pour.

Well, I will declare that carried. So, Greffier, can we move next to the next item of business and
will come back to this debate as and when we can.

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POLICY & RESOURCES COMMITTEE

**10. The Prioritisation of Legislative Drafting –
Proposition carried**

Article 10

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Prioritisation of Legislative Drafting' dated 19th August 2024, they are of the opinion:-

1. To agree the schedule of prioritised legislative drafting as laid out in Appendix 1.

The Greffier: Billet d'État XVI, Article 10, Policy & Resources Committee – the Prioritisation of Legislative Drafting.

1850 **The Bailiff:** I will invite the Vice-President of the Committee, Deputy Soulsby, to open the debate, please.

Deputy Soulsby: Thank you, sir.

1855 Now, Members will be aware that the Prioritisation of Legislation is something we do every year. Previously, it has formed part of the Government Work Plan process but as the States have agreed not to renew it before the end of this term it is being presented separately, as will be the case for the associated policy on Extant Resolutions, which will be coming down the track shortly.

1860 While on the face of it, a policy letter on the Prioritisation of Legislation may not be the most exciting of the business we conduct in this place and probably not more exciting than what we have been in the middle of debating, it is important in ensuring limited resources are focused on those areas that we consider a priority.

1865 In terms of the prioritisation process, ratings are requested by the sponsoring Committee in liaison with the drafting team and, as far as possible, are met. These are used as a guide so that the Committee and drafting team can allocate their resources appropriately, with a pan-States view and political oversight.

It is sometimes a case that draughters have capacity to progress smaller items while waiting on responses from Committees to other items. This might mean that a medium or low rated item is completed before a high rated item. Some high or medium priority items may not have progressed as planned, due to a lack of resource within the sponsoring Committee or other stakeholders.

1870 Where possible the core strategy and policy team will provide resources to try and speed up the progress of these items, particularly those that are longer standing. Priority ratings for items are based not just on how important the subject matter is but also on other factors, such as the people working with children and vulnerable adults Vetting and Barring Scheme, this is considered by Home Affairs as a priority piece of work but progress could not be made until the UK Government engaged with the States of Guernsey. Therefore, the priority is currently medium which frees up drafting resources to focus on other items until they are able to return to this item.

1875 Priority ratings for some pieces of legislation may change depending on the context at the time, such as the Register of Driving Instructors and this has been recently changed from medium to high priority because initially the drafting was progressing well but due to practical considerations arising from COVID, implementation planning was delayed by Environmental & Infrastructure. The need for the legislation has since become more urgent as a result of having to meet the requirements of the Vienna Convention, hence a change to high.

1880 Thanks to the improvements made this term we are getting a grip on the legislative process and have seen a reduction from 95 drafting items, being outstanding at the beginning of this term, to 50 now. Of course, the number of Resolutions is constantly changing with items coming off and new ones going on following every single States' Meeting and many of those require legislative

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drafting. Indeed, 74 such Resolutions have been added since the start of this term, so the fact that the number has reduced while Resolutions have been added really is a significant achievement.

1890 Almost 100 items that are managed through this process have been completed this term covering a huge range of topics, from secondary pensions to financial services. Twenty items have been removed because Committees have decided they are no longer required. On top of this, there have been urgent items that have been considered outside this prioritisation process.

1895 This includes the legislation required for Moneyval which, by their nature, were automatically of a high priority and had to be progressed as quickly as possible. Members may or may not be surprised to hear that this required a significant amount of legislative drafting with 89 items covering eight Laws, 24 ordinances and 57 statutory instruments in just 2023 alone. Let it not be said that nothing has been done this term.

1900 This is a team effort, it requires, most obviously, the drafting team at St James' Chambers but also the Strategy & Policy team who have provided the staff resources to help complete projects, particularly the most urgent such as the Children's Law, or long standing legislative items such as the Animal Welfare Law, but also subject matter experts within Committees and Committees themselves. The very technical or wide ranging legislation also requires consultation, both internally and externally. If Members have queries on particular items, I ask that these are directed to the Presidents of the relevant Committees and I look forward to debate.

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The Bailiff: Deputy Queripel.

Deputy Queripel: Thank you, sir.

1910 Having undertaken a considerable amount of work with dozens of severely traumatised parents and their children in my time as a Deputy, I am particularly interested in the review of the Children's Law, which stands at number 19 on this list. In the prioritisation column we are told the following, it should be noted that capacity constraints in some service areas are continuing to delay the progress of some of the work streams under the Children's Law and Outcomes Review. That really concerns me, sir.

1915 So my questions in relation to those delays are as follows: (1) what does capacity constraints actually mean – does it mean we need more staff and perhaps more Law Officers; (2) which service areas are we actually talking about and which work streams are we talking about; and (3) what do we need to do to rectify those delays?

1920 Understandably, sir, the priority rating is high, as is the register for driving instructors; and I think I must be missing a fundamental point somewhere because I am not appreciating why publishing a register of driving instructors is rated as high, especially when one looks further down the list at number 27 and sees that the Vetting and Barring Scheme for people working with children and vulnerable adults has a priority rating of medium.

1925 In her opening speech, I think, Deputy Soulsby said something about we need to comply with some EU Law or something that we need to produce this driving instructors register as soon as possible. I do not understand why that is more important than looking at the barring scheme for people working with children and vulnerable adults. I would like some clarification on that, please.

1930 I guess I could have laid an amendment that sought to reconfigure that but I did not see the need because I have every faith in P&R. We are told in paragraph 3.6, P&R are doing all they possibly can to address the problems to ensure the next Assembly has a more manageable programme. So I have every faith, sir, that Deputy Soulsby's response will allay my concerns.

But staying with paragraph 3.6, I would also like clarification please; we are now being told that sponsoring Committees need to ensure their subject matter advisors and policy development teams are not committed to new developments before proposals agreed by the States are implemented.

1935 That sounds to me like we are being asked not to pursue and present anything new to the States for consideration whilst we have a backlog. But of course, Government has to go on and new items arise all the time, which is why I am seeking clarification on that point. In closing, sir, in an attempt to be helpful, I have given P&R prior notice of my questions.

Thank you, sir.

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The Bailiff: Deputy Gollop.

Deputy Gollop: I do not think I gave anyone prior notice, but maybe I can expand on some of the points Deputy Queripel has made. I sat on the old Legislation Select Committee and Legislation Panel of Scrutiny for a 19-year term of duty, which was quite interesting. So it was possibly quite logical that I sat on at least one of the Prioritisation of Legislative Drafting workstreams of the new P&R.

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But as Deputy Meerveld and others will remember, sometimes there is a suspicion that I add to the time of the meeting because one or two of the senior officers present said they usually got through it in five to 10 or 15 minutes with their officer team and I added a longer time to it because I questioned, like Deputy Queripel might, every ranking and perspectives.

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But, nevertheless, this short policy letter is a useful piece of work and not only have we seen that reduction, I know Deputy Ferbrache wanted to see a proposal that any new Law brought in, we automatically binned an old one but that has not always happened. On 3.6 you can see that, I think, they are listed randomly rather than in any particular order, but you have got registered driving instructors, sale of knives, the Parole (Guernsey) Law, animal welfare, which is always important, Children's Law and Environmental Pollution.

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I think the paragraph about requiring the sponsoring Committees to ensure their subject matter advisers and own policy development teams are not committed to new developments before proposals are implemented, has to be taken in context because sometimes something like the Ro-Ro ramps or, for example, Police procedures or, particularly, Moneyval related legislation, comes up at a particular point and other things have to be postponed to accommodate it.

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But I think this is hoping for a more holistic, joined up approach that Committees will have advisers and policy development teams, which might be shared with other Committees, that they finish their existing work rather than committing to new developments and that is to stop a backlog from occurring in future. Because part of their role is to advise the Law Officers and the legal drafts people about how the legislation should go and if you do not have a really strong team serving the political Committee, the Principal Committee who is sponsoring it, then you tend to get delays. I know, having served on Employment & Social Security, we had an exceptional team there and that is one of the reasons most of our legislation was timely and well done. But I think one or two other Committees have had shortages of staff, which has weakened their impact.

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I noticed the listing of Appendix 1, I would like to see all of them stay and I argued, 'Oh, do not throw that Resolution away or ...' but the ones that go in time form and one will notice parole legislation we gave, rightly, a brilliant tribute through you, sir, to former Conseiller and Deputy Mr Mike Torode, who headed up the Police & Home Affairs, I believe, for 24 years, and the parole legislation reforms of 2005 must go back to that period that we are still working on – limited partnerships, all of that sort of thing.

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I was on the Traffic Committee at the start of my 10,000 days working with the late Mike Dean and others, and we were doing the Register of Driving Instructors then. In fact, I was a self-employed associate before I even became a Member and the Members made remonstrations to me, there were unqualified and possibly not necessarily safe driving instructors around and they wanted a register and it was clearly passed in 2014 and yet it is still on our list. That is why I think it is a higher priority than, say, the Children's Law, not because it ranks higher but because it is to be ... well it is ranked high because it is delayed and in fact, if I was to name possibly –

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I will give way to Deputy Soulsby.

Deputy Soulsby: Yes, thank you, Deputy Gollop. I did explain why it had been put to high in my opening speech. It was around trying to get meet requirements of the Vienna Convention, which I am sure Deputy de Sausmarez can talk at length about if everybody wants to hear it.

