Amicus Response to the Discussion Paper Issued By The Minister For Treasury & Resources On The Proposed Sale Of Jersey Telecom.

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Introduction

1.1 Amicus is the UK's second largest trade union with 1.2 million members across the private and public sectors. Our members work in a range of industries including manufacturing, financial services, print, media, construction and not for profit sectors, local government, education and telecoms.

1.2 Amicus is always pleased to respond to requests for written evidence and to comment fully on proposals put forward. Amicus would welcome the opportunity to provide further, and/or oral evidence on this issue to the States of Jersey.

1.3 Amicus is disappointed in the lack of consultation with the union prior to the publication of the discussion paper. The use of the minimum 8 week consultation period in particular has inhibited a full and open debate on the issue.

Executive Summary

2.1 Amicus is opposed to the sale of Jersey Telecom. The sale does not present a guaranteed benefit to the people or economy of Jersey and poses a real threat to the job security, working conditions and pension rights of Jersey Telecom employees.

2.2 The sale of Jersey Telecom does not guarantee a competitive environment in the telecommunications market in Jersey. Furthermore, the population, location and business needs of island mean that a fully free market is not necessarily conducive to the prosperity of Jersey.

2.3 It is unlikely that consumers will gain from the sale of Jersey Telecom. Call prices may rise as a result of the sell off to a large telco which has the potential to dominate the market. In addition, it is not clear how the maintenance and improvement of telecommunications infrastructure will be assured without a degree of public ownership.

2.4 The loss of Jersey Telecom as a States asset will be detrimental to the finances of the island. Jersey Telecom is a profitable company which provides an annual return to the States which is used to fund public services. It is better to retain this asset than to invest elsewhere.

2.5 There have been no formal assurances given to employees about their job security or pension rights. It is likely that any buyer would wish to cut workforce numbers to increase profits.

2.6 There should be no sale of Jersey Telecom without full TUPE legislation in place. Any prospective buyer should also have membership of PECRs as an admitted body to safeguard the pension rights of Jersey Telecom employees.

2.7 Amicus welcomes and would like to add its voice to calls for a full and extensive Scrutiny investigation looking at consumer protection, competition, regulation and employee protection.

Consumer Protection

3.1 There is a wealth of information that demonstrates the privatisation of public owned telecoms has not delivered the results that consumers expect. A survey conducted

by Teligen in 1997 showed that 88% of business customers across Europe believed that the liberalisation of telecoms markets would improve quality of service. There is evidence to suggest that these expectations are not being met. A report by Technical Marketing Inc in 2003[1] concludes that while privatisation of telecoms across countries has been a limited success in lowering price levels, it has been a failure in terms of unlocking shareholder wealth, stimulating other industries and in maintaining and improving service levels.

3.2 Call prices have been falling in recent years as Jersey Telecom has effectively engaged in competition. The average customer bill fell by 3.25% during 2005 as a result of JT price reductions. Text messaging at 7p per text is currently 45% below the average UK price.[2] If Jersey Telecom were to be sold to a firm currently operating on the island, there will be fewer competitors in the market and prices may rise.

3.3 Telecoms are a key element in economic development. They are an essential infrastructure that impact on the productivity and efficiency of other industries and services. It is also worth considering security issues as telecoms carry highly sensitive information. Jersey Telecom has provided years of good service to and stability for the Finance industry. The proposed sale will endanger this reliability of service. Smaller telcos, like Jersey Telecom are able to provide personalised services which are tailored to the particular needs of an island economy.

Maintenance of essential telecommunications infrastructure

4.1 The provision of telecoms is best assured through their ownership by the island. An off island company will have no loyalty to Jersey as their objective will be to maximise profits. It is likely that financing universal service obligations will be disputed by a large multinational telco as they might find some aspects of this responsibility excessive or burdensome.

4.2 Other formerly state owned telcos have made job cuts in areas concerned with infrastructure maintenance subsequent to full privatisation. The global decline in telecoms employment since the 1990s has been largely concentrated in activities like construction, installation, repair, maintenance and cable and line jobs. British Telecom has to fulfil the same public service obligations as before privatisation with only half of its previous workforce, reduced from 235,000 to 100,000.[3]

4.3 Jersey Telecom is in a strong position to maintain the existing infrastructure while also investing in new technologies. In 2005 Jersey Telecom invested £11.6m in the group network and was awarded a licence to provide third generation mobile services in Jersey.

Competition in Jersey's telecommunications market

5.1 The Telecommunications (Jersey) Law 2002 sought to end Jersey Telecom's monopoly in the local market in the interest of users. This law was designed to

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[1] See Johnson, Mona: *Have Deregulation and Privatisation of the Telecom Industry Failed?* 2003. Available from http://www.tech-marketing.com/industryreports.htm

[2] Jersey Telecom Annual Review 2005

[3] *Employment Trends in the British Telecommunications Industry*. CWU Research Document available from www.cwu.org

provide better prices to consumers and to encourage innovation in the provision of telecommunications services, not to prepare Jersey Telecom for sale.

5.2 Evidence from the monitoring of merger and acquisition activity in the global telecommunications market demonstrates that there are a handful of large companies which dominate the market. These large firms are able to set prices and they are powerful in their interactions with regulators. One such study reports that "a handful of giants dominate the bulk of the international telecoms industry…a small group of very large providers resembles a cartel rather than a competitive market and often act in collusion".[4]

5.3 The JCRA currently does not have sufficient powers to adequately protect consumers against a large multinational telco developing a monopoly on the island. The JCRA has approved four licences for telecoms firms wishing to operate in Jersey which has a population of 90,000. There is a real danger of market saturation on Jersey which in turn could lead to diminishing profits for all companies. This in turn leaves Jersey vulnerable to a large multinational telco forcing smaller competing companies out of the market.

5.4 The Jersey Telecom Annual Review 2005 stated its strong reservations about the sustainability of this level of competition in such a small market. It also advised that "the way in which regulatory practice is applied in much larger markets is not necessarily scalable to a small market such as Jersey".

5.5 Jersey Telecom's subsidiary, Wave Telecom, is in healthy competition with Cable and Wireless on Guernsey and anticipates further offshore activity. If Jersey Telecom were to be acquired by Cable and Wireless there would be a substantial elimination of competition in the telecoms sector in Guernsey.

Jersey Telecom as a States investment

6.1 Jersey Telecom is a profitable company which consistently provides a healthy return to the States for the funding of other public services. In 2005 pre tax profits were £13 million, close to the 2004 figure. In 2005 the States received £1.95 million in taxes and £7.1 million in dividends.[5] If Jersey Telecom is sold, this reliable income will be lost. Currently there is no estimated value figure for Jersey Telecom therefore it is difficult to tell whether the revenue from sale would be enough to compensate for the permanent loss of returns.

6.2 Telecoms is a key growth sector in the world economy. In 2000 telecoms service industry revenues represented 6% of world GDP. The telecoms sector has, however, become increasingly volatile. Consolidation activity has caused instability in the share values and financial performance of many telecoms as the large multinationals seek to increase their market share, coverage and economies of scale. Since 2004 there has been a sharp decline in the share values and performance of many of the large telcos. Companies such as BT, France Telecom and Cable and Wireless