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Deputy Gollop: Yes, and sometimes I think over the years perhaps Health and the Environment have had shortages of staff to get this work underway but that is, hopefully, being dealt with now. Now, one Law that Deputy Queripel particularly mentioned, number 19, was the review of the Children Law and Outcomes, drafting is underway.

1995 Now I sit on the Corporate Parenting board and the Children & Young People's board that my predecessor, Deputy Le Tocq, did amazing work with and is still a close advisor and, I think, the Capacity Law constraints has to be taken in a context that we are not just working with officers and lawyers, we are working with agencies and they have the day job to do and to advise on this.

2000 But as I understand it, everything is being resolved and being done by an excellent team and we know from the updates we get that any log jams are being dealt with and that progress is underway; and I think Deputy Matthews would confirm that, who is sat on some of these boards, and Deputy Haskins. So do not worry, hopefully, you can trust Policy & Resources and the staff who are really doing the work, and progress will be made very shortly on that very important piece of legislation.

2005 **The Bailiff:** Deputy Prow.

Deputy Prow: Thank you, sir.

Very briefly, I think Deputy Queripel mentioned the vetting and barring legislation and I share his enthusiasm for getting this completed but, if I heard it correctly, I think Deputy Soulsby has already referred to that in her opening and I can confirm that this is actually being held up through discussions with the United Kingdom, which are essential to this. It was just to, perhaps, reassure Deputy Queripel that that engagement with the UK will continue and will not be interfered with by the schedule, and perhaps I could ask Deputy Soulsby to confirm that that is the understanding.

2010 Thank you, sir.

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The Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

2020 I just start by echoing the words of Deputy Soulsby, actually, when she opened on this, to register my thanks for the people who work very hard to get our legislation through and, I think, they have worked tremendously hard in the last year or two in particular with some very significant challenges. So I would just like to thank them and all the other officers that work with them to make that happen. It is one of our chief roles, of course, as a legislature.

2025 To answer Deputy Queripel's question about why the register of driving instructors has got the high priority that it has, Deputy Soulsby has already explained that it is one of our obligations, under the Vienna Convention and that is not a set of EU rules that is an agreement in place that enables Guernsey people with a Guernsey registered vehicles to have access to the UK and much of Europe and it is really about reciprocal standards, making sure that our vehicles meet certain standards and our driving meets certain standards.

2030 Actually this piece of legislation very much predates –

I give way to Deputy Queripel, but I might just be about to explain further, but –

Deputy Queripel: I thank Deputy de Sausmarez for giving way, sir.

2035 Bearing in mind what Deputy de Sausmarez just said, in that case, I think the Vienna Convention needs to review the way in which they prioritise issues because surely protecting children and vulnerable adults is a lot more important than producing a register for driving instructors.

2040 **Deputy de Sausmarez:** Well, I think Deputy Queripel, had he actually just waited for me to expand on my answer, I was getting to that very point because this is not just a list of driving instructors, this is absolutely about ensuring the safety of young people in particular. At the moment, anyone with a driving licence in Guernsey can set themselves up and charge people money. They are in a one on one situation, more often than not, those are young people, they might

have very little experience in terms of outside of the family, dealing with adults one on one; they are actually in a fairly vulnerable situation and at the moment there is no requirement on anyone who says they are a driving instructor to have any formal qualification whatsoever.

So we do not know whether they are actually capable of doing the job. I am satisfied that, actually, the vast majority in Guernsey are but there is absolutely nothing required of them to evidence that, no qualifications required but also no safety checks. So actually had Deputy Queripel followed the references and looked up the reasons, which were stated in the list that Policy & Resources have published, he would have seen that in the original policy letter, which was a good 10 years ago and this very much predates the Vienna Convention, Guernsey is an absolute outlier in not having this register. We are virtually alone – the only jurisdiction that does not have any regulation of this nature around anyone offering driving instruction.

The original policy letter, which I think might have actually been under Deputy Burford, in fact, states that there are four clear reasons why it is important to establish a register of driving instructors and these are: to protect the health, safety and security of those undertaking tuition; to introduce fair contractual arrangements into the business; to encourage those entering the business to become properly qualified; and to maintain international recognition of the Guernsey driving licence.

So those are as relevant today as they were in 2014. In fact, they are now more relevant because it is now a part of the requirement of the Vienna Convention, and I think it is not an unreasonable thing to ask of a jurisdiction that we have some sort of basic standards in place and some security checks to make sure that the people offering driving instruction to our young people, in particular, because they comprise the majority of learners, are indeed safe and qualified to do so.

It has been 10 years. As Deputy Soulsby said, there have been good reasons why it is taken that long, but it is now important. If we just always said, 'Oh, well there is something else that is more important,' some of these things would never get done and, actually, I think this is a case in point. So it is important that we do this. I do think we owe it to the young people in this Island to make sure that we are satisfied that the people they are getting into a vehicle with one on one, are safe and suitably qualified to give them that driving instruction; and I hope that helps to explain why the priority is as it is. But, actually, it is very much, ironically, part and parcel of the very issue that Deputy Queripel has talked about in terms of safeguarding our young people. That is absolutely one of the fundamental tenets of this piece of legislation.

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

I am just going to respond to the questions from Deputy Queripel about, what does capacity constraints mean? Well, in my world, that basically means that we have not got the resources to do all the things we would like to do when we would like to do them, and I think that is something that we have certainly learnt in this term of this Assembly.

Just picking up on his particular point with regard to the review of the Children's Law and the outcomes of that, formal consultation on the substantive changes to the primary Law will start on 27th September until 15th November this year, following which comments will be taken on board by the draughter and/or the Committee as necessary.

The risk to progress due to capacity constraints have lessened in some areas and the primary Law amendments have been prioritised. The remaining supporting work to fully implement the 2022 decisions may take longer and may not be completed until the next term of Government.

So that is basically the update, but it is a very important area and we just have to work through as best as we can to get our legislation in place.

Thank you, sir.

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, briefly I am brought to my feet by Deputy de Sausmarez's comments in relation to the regulation of driving instructors because I think it is another example of legislation which is sold to the States at the policy letter stage as being really quite important and quite urgent and yet we fail again and again to actually act with any urgency to actually then deliver the legislation.

I am not seeking to blame the Committee at all, it is a systemic problem and no doubt the banning of knives is another example that at the time it all felt very important and very urgent and yet we failed to deliver on it; and we do not do the community or, indeed, the reputation of this Assembly any service by that failure to deliver. It does not affect the outcome of the debate and the Proposition today but it is, I think, a real challenge which the Government needs to consider and certainly when presenting policy that requires legislation needs to be much more realistic.

Another example of another piece of policy that was sold to the States at the time as being urgent was, of course, the electronic patient record system in June 2020. Deputy Soulsby, as the President of the Committee, then advised the States that it needed to be in place by March 2021 and here we are several years later, still working towards that outcome.

So I think it is a word of caution to Committees as they sign off policy letters to be doubly challenging of their advisers and officers as to the viability of being able to deliver against the promises and the rationale which is offered up to Members because it will often be the Members in this Assembly who never get to see what emerges many, many years later when others are expected to sign it off into legislation.

The Bailiff: Deputy Matthews.

Deputy Matthews: I would like to really echo the sentiment that it is very difficult, I think, for us as political representatives to understand, sometimes, the amount of time that something is going to take to get drafted and to get completed. I think an example of that, to add to Deputy St Pier's list, and as one of our high priority items here we have got the Children's Law.

Now the Children's Law was one which was started under, I think, the previous HSC Committee. When we came in as an HSC Committee, it was set as one of our top priorities, a recovery action from COVID to progress it to get it over the line and now, towards the end of the term, it is still ongoing and it, almost certainly, will not complete during this term, it will be into the next term.

I know that there is an awful lot of work that goes into this and we have limited capacity and constraints, we cannot just snap our fingers and have new legislation drafted and written and ready to go, but I do think it would be useful for us, as Members, sometimes to understand more about the timescale that is involved in drafting this legislation and to understand more about what is likely to complete and when it is likely to complete so that we just do not set our expectations too high in terms of when changes are likely to happen, given that some of these items at lower priorities may take many, many years to complete.

Thank you, sir.

The Bailiff: So, I will turn back to the Vice-President to reply to that short debate, please. Deputy Soulsby.

Deputy Soulsby: I welcome your contributions. I think Deputy Queripel's questions have been suitably answered by Deputy Prow and Deputy de Sausmarez. I would add that we think at St James Chambers there might be a whole raft of lawyers and that you can just call on one when you need a bit of work and that is fine and move on. But there are subject matter experts within St James Chambers and, certainly, we have got those more focused on finance and they have been dealing with Moneyval and those that deal with more social policy issues, such as children and young people.

There have been resource issues. I will not go into that, I do not think it is appropriate but all I can say is the policy teams have been working really hard to resolve those issues and which I think

has happened. So these things do happen, we are a small Island with small teams all over the place. If something happens, it can impact that work but it is not that we are not saying that driving instructors are more important or equally important as children and the safety of children, it is just we have got different teams with different expertise which we need to call upon.

I think in terms of any other comments ... Deputy St Pier, now an interesting comment, he said, 'Yes, the electronic patient record, we were told it was urgent in March 2021,' but there was something called the pandemic that arrived in between the time and I am sure he is very well aware and a lot of focus was then put on that legislation.

Deputy St Pier: Point of correction, sir.

Deputy Soulsby: No, I know what he is going to say and I am going to answer it anyway.

The Bailiff: If it is a point of correction then I will say point of correction, Deputy St Pier.

Deputy St Pier: Thank you, we were in the middle of the pandemic in June 2020 when that policy letter was presented as urgent ahead of March 2021. I am not seeking, in any way to ... That is my correction, sir.

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Yes, that is fair enough but it did go on and, also, the fact that we were in circumstances where we were told by the officers in question that it was urgent at that time, but matters were put in place that meant that urgency had alleviated somewhat and so that urgency was not there, but then that was not about legislation and I think we need to get back to what we are actually debating.

Of course, legislation can vary at different times and, as I said earlier, there is legislation that has been passed which Committees have now said, 'Well we do not need it anymore,' and a lot of the work we have done over this year has been to look at what we are doing, both from an extant Resolution point of view and legislation and say, do we really need to do it?

As I say, a lot of work has been done on that, a lot of work has been done to catch up on legislation this term, despite all the other pressures and particularly Moneyval, as I said earlier, so a lot has been done and I think instead of having a go at the position we have been in, I think we should be, actually, very grateful for the service that we have received this term in getting through so much in difficult circumstances. So I thank Members for debate and I also support the policy letter.

The Bailiff: Members of the States, there is a single Proposition. I will invite the Greffier to open the voting, please.

There was a recorded vote.

Carried – Pour 33, Contre 1, Ne vote pas 0, Did not vote 4, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	Mahoney, David	None	Le Tissier, Chris	Dudley-Owen, Andrea
Blin, Chris			Roberts, Steve	Helyar, Mark
Brouard, Al			Snowdon, Alexander	
Burford, Yvonne			Taylor, Andrew	
Bury, Tina				
Cameron, Andy				
De Lisle, David				
De Sausmarez, Lindsay				
Dyke, John				

Fairclough, Simon
Falla, Steve
Ferbrache, Peter
Gabriel, Adrian
Gollop, John
Haskins, Sam
Inder, Neil
Kazantseva-Miller, Sasha
Le Tocq, Jonathan
Leadbeater, Marc
Matthews, Aidan
McKenna, Liam
Meerveld, Carl
Moakes, Nick
Murray, Bob
Oliver, Victoria
Parkinson, Charles
Prow, Robert
Queripel, Lester
Roffey, Peter
Soulsby, Heidi
St Pier, Gavin
Trott, Lyndon
Vermeulen, Simon

2190

The Bailiff: So, in respect of that Proposition there voted in favour 33 Members, 1 Member voted against, no Member abstained and 6 Members did not participate in the vote, but I will declare the Proposition carried.

**Procedural –
Circulation of amendment to Article 9**

2195

The Bailiff: Members' of the States, the Amendment 2, which is to be proposed by Deputy Inder and seconded by Deputy Kazantseva-Miller, has been circulated electronically but for those who want a paper copy as well, what the Sheriff will do is put a paper copy on your desks before we resume and we will now adjourn until four o'clock this afternoon.

*The Assembly adjourned at 1 p.m.
and resumed its sitting at 4.05 p.m.*

COMMITTEE FOR ECONOMIC DEVELOPMENT

**Temporary and Limited Exemption to the Competition Law to enable Guernsey Airtel
Limited to exit the market by way of acquisition by Sure (Guernsey) Limited –**

**Debate continued –
Propositions carried as amended**

2200

[Amendment 2](#)

- (a) *In proposition 2, immediately after "To approve the draft Ordinance entitled "The Competition (Time Limited Exemption) (Guernsey) Ordinance, 2024" as set out in Appendix 2 to the Policy Letter," insert ", subject to the amendments indicated below,"; and*
- (b) *at the end add the following:-*

2205

"Amendments

1. In clause 1 of the draft Ordinance,

a. for "Any agreement between entities", substitute "Any agreement between Sure (Guernsey) Limited ("Sure") and Guernsey Airtel Limited ("Airtel"), both of which are companies ".

b. after the definition of the Telecommunications Law insert "for Sure to acquire Airtel" and

c. in paragraph (b) for "the licensees" substitute "Sure and Airtel".

2. In clause 2(1) of the draft Ordinance, delete "between entities", and for "on the relevant licence" substitute "on the licence of Sure".

3. In clause 3 of the draft Ordinance, delete "on a licence" and substitute "section" for the word "subsection".

The Bailiff: Members of the States, what I think we will do is invite Deputy Inder to move Amendment 2, please.

2210 **Deputy Inder:** Thank you, sir.

This amendment, seconded by Deputy Kazantseva-Miller, really speaks to the two issues raised in debate: one, in the first instance by Deputy St Pier; and secondly, by one of our Members of the LRP, Deputy Dyke. All it does is simply tightens up and gives a much clearer, direct direction to the GCRA and we have had that portion of the debate. I do not think there is much more to say on it. It is effectively technical, if not tightening up, and I would hope that Members would support that.

The Bailiff: Deputy Kazantseva-Miller, do you formally second Amendment 2?

Deputy Kazantseva-Miller: Yes, sir.

The Bailiff: Thank you very much.

Does anyone wish to debate this amendment? I am conscious that although I have rushed up the road, some people are still on their way back from the funeral. But in those circumstances, if there is no debate, then I will invite the Greffier to open the voting on Amendment 2, which is proposed by Deputy Inder, seconded by Deputy Kazantseva-Miller, and if successful, will substitute Proposition 3 to make it a clear direction to the GCRA, rather than anything else.

There was a recorded vote.

Carried – Pour 34, Contre 0, Ne vote pas 0, Did not vote 4, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	None	None	Brouard, Al	Dudley-Owen, Andrea
Blin, Chris			Le Tocq, Jonathan	Helyar, Mark
Burford, Yvonne			Parkinson, Charles	
Bury, Tina			Roberts, Steve	
Cameron, Andy				
De Lisle, David				
De Sausmarez, Lindsay				
Dyke, John				
Fairclough, Simon				
Falla, Steve				
Ferbrache, Peter				
Gabriel, Adrian				
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tissier, Chris				

Leadbeater, Marc
Mahoney, David
Matthews, Aidan
McKenna, Liam
Meerveld, Carl
Moakes, Nick
Murray, Bob
Oliver, Victoria
Prow, Robert
Queripel, Lester
Roffey, Peter
Snowdon, Alexander
Soulsby, Heidi
St Pier, Gavin
Taylor, Andrew
Trott, Lyndon
Vermeulen, Simon

The Bailiff: Now the voting on Amendment 2 proposed by Deputy Inder, seconded by Deputy Kazantseva-Miller, was that there voted in favour, 34; no Member voted against; no Member abstained; 6 Members did not participate in the vote and therefore I will declare that carried, which means that we have got a new Proposition 3.

I will invite the President, unless anyone leaps to their feet very quickly to debate anything further, to reply to the debate now. No.

Deputy Inder then, please.

Deputy Inder: Thank you, sir.

Members, this has been quite a long debate, and I think it has been a useful and important debate, as well, to flush the issues out. As I have long said, Members, ultimately you as the States of Deliberation are the final arbiters and should remain so.

I thank Members for the comments that they have made in debates. I will briefly try to address the main concerns that Members have raised. I will not go through each of the points line by line, but I will try and address the general themes. A number of Members, including Deputy Falla, have suggested that it would have been better if the Guernsey Competition and Regulatory Authority had considered this matter.

That is a reasonable position for Deputy Falla to take, along with other Members, as well. It is just the majority of the Committee disagrees with that position. That is not a criticism, but that is exactly the position that the Committee found itself and Deputy Falla dissented. There is no problem with that. But I have got to remind Deputy Falla that as Vice-President of the Committee that came into the States, as – his words, not mine – Mr Business, he is the liaison officer between the Chamber of Commerce and the Committee. The Chamber of Commerce has clearly come out in favour of this transaction.

Other areas were dealt with by Deputy Kazantseva-Miller, who I will make reference to through this debate, who has provided some top cover, for want of a better word, for the President and the Committee, and she dealt with issues around the tariff plan. I also understand that Airtel shared an email with Deputy Falla the same day, and a soft copy of this product brochure was given to him, as well, I am led to believe, which hopefully disabused him of the issue he had with the tariff plan, but it did not and I was not there. I did not see the email. So Deputy Falla's position is that it will remain his position.

Deputy Blin raised concerns about the potential lack of clarity regarding whether Airtel's landline lookalike device was using, I think it was, eSIM cards. The response I got, because I have been asking, directly, the two entities, and this is a quote, these are not my words:

All products and services available on Airtel's network will continue to be available on Sure's network post-merger, subject to the States' approval. Furthermore, all tariffs associated with these products and services will be maintained for 36 months from the merger approval date.

So I hope that satisfies one of Deputy Blin's concerns. Several Deputies expressed concerns that a proper due diligence assessment may not have been conducted by CFED regarding the potential harmful effects of the proposed merger, raising questions about the MVNO and the enforcement of promised commitments. Again, Members, a significant amount of due diligence has been conducted over the past two years by the JCRA, by CFED and Frontier Economics to address competition-related concerns.

The remedies identified, which have been mentioned through this debate, including the continuity of Airtel's product, service and tariffs for that three year – 36-month – period and the launch of an MVNO entirely mitigate the lessening of competition, and these have been thoroughly considered. Now, Members, that is entirely the Committee's position. It is a statement of fact. There will be the same competition in the market. There will be three suppliers and the difference will be that there will be two networks. I cannot say any more than that. As a consequence of the most recent amendment, the commitments are effectively a clear direction and will now be enforced through the telecom licence issued to Sure.

Any breach of those conditions will be subject to regulatory action in accordance with the relevant norms and processes. One of the big issues is over this – and I wish I had never used the word 'orderly' or 'disorderly exit' – sometimes one does get hoisted by their own petard. But anyway, many Deputies commented on why an orderly exit matters, if Sure plans to roll out 5G without the merger; they suggested that Airtel should exit as per the norms and customs can decide. The biggest point being missed here is that in the event the merger is not approved and Airtel exit, there would be no guarantees of an orderly transition for existing customers. There is no grant.

So if there is no order – and I make reference to Deputy St Pier – if there is no order, in my world, the opposite to that is disorder. Without the merger, Airtel's exit would leave its customers without clarity on continued availability of existing services or tariffs. This would likely result in significant disruption, as no other provider would be obligated to take over the service and legacy tariffs in the same way that Sure would under the merger conditions, which means they will maintain them for the next 36 months. This would leave two mobile operators in the market, reducing choice and potentially weakening competition. The merger is structured to ensure customer protection and market stability with a clear framework of regulated commitments.

The key issue is not just about Airtel exiting, but how that exit happens and what it means for customers who rely on Airtel's services. If Deputies do not support the merger, the market will be left with only Sure and JT, increasing the likelihood of tariffs rising. The merger provides a managed and regulated path forward, ensuring continuity and stability for both customers and the broader telecoms market.

Other Members have noted that the JCRA has dealt with this matter, whereas in Guernsey, the matter has been dealt with by the Committee. That is a statement of fact. However, we have to recognise the different starting points on the two Islands, particularly in terms of the degree of concentration in the mobile telecommunications market.

It is worth noting that it was August 2024 that the JCRA announced that it was minded to approve the acquisition in Jersey, having secured a number of important mitigations. Many of those mitigations have now been transferred into the current policy letter. As a result, if Sure acquires Airtel-Vodafone in Guernsey, its market share will increase to around 80% of the Guernsey mobile market and JT would have 20%. But there would be absolutely no change from our current position. Three operators in the market, with the difference being that one will have gone and replaced by an MVNO, admittedly not by market share, but will be replaced.

Deputy Burford has asked whether customers of Airtel-Vodafone would be free to break their unexpired contracts if the acquisition of Airtel-Vodafone by Sure proceeds and I think that has already been answered. The pay-as-you-go customers will be free to switch immediately. Customers with contracts would not be able to break their unexpired contracts without penalty.

2315 Deputies have also asked about the potential legal implications of effectively suspending the Island's competition law and whether there are implications for the Bailiwick's membership of international trade agreements. Again, that was answered in the main by Deputy Murray and I think I addressed that in the opening statement.

2320 As Deputy Vermeulen said, 'Why would the States look a gift horse in the mouth?' (**A Member:** Hear, hear.) Millions of pounds worth of private money being invested to upgrade the network, guaranteed now by a licensing addition, to bring Guernsey to the 21st century and, effectively, within a couple of years, be one of the most digitally connected jurisdictions. A great infrastructure project for Guernsey that we do not have to pay for.

2325 I am going to try and skip through some of this and I am just going to focus on this little concept of monopoly. Some of the Members talked about Sure becoming a monopoly and categorically stated that it would be the case, despite the Sure MDs saying that it would not be a monopoly. Well, the definition of monopoly is a single seller. Sure is, and will continue to be, one of the three sellers. There will be two mobile networks and, in time, the Co-op will become a substantial operator. That is far removed from a monopoly.

2330 I think Deputy Queripel mentioned about throwing JL a lifeline. We are not throwing JL a lifeline, financial or otherwise. We are ensuring that JL customers can keep the same services and charges in a seamless manner.

2335 Deputy Murray was conciliatory and recognised the difficulty the Island has in a subscale market and that is really quite important. He reminds me of the advantages that Jersey often has by virtue of its population. The Wimpy works in Jersey, it does not work in Guernsey. The Bowl worked in Jersey, it did not last too long in Guernsey. Jersey appears sometimes almost in this sort of Goldilocks zone where certain things work by virtue of the amount of population. Guernsey simply is not.

I am sorry, there has been so much.

2340 I am grateful that Deputy Meerveld understands the importance of investment in the economy and fully understands the Committee has given deep consideration to this policy letter. Importantly, he understood that the regulator acts as a competition. It is a job of the regulator to regulate post-transaction. He entirely got that, we are effectively opening the door for a period of six weeks for two entities to transact and then closing that door and the regulator comes back into play. There is an important point here. As an Island that looks outward and says it is open for business, the counter to that is we must also allow them to leave. We invite people into the Island but we must also allow them to leave. That is really quite important. Guernsey cannot and should not put barriers in front of businesses that want a transacted exit from the market. They are businesses that have served the Island. The investment is not going to continue. We, as a Committee, and as an Assembly should recognise this, thank them for their effort and allow them to transact out of the Island.

2350 Now I could go on, Members, but I am going to draw to conclusion. I am genuinely grateful to those who have shown support, particularly to my Committee, and I am going to draw to a close. I am trying to skip through some pages.

2355 So in short, sir, as a direct result of the proposed transaction, Sure will build a completely new mobile network that offers the latest generation of technology and services to greatly enhance data speeds, improve coverage and call quality.

2360 If there was one technical speech we should have listened to, it is actually Deputy Haskins. He understood and told us where AI is going and how much data that is going to consume, where it is going to be important and what it is going to mean for us, as users, over the next few years as that develops. On top of that, it was interesting – which I did not know – that actually data is not necessarily driven by the networks, it is actually driven by the devices. When these devices become 6G-enabled, guess what everyone wants? They want 6G telephony.

2365 That was a bit of an epiphany to me, I did not realise that: it is actually the devices that drive the network, 5G, then on to 6G and the whatever-Gs, the heebie jeebies (*Laughter*) some other time. But what was not clear to me and it was a bit of an epiphany, was that networks do not drive the use; it is what the telephones can do that actually drives what the network should require. So this

network will be built and delivered at a much faster pace than would otherwise happen, if the transaction does not take place. The investment is there. That is an accelerated investment, as opposed to decelerated investment.

2370 The network will be 5G-enabled, such that there will be minimum delay in introducing innovative services should Sure be successful in the future licensing process for 5G and I will make comments with respect to Deputy de Sausmarez's point. She is absolutely correct. These things are not always in sync. We have not brought the 5G policy letter. I have been told – but not for the first time – that the 5G policy letter is in draft and I was expecting to see it at the last Committee meeting. It did not
2375 appear and I was supposed to see it at this Committee meeting. Guess what? It has not appeared.

But if it helps at all, I am told that it is at the point of us approving it, but it will not be the first time that I have put a date to something and it has not happened. But I am quite sure it is nearly in play and will be submitted. Hopefully ... I am not even going to say it because I am just going to curse it. *(Laughter)* Shortly. I will just leave it at shortly, it is just easier.

2380 Oh, Deputy Le Tocq is back. That is good.

In short-ish, Members ... I really cannot read, or write! As I have already stated, if the acquisition is approved today by the States, it will lead to a further direct investment by Sure of up to £35 million, with £28 million being invested in a new core network serving the Channel Islands. Of which, £10.1 million will be directly invested in Guernsey infrastructure and £7.2 million on
2385 Guernsey – accepting the word it might be *up* to, if it helps – special radio network infrastructure, and it will also increase the number of telecommunication jobs in Guernsey, as Sure is headquartered in Guernsey. Sir, Members of the Assembly, I commend this policy to the States, and I thank all Members for the debate.

2390 **The Bailiff:** Members of the States, there are three Propositions. But before we can move on to Proposition 2 and then subsequently Proposition 3, Proposition 1 needs to be put to you separately, as I indicated to you yesterday afternoon. Because if Proposition 1 does not carry, I will not have to bother with Proposition 2 or Proposition 3. If Proposition 1 does carry, then we will move on to the Proposition 2 and then subsequently Proposition 3.

2395 So we will have a vote on Proposition 1 on its own. That is unamended so you can see it on the face of your document and it will be on your screen. I will invite the Greffier to open the voting on Proposition 1, please.

There was a recorded vote.

2400

Proposition 1.

Carried – Pour 26, Contre 8, Ne vote pas 3, Did not vote 1, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	Burford, Yvonne	Blin, Chris	Roberts, Steve	Dudley-Owen, Andrea
Brouard, Al	De Lisle, David	St Pier, Gavin		Helyar, Mark
Bury, Tina	De Sausmarez, Lindsay	Taylor, Andrew		
Cameron, Andy	Falla, Steve			
Dyke, John	Le Tissier, Chris			
Fairclough, Simon	Matthews, Aidan			
Ferbrache, Peter	Queripel, Lester			
Gabriel, Adrian	Roffey, Peter			
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tocq, Jonathan				
Leadbeater, Marc				
Mahoney, David				
McKenna, Liam				

Meerveld, Carl
 Moakes, Nick
 Murray, Bob
 Oliver, Victoria
 Parkinson, Charles
 Prow, Robert
 Snowdon, Alexander
 Soulsby, Heidi
 Trott, Lyndon
 Vermeulen, Simon

2405 **The Bailiff:** In respect of Proposition 1, there voted in favour 26 Members; 8 Members voted against; 3 Members abstained and 3 Members did not participate in the vote. So I will declare Proposition 1 carried, which means that we move on to Proposition 2, which is to approve the draft Ordinance. But that draft Ordinance has, of course, been amended by Amendment 1, as set out on your screens. I will invite the Greffier to open the voting on Proposition 2 next, please.

2410 *There was a recorded vote.*

Proposition 2.

Carried – Pour 27, Contre 7, Ne vote pas 3, Did not vote 1, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	Burford, Yvonne	De Sausmarez, Lindsay	Roberts, Steve	Dudley-Owen, Andrea
Blin, Chris	De Lisle, David	Falla, Steve		Helyar, Mark
Brouard, Al	Gabriel, Adrian	Taylor, Andrew		
Bury, Tina	Le Tissier, Chris			
Cameron, Andy	Matthews, Aidan			
Dyke, John	Queripel, Lester			
Fairclough, Simon	Roffey, Peter			
Ferbrache, Peter				
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tocq, Jonathan				
Leadbeater, Marc				
Mahoney, David				
McKenna, Liam				
Meerveld, Carl				
Moakes, Nick				
Murray, Bob				
Oliver, Victoria				
Parkinson, Charles				
Prow, Robert				
Snowdon, Alexander				
Soulsby, Heidi				
St Pier, Gavin				
Trott, Lyndon				
Vermeulen, Simon				

2415 **The Bailiff:** Proposition 2, as amended, was carried by 27 ... *(Laughter)* I have given the spoiler away, haven't I? Resulted in the following votes, there voted in favour 27 Members; 7 Members voted against; 3 Members abstained and 3 Members did not participate. Therefore I declare Proposition 2 also duly carried, which means that we can now move on to Proposition 3, which is

2420 substituted by virtue of Amendment 2. If you want to see the text, it is on your sheet of paper in front of you. I will invite the Greffier to open the voting on Proposition 3, please.

There was a recorded vote.

Proposition 3.

2425 *Carried – Pour 33, Contre 2, Ne vote pas 2, Did not vote 1, Absent 2*

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	Le Tissier, Chris	Burford, Yvonne	Roberts, Steve	Dudley-Owen, Andrea
Blin, Chris	Queripel, Lester	Falla, Steve		Helyar, Mark
Brouard, Al				
Bury, Tina				
Cameron, Andy				
De Lisle, David				
De Sausmarez, Lindsay				
Dyke, John				
Fairclough, Simon				
Ferbrache, Peter				
Gabriel, Adrian				
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tocq, Jonathan				
Leadbeater, Marc				
Mahoney, David				
Matthews, Aidan				
McKenna, Liam				
Meerveld, Carl				
Moakes, Nick				
Murray, Bob				
Oliver, Victoria				
Parkinson, Charles				
Prow, Robert				
Roffey, Peter				
Snowdon, Alexander				
Soulsby, Heidi				
St Pier, Gavin				
Taylor, Andrew				
Trott, Lyndon				
Vermeulen, Simon				

2430 **The Bailiff:** In respect of Proposition 3, as substituted by Amendment 2, there voted in favour 33 Members; 2 Members voted against; 2 Members abstained; 3 Members were not participating and therefore I will declare that duly carried, which means that all three Propositions, as amended, have been carried.

Billet d'État XVII

COMMITTEE FOR HOME AFFAIRS

2. Police Powers and Criminal Evidence Legislative Amendments

Debate commenced –

Propositions carried

Amendment

Whether, after consideration of the Policy Letter entitled 'Police Powers and Criminal Evidence Legislative Amendments' dated 12th August 2024, they are of the opinion:-

1. To agree to amend the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 to provide for vicarious liability for the actions of police officers as set out in section 5 of this Policy Letter.
2. Only if proposition 1 has been approved, to approve the draft Ordinance entitled "The Police Powers and Criminal Evidence (Bailiwick of Guernsey) (Amendment) Ordinance, 2024", as set out in the Appendix to this Policy Letter, and to direct that the same shall have effect as an Ordinance of the States.
3. To direct the Committee for Home Affairs to prioritise a comprehensive review of the police complaints legislative framework.

The States' Greffier: Billet d'État XVII, Committee for Home Affairs – Police Powers and Criminal Evidence Legislative Amendments.

The Bailiff: I will invite the President of the Committee, Deputy Prow, to open the debate, please.

Deputy Prow: Thank you, Mr Bailiff.

This policy letter contains proposals to amend the Police Powers and Criminal Evidence Law 2003 to give vicarious liability to police officers. The current position means that Guernsey police officers can be directly actioned through the courts, as a result of discharging their statutory duties and must source their own legal representation, as they are not considered employees but rather holders of public office. This determination was the result of a 2011 judgment and arguably an issue that could have been dealt with in previous terms. However, it is this Committee that has taken responsibility – analysed the complexities – despite a challenging workload and is now addressing this outstanding matter.

The Committee took the unusual step of asking for the Presiding Officers' support to allow the Assembly to consider this matter as soon as the work was done, as the Committee was acutely aware of the tangible difference that the change will make. The proposed amendment will mean that for the purposes of civil proceedings, local officers will be deemed to be employees of the States and they can be legally represented by the Law Officers of the Crown and the Chief of Police will be vicariously responsible for their actions while on duty. Sir, I should spell this out in precise terms, and I will quote:

For the purpose only of civil proceedings brought in respect of any allegedly unlawful conduct by a police officer in the performance or purported performance of the officer's function, the officer shall be deemed to be an employee of the States of Guernsey.

Further, it therefore makes it clear that the liability of the States of Guernsey is limited to civil proceedings brought in respect of allegedly unlawful conduct which occurred in the course of carrying out their duties as a police officer. This is important to maintain the operational independence of the Police. This replicates the position of police officers in England and Wales,

2470 insofar as the principle of vicarious liability. Obviously, the legal systems and structures in England and Wales are markedly different from those that apply here. Furthermore, the Police complaints regime itself is strictly governed by specific legislation and the statutory process. It should not be confused with civil claims.

2475 A much-publicised recent civil case brought directly against police officers highlighted this issue. The potential cost implications of the current process have been closely scrutinised by this Assembly and discussed in some detail in various public forums. This amendment will not only mean that police officers can benefit from the experience of the Law Officers of the Crown when they are personally actioned for doing their job, but addresses the Assembly's concerns about costs. Sir, we heard yesterday from the President of P&R around our financial situation.

2480 The amendment will move us away from the necessity to hire private law firms to represent officers at a cost borne by Government. I say, again, it should be noted that this amendment applies *only* to officers being actioned through the civil courts. This does not apply to criminal proceedings. The Committee would like to place on record its thanks to the Presiding Officer and to the Law Officers of the Crown for their advice, which allowed the Committee to bring forward this legislation as quickly as it can.

2485 The Committee is acutely aware of the pressures on the Chambers to support the preparation of legislation and hopes that this Assembly will recognise that the priority that this work has been given by the Bailiff and the Law Officers reflects the importance of this amendment and the unquestionable improvements that it will bring. The policy letter also sets out its proposals for a comprehensive review of the statutory complaints regime. The intended outcome of the review is to create a regime which is service-user focused, simple, fair, clear, accountable and proportionate. The review will also consider the responsibilities of the Police Complaints Commission and the political involvement in the process. This will include further consultation, including with service users. It needs to happen and with the support of this Assembly.

2495 Sir, before I sit down, I need – in this Assembly – to address perceptions circulating on social media, which include unpleasant personal attacks. I must therefore ask Members in this debate on the actual Propositions, rather than some social media noise ... I will, sir, go over what the Propositions are. There are three. The first is:

To agree to amend the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 to provide for vicarious liability for the actions of police officers as set out in section 5 of this Policy Letter.

The second:

Only if Proposition 1 has been approved, to approve the draft Ordinance entitled "The Police Powers and Criminal Evidence (Bailiwick of Guernsey) (Amendment) Ordinance, 2024", as set out in the Appendix to this Policy Letter, and to direct that the same shall have effect as an Ordinance of the States.

2500 Three – and I emphasise this – simply asks:

To direct the Committee *for* Home Affairs to prioritise a comprehensive review of the police complaints legislative framework

2505 This is what the Committee is asking the States today. The Committee perfectly understands that public confidence in the Police complaint system is paramount. It is the Committee who has asserted to conduct this review, balanced against all the other huge pressures and those prioritised by this Assembly under the Government Work Plan. It is Home Affairs that has recognised that this needs to be done and it needs to be done fully and diligently. It has been discussed at length in Committee who have consulted with stakeholders. This policy letter has the unanimous backing of all of the Committee. All that is being asked of the Assembly today in this regard is to instruct Home Affairs to conduct this review.

2510 The outcome of the review, if agreed, will come back to the States for full debate. Furthermore, I would ask the Assembly to note from the Rule 4 information that the Law Officers of the Crown

have been consulted both on the policy letter and, of course, the Ordinance before you. Sir, I commend this policy letter and the Ordinance to the Assembly.

Thank you, sir.

2515 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Thank you, sir.

 I will begin by saying that I will support all three Propositions in this policy letter. The President has very helpfully set out what those Propositions are. But the policy letter itself actually deals with
2520 three things. It deals with the change in law around vicarious liability and the President has carefully explained that in opening debate. I would agree with him that the change is long overdue. After the 2011 Court of Appeal judgment, it really should have been picked up and addressed long before now. (**A Member:** Hear, hear.) The Committee should be supported in securing that change now.

 The second issue which the policy letter deals with is referenced in section 4 around the change
2525 in regulations which were made in August and which the President has advised us in recent correspondence are to be laid in November. The third matter is the reference to the comprehensive review, as is noted in Proposition 3 to the Police complaints legislative framework. I understand why all three have been linked in this policy letter, but I think in a sense it has been unhelpful that they have been conflated in some of the media and some of the social media coverage, which I think
2530 Deputy Prow has referred to and indeed, in some of the correspondence which Members of this Assembly have received in recent weeks.

 Because really there are three quite clearly distinct issues but I think what it does highlight is that there are legitimate concerns about oversight of the complaints framework. That, of course, is acknowledged by the Police Complaints Commission themselves with their own observations in
2535 their recent annual reports about the limitations that they have. Of course, ultimately, it has been acknowledged by the Committee, who have recognised the need to undertake this review and to do so before the end of this political term. So I have simply two questions for the President, which I would be grateful if he could consider and respond to, in debate.

 One is simply whether he is in a position to provide any factual information – either now or if he has not got it at his fingertips, perhaps to Members later – on how many civil cases are currently
2540 outstanding against individual officers? Because clearly that is his, and has been one of the catalysts for this policy letter, and I think it would be useful for Members to get a feel for, or to understand how many are in play at the moment. The second request is actually for the Committee. I think it would be very helpful if the Committee could arrange a sort of technical briefing in the next six
2545 weeks or so, before the regulations are laid before the Assembly at the end of November.

 I think it would be helpful for Members to perhaps hear from the Professional Standards Department and I would also suggest from the Police Complaints Commission, themselves, to understand how this change in how complaints enter the system and are to be investigated or not, depending on the nature of them and how that is now working in practice, bearing in mind that the
2550 regulations are now extant.

 So it is a very particular request that I would ask that the Committee give very serious consideration to because I think it would be very helpful to have that. Recognising, as I say, that I think everybody acknowledges that there are – and have been – some very real concerns about the whole legislative framework, which of course, is the very reason the Committee are recommending,
2555 themselves, that a comprehensive review is undertaken.

 Thank you very much, sir.

The Bailiff: Deputy Queripel.

2560 **Deputy Queripel:** Sir, thank you.

 Last Friday, I received a letter from Islanders expressing concern about these amendments and I promised them I would raise those concerns in this debate.

2565 They told me that, in their view, these amendments if succeeding will be detrimental to the community and that nobody, apart from the Police, will benefit. They also told me that, to say introducing these amendments will bring us into line with the other Crown Dependencies is misleading, due to the fact that our Police Force will be the only Police Force in the British Isles that will have these procedures in place.

2570 They went on to say that the Police Complaints Commission is not independent, even though Home Affairs says it is, and that the Commission has no power whatsoever to challenge the outcome of a Police complaint and that the Commission merely rubber stamp everything the Police say during their investigations. As well as that, they say that Article 3 of the Human Rights legislation is occasionally violated by some of our police officers and they do not see how introducing these amendments is going to change that. I have every faith in our Police Force. (**A Member:** Hear, hear.) They seem to be doing their job to the very best of their ability, with limited resources, under
2575 extremely difficult conditions.

I can honestly say I have never once witnessed any Police brutality here in the Island or any violation of human rights. Unlike the UK, where I did witness both of those, when I lived there in the 1970s. But we all know things have happened here that should never have been allowed to happen and those things have caused severe stress and trauma to some of our fellow Islanders. I empathise
2580 most sincerely with Islanders who have had to endure that severe stress and trauma. Now we know we cannot do anything about the past but we can do something about the future, so that other people will not have to endure the sort of stress and trauma that some Islanders have already had to endure.

Doing something about the future is exactly what we are being asked to agree to, here. But for
2585 the members of our community who may not fully understand and, in fact, have misinterpreted what Home Affairs are trying to do, this, in effect, is a two-part initiative, as Deputy Prow explained in his opening address: these amendments being the first stage and the second stage is the review of the Police complaints regime, which is highlighted in this policy letter, specifically in paragraph 3.1, which reads as follows:

The need to complete a comprehensive review of the police complaints regime has been prioritised by the Committee, and work has already commenced. The ambition is that this work will culminate in legislative changes being presented to the States' Assembly during this political term.

2590 And also paragraph 3.3, which reads:

The outcomes from the review, will be used to inform recommendations for changes to the statutory complaints framework which support the principles of modern policing and ensures all stakeholders have confidence in the police complaints and discipline process.

Finally, in relation to that, what we are told in paragraph 3.6, which reads as follows:

The review of the complaints regime will encompass a comprehensive review of the Regulations, which are acknowledged to be complex and inflexible in some areas.

Sir, surely this is a good news story for our community. I know that in general, the States are not comfortable with celebrating good news stories. But I really think it is time we address that culture in an attempt to counter all the doom and gloom that prevails out in our community. I know that
2595 this good news story will not bring a great deal of comfort to our fellow Islanders, who have had to endure stress and trauma, because of the manner in which they say they have been treated by the Police. But it is a major step in the right direction.

On that, I am reminded of two cases that I worked on in my first year as a Deputy, back in 2012, in relation to complaints against the Police. I am pleased to say there was no Police brutality involved
2600 but working on those two cases was certainly an eye opener for me. I said that I have faith in the Police. I also have every faith in our Home Affairs Committee, I am sure they would not be supportive of these amendments unless they sincerely believed that introducing them will benefit the whole of our community and not just our Police Force. But I have had concerns relayed to me and I promised

2605 I would address those concerns in my speech in this Chamber. Not behind closed doors, but in the interests of openness, honesty and transparency, in full view of the public. Prior to being contacted by the two Islanders who did contact me expressing these concerns, I had every intention of simply nodding this through.

2610 Because it seemed to me this is going to benefit not just the Police, but the whole community. I was not even going to speak on the issue. I am only doing so because I have been contacted by the Islanders I am referring to, expressing their very real concerns. I see it as my duty as an elected representative of the people to follow up on any concern expressed by our fellow Islanders. But in fact, it is not just my duty. It is the duty of every Member of this Assembly. We all have a duty and a responsibility to be scrutineers and ask questions, should we feel the need to do so. As I understand it, sir, every Member of this Assembly received a letter from a whistleblower, just three days ago. *(Interjection)* Well, maybe not every Member, but I have spoken to some who did.

2615 The problem is the whistleblower did not put their name on the letter. It was merely signed, 'A whistleblower'. Of course, that could be anybody. It could be anybody trying to stir up trouble. Taking a pop with no evidence, no justification for saying the things they did. But the letter that I received on Friday contained the names and contact details of the people who had written it. They were not hiding behind pseudonyms. Sir, I am not focusing on anything that was said by this whistleblower in their letter. I am focusing on what the people said in the letter that was signed and contained contact details. Apart from the whistleblower and the letter from two Islanders, I have not had any contact from any other member of the public about this.

2620 It could be said that two Islanders expressing concerns, out of the tens of thousands who live here, should not be that much to worry about. But surely it should not matter if those concerns have been expressed by one Islander or 1,000. Because, as we often say in this Chamber, we all matter and we all have a right to be heard. Just to clarify, sir, moving towards the close, I have given Deputy Prow prior notice of all the things that I was going to say in this speech and all the concerns that were expressed to me in that letter.

2630 I have every faith he will allay those concerns when he responds. Because as I said earlier, I had every intention of just nodding this through. Because it seemed to me, this is going to benefit our community and improve upon the current situation we have in place. So why would anyone vote against these Propositions? If any of my colleagues intend on doing that, sir, surely they need to stand up and explain why.

2635 Thank you, sir.

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir.

2640 I am much in the same camp as Deputy St Pier. I am going to be supporting the Propositions of this policy letter. But I would like to echo his request for a presentation of some clarity to be given to Members, certainly around the filter that has been applied, because if that is not forthcoming, Home Affairs can probably expect a motion to annul, come November.

Thank you, sir.

2645 **The Bailiff:** Deputy Meerveld.

Deputy Meerveld: Thank you, sir.

2650 I will be supporting all Propositions in this policy letter. But, like Deputy St Pier, it is regrettable that it is been conflated with other issues, in the eyes of the public. We have received, as Deputies, quite a bit of correspondence – more relating to the complaints process, rather than the handling of civil actions against the Police, which is covered by this policy letter. Having said which, I have spoken to several members of the public who have complaints, or have made complaints, against the Police Force. I understand from the Police Force's perspective how criticism and a lack of respect

2655 can impact on their morale. I think everybody in this room can probably empathise being States' Deputies, who tend to be receiving criticism, and to a certain extent, disrespect on a regular basis.

But any organisation that is serving the public has to be able to acknowledge complaints, address them, investigate them and take action based on the outcomes, if necessary. I am concerned about the legislation that will be effectively enacted in November. As both Deputy St Pier and Deputy Leadbeater have said, I would like to see an explanation to Members to assure us that that filtering process is not preventing or obstructing legitimate complaints from going through the system.

2665 I also would like to speak to the Police complaints panel and have some contact with them to see what their views are and what powers they might need expanding, before that legislation is put forward before us. But I hope that the Committee will be able to facilitate that. As I reiterate, I am supporting this policy letter because this is a step in the right direction, in a related area. I also very much support Proposition 3 and the broader review.

Thank you, sir.

2670 **The Bailiff:** Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, sir.

2675 I just wanted to raise an observation in relation to the timing between when the Regulations mentioned in this policy letter and by the President were made by the Committee, in the middle of August, and the timing of when they will come forward for final approval by the States, which will be in November, I understand.

2680 So over three months between when Regulations were made and the opportunity for the Assembly to actually look into them. It feels quite a long time for that to happen. So I just wanted to understand better why there has been such a delay and whether we could perhaps in the future ... Because it seems like Regulations will raise a number of questions from Deputies, that is probably not a great period of time to have passed for those Regulations to only come to the States in November.

Thank you.

2685 **The Bailiff:** Deputy McKenna.

2690 **Deputy McKenna:** Sir, if I may, Deputy Prow said the Home Affairs Committee was unanimous in supporting this amendment and he is absolutely right, sir. Deputy Aldwell, Deputy Taylor, Vice-President Deputy Vermeulen and myself, not only do we support this Proposition, but we actually fully support Deputy Prow.

2695 I have to say, sir, some of the comments on social or 'anti-social' media by Google doctors and Facebook scientists (*Laughter*) I think has been extremely unfair because I have known Deputy Prow for over 30 years. He started off at Customs and Excise where he was trying to stop organised crime, secure our borders and in later life it became the Border Agency where Deputy Prow finished off as an investigating officer. Sir, it has been a real experience for me, sitting on Home Affairs, watching such a learned man who not only knows the law, but who has devoted his life to securing the borders of Guernsey and fighting organised crime. So not only does he have the full support of the Committee on these Propositions, but we are fully supportive to say, 'What a great man that we sit in front of, Deputy Prow as our President.' (**A Member:** Hear, hear.) So, Mr President, I think you are a wonderful man and I thank you for the four years and maybe another four years.

Sir, thank you.

The Bailiff: As no one else is rising, I will ...
Deputy Matthews.

2705 **Deputy Matthews:** Thank you, sir.

I almost was not going to stand to speak, sir, but I was one of probably most States' Members, a recipient of a long letter about ... a complaint about the Complaints Law, or about the filter on the Complaints Law and acknowledging that Guernsey is one of the only jurisdictions that – or the letter claims – is the singular jurisdiction in Britain to enforce such a filter; and as such, I am sure the President will wish to address that as part of the review. If that is not addressed sufficiently, then I will be supporting a motion to annul the legislation that is put forward today. So I would like the President to provide an assurance that will be addressed in a timely manner.

Thank you, sir.

The Bailiff: Deputy Prow to reply to the debate, please.

Deputy Prow: Thank you, sir.

I thank all the Deputies who have spoken on this and I will try and deal with all the points made in turn.

I thank Deputy St Pier for his support, he is right around the fact that the changes in law are long overdue. In my opening, I have expressed that this is the Committee who have grasped that particular nettle; but he is right, this has been a long time coming but it is now before us. He spoke, as other Deputies have, about the Regulations that are laid in November. This is a process that is absolutely commonplace where statutory instruments come into force and the time that they can be debated is if there is a motion to annul. And I also completely agree with him that quite complex areas have been conflated.

We are talking about civil claims against police officers and the Police complaints regime, which are dealt with by two entirely separate processes and they have been conflated. All I would say is in the policy letter, and the way that we have approached this, was to be entirely transparent about what we intend to do and, indeed, what the challenges are that need to be addressed. So the policy letter was an attempt, both in the Assembly and for the wider public – those that do read the policy letters – to set out its stall and, in particular, to be clear around the Propositions.

Deputy St Pier asked about the factual numbers of cases and has asked if more information could be given on that. The short answer to that is, yes, we can give more information, but we have to be extremely careful particularly where civil cases are before the court or there is an indication that they may be coming before the court.

There is perhaps one piece of information that I can impart, if I can find it. Yes, in this term so far, the Committee has sat as the appropriate authority and has considered two investigations against senior officers, that have now concluded. One concluded that there was no case to answer and the other complaint was vexatious.

These complaints are investigated by UK officers of the same rank. So if it is the Chief Officer of Police, it is a Chief Constable and if it is somebody who is Superintendent level, it is investigated by a Superintendent. One of the challenges in all this process is that Chief Constables and superintendents of Police in the UK are not sitting around waiting to come over here and investigate these cases, so it can be quite a protracted process.

With regard to the number of cases and the very valid point that Deputy St Pier has made around conflation, there are two sets of figures. One is around the Police complaints process. The Police Complaints Commission publish an Annual Report. The last one was debated in this Assembly and those figures appear in there. As I say, around the number of civil cases, those that are ongoing cannot really be discussed and it is quite improper for them to be discussed in this Assembly. But the short answer is the Committee will look at some meaningful statistics and provide them.

Deputy St Pier, very interestingly, has suggested a technical briefing. Could I just mention on that, I wrote to all Members very recently on 24th September, where we have set out some of the technical issues that are behind this. Now, we have discussed in Committee, whether a briefing for all States' Members is something that we should do and the unanimous agreement was that a technical briefing would be very useful.

There are some lawyers in the Assembly but really around those technical issues, it would be useful for the Law Officers of the Crown, and officers also, to be available to answer the questions. Again, I thank Deputy St Pier for his suggestion and he is pushing against an open door on that one. I hope I have dealt with his questions and, again, I thank him for his support.

Moving on to Deputy Queripel. I thank Deputy Queripel, he indeed has engaged very thoroughly, particularly with me, around the background to the questions that he has received. I completely respect and understand that if he has been asked questions, that it is completely right and proper for him to ask them in this Assembly.

I will first answer the queries that he has put to me by saying – and it is an important point – this review is yet to be done. So in supporting the review, the concerns of Deputy Queripel will, of course, be taken into consideration in how we can conduct the review. One other point I would make is we are reviewing the process, but there is a Police complaints process in place. It is not as though that we are discussing this in a vacuum. The problem with the Police complaints process, I think, for the Committee is it is statutory-based and it is very prescriptive. So what the Committee, or indeed the Police Complaints Commission, can do is completely laid out and it does not give us any flexibility at all and this is one of the issues with it.

But I can assure Deputy Queripel that the main purpose of the complaints is to give a proper opportunity for those complaints to be properly and professionally investigated by a professional investigator – not members of the Committee, and indeed, not the Police Complaints Commission itself; they have more of an oversight role of the process.

I cannot understand any suggestion that Article 3 of the Human Rights is violated. If it was, then there are challenges under Human Rights that are already available.

The idea that the Police Complaints Commission is not independent. Well, it is certainly independent from the Committee of Home Affairs. It is, in fact, set up by this Assembly. The membership is agreed and voted for by the Assembly. It is constituted as an entirely independent organisation from this Assembly. So whilst there may be perceptions by some and that might need to be addressed through the review – that it is not independent – I would suggest that it is. But going back to the points very powerfully made by Deputy Queripel, we are listening and we are listening to those we describe as service-users. In the consultation process, we will be asking for the views of service-users who have used the Police complaints regime in the past, both for positive experiences and any challenges that they might have.

I was very pleased because this is actually very important. Deputy Queripel was at pains to point out that he respects the Police and the Police Association, who we have engaged as stakeholders, are important stakeholders, as well as those who use the service. I just give you a statistic regarding the Police –

something I am sure I gave in my update statement, in 2023 there were 13,720 calls for the Police through JESC. They include reports of crimes, alarms going off, missing people, immediate danger calls, specific activity and so on. That gives us, as Deputies, a scale of how important the Police Service is to this Island and it is very important that we can continue to recruit and retain officers in that capacity.

So they also have a view around Police complaints. Yes, the main purpose is for the regime to tease out where, in all that activity, they may not have performed as well as they might – and they accept that themselves. They are very willing to learn from the feedback from these reviews and, indeed, if they have done something that amounts to gross misconduct or indeed misconduct, then that has to be dealt with. Please, let this Assembly and members of the public be assured, that is the case and that the Police are supportive of that. But we live in a democracy where there is a presumption of innocence, particularly at a criminal level.

Police officers need to be able to properly defend themselves, as well, and that is a balance. Another balance is around cost and how this can be done in the most effective way. Now that balancing act is what the review needs to wrestle with. But I give Deputy Queripel assurances that will be done. He talked about looking to the future and that is precisely why we are reviewing and learning lessons from what has gone on.

2810 I thank him for his comments around faith in Home Affairs. I hope that I have allayed the concerns of Deputy Queripel. I, again, thank him for raising it to me separately and raising these questions.

Yes, Deputy Leadbeater, again, I thank you for your support for the Proposition. I have already covered the presentation. Thank you for raising it and giving me the opportunity to say that.

2815 Deputy Meerveld, yes, he has picked up a point around conflated issues. I agree with him that the issues are conflated. Again, that is perhaps something in the review process about obtaining clarity around what the complaints process does and what it does not do. So I thank him for his points.

2820 Deputy Kazantseva-Miller, I have already touched on this, but she raises a good point. I think the point she is making is around the time between the laying and publishing of any regulations and the time it comes to the States, where there is an opportunity – if there is a motion to annul, to debate it. That is the way that all statutory instruments work. This is no different and, in fact, the Home Affairs Committee were not tardy in laying this. I agree with her, I would have liked to see the approval of the statutory instruments coming back quicker. So I thank her for the comments she has made and that is as good as a reply as you can get.

2825 Last, sir, Deputy McKenna, I completely and utterly agree with everything he said. *(Laughter)* Seriously, sir, it is a pleasure to be President of Home Affairs and to work with my Committee. I thank Deputy McKenna for his too generous words.

Thank you, sir.

2830 **The Bailiff:** Well, Members of the States, just as with the last set of Propositions, we will see that Proposition 2 says here, 'Only if Proposition 1 has been approved.' So we will have three votes; one for Proposition 1, one for Proposition 2, and then one for Proposition 3. Proposition 1 is ready, so I will invite the Greffier to open the voting on Proposition 1, please.

2835 *There was a recorded vote.*

Proposition 1.

Carried – Pour 36, Contre 0, Ne vote pas 0, Did not vote 2, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	None	None	Le Tocq, Jonathan	Dudley-Owen, Andrea
Blin, Chris			Roberts, Steve	Helyar, Mark
Brouard, Al				
Burford, Yvonne				
Bury, Tina				
Cameron, Andy				
De Lisle, David				
De Sausmarez, Lindsay				
Dyke, John				
Fairclough, Simon				
Falla, Steve				
Ferbrache, Peter				
Gabriel, Adrian				
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tissier, Chris				
Leadbeater, Marc				
Mahoney, David				
Matthews, Aidan				
McKenna, Liam				

Meerveld, Carl
 Moakes, Nick
 Murray, Bob
 Oliver, Victoria
 Parkinson, Charles
 Prow, Robert
 Queripel, Lester
 Roffey, Peter
 Snowdon, Alexander
 Soulsby, Heidi
 St Pier, Gavin
 Taylor, Andrew
 Trott, Lyndon
 Vermeulen, Simon

2840

The Bailiff: In respect of Proposition 1, there voted in favour 36 Members; no Member voted against; no Member abstained; 4 Members did not participate. Therefore, I declare Proposition 1 duly carried.

2845

So we move on to Proposition 2, which is whether you are minded to approve the draft ordinance to which reference has been made. And I invite the Greffier to open the voting on Proposition 2, please.

There was a recorded vote.

2850

Proposition 2.

Carried – Pour 36, Contre 0, Ne vote pas 0, Did not vote 2, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	None	None	Le Tocq, Jonathan	Dudley-Owen, Andrea
Blin, Chris			Roberts, Steve	Helyar, Mark
Brouard, Al				
Burford, Yvonne				
Bury, Tina				
Cameron, Andy				
De Lisle, David				
De Sausmarez, Lindsay				
Dyke, John				
Fairclough, Simon				
Falla, Steve				
Ferbrache, Peter				
Gabriel, Adrian				
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tissier, Chris				
Leadbeater, Marc				
Mahoney, David				
Matthews, Aidan				
McKenna, Liam				
Meerveld, Carl				
Moakes, Nick				
Murray, Bob				
Oliver, Victoria				
Parkinson, Charles				
Prow, Robert				

Queripel, Lester
 Roffey, Peter
 Snowdon, Alexander
 Soulsby, Heidi
 St Pier, Gavin
 Taylor, Andrew
 Trott, Lyndon
 Vermeulen, Simon

The Bailiff: In respect of Proposition 2, there voted in favour 36 Members; no Member voted against; no Member abstained; the same 4 Members not participating. So I declare Proposition 2 also duly carried.

We move finally to Proposition 3. I will invite the Greffier to open voting on Proposition 3, please.
There was a recorded vote.

Proposition 3.

Carried – Pour 36, Contre 0, Ne vote pas 0, Did not vote 2, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	None	None	Le Tocq, Jonathan	Dudley-Owen, Andrea
Blin, Chris			Roberts, Steve	Helyar, Mark
Brouard, Al				
Burford, Yvonne				
Bury, Tina				
Cameron, Andy				
De Lisle, David				
De Sausmarez, Lindsay				
Dyke, John				
Fairclough, Simon				
Falla, Steve				
Ferbrache, Peter				
Gabriel, Adrian				
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tissier, Chris				
Leadbeater, Marc				
Mahoney, David				
Matthews, Aidan				
McKenna, Liam				
Meerveld, Carl				
Moakes, Nick				
Murray, Bob				
Oliver, Victoria				
Parkinson, Charles				
Prow, Robert				
Queripel, Lester				
Roffey, Peter				
Snowdon, Alexander				
Soulsby, Heidi				
St Pier, Gavin				
Taylor, Andrew				
Trott, Lyndon				
Vermeulen, Simon				

2865

The Bailiff: It will come as no surprise that there voted in favour 36 Members; no Member voted against; no Member abstained; the same 4 Members not participating. So all three Propositions are duly carried by the same majority. I think that is a record for a meeting where Deputy Prow has the same result on the four pieces of legislation and the same result on these three Propositions. They are all carried. We will move to the last item of business.

Billet d'État XVI

POLICY & RESOURCES COMMITTEE

3. Schedule for Future States' Business – Proposition carried

Article 11.

The States are asked to decide:-

Whether, after consideration of the attached Schedule for Future States' Business, which sets out items for consideration at the Ordinary States Meeting on 23rd October 2024, they are of the opinion to approve the Schedule.

SCHEDULE for FUTURE STATES' BUSINESS (For consideration at the Ordinary Meeting of the States commencing on the 25 September 2024)

Items for Ordinary Meeting of the States commencing on the 23 October 2024

(a) communications by the Presiding Officer including in memoriam tributes;

(b) statements;

(c) questions;

(d) elections and appointments;

(e) motions to debate an appendix report (1st stage);

(f) articles adjourned or deferred from previous Meetings of the States;

(g) all other types of business not otherwise named;

No. 68 of 2024 – The Income Support (Guernsey) (Amendment) Regulations, 2024

No. 69 of 2024 – The Social Insurance (Contributions) (Amendment) Regulations, 2024

*P.2024/79 – Domestic Abuse and Related Provisions (Bailiwick of Guernsey) Law, 2024**

*P.2024/80 – Tobacco Products (Guernsey) (Amendment) Ordinance, 2024**

*P.2024/81 – Publication of Official Notices (Guernsey) Law, 2024 (Commencement) Ordinance, 2024**

*P.2024/78 – Committee for Employment & Social Security – Contributory Benefit and Contribution Rates for 2025**

*P.2024/82 – States' Assembly & Constitution Committee – Report by the Guernsey Appeal Commissioner re Deputy St Pier Appeal**

*Amendments to the proposed meeting dates and order are permitted only for those items marked with an *.*

The States' Greffier: Article 11, the Policy & Resources Committee – Schedule for Future States' Business.

The Bailiff: Deputy Trott, is there anything you wish to say?

Deputy Trott: No, sir. I have nothing to add and so move.

The Bailiff: I have not received any amendments to the Schedule. Therefore, I will, when we are ready, invite the Greffier to open the voting on the Schedule.

There was a recorded vote.

Carried – Pour 36, Contre 0, Ne vote pas 0, Did not vote 2, Absent 2

Pour	Contre	Ne vote pas	Did not vote	Absent
Aldwell, Sue	None	None	Le Tocq, Jonathan	Dudley-Owen, Andrea
Blin, Chris			Roberts, Steve	Helyar, Mark
Brouard, Al				
Burford, Yvonne				
Bury, Tina				
Cameron, Andy				
De Lisle, David				
De Sausmarez, Lindsay				
Dyke, John				
Fairclough, Simon				
Falla, Steve				
Ferbrache, Peter				
Gabriel, Adrian				
Gollop, John				
Haskins, Sam				
Inder, Neil				
Kazantseva-Miller, Sasha				
Le Tissier, Chris				
Leadbeater, Marc				
Mahoney, David				
Matthews, Aidan				
McKenna, Liam				
Meerveld, Carl				
Moakes, Nick				
Murray, Bob				
Oliver, Victoria				
Parkinson, Charles				
Prow, Robert				
Queripel, Lester				
Roffey, Peter				
Snowdon, Alexander				
Soulsby, Heidi				
St Pier, Gavin				
Taylor, Andrew				
Trott, Lyndon				
Vermeulen, Simon				

The Bailiff: The number of Members who voted in favour of the Schedule is 36; nobody voted against; nobody abstained; 4 Members did not participate and therefore, I will declare the Schedule duly carried. I look forward to seeing you all at next month's Meeting. We will now close this Meeting, please, Greffier.

The Assembly adjourned at 5.27 p.m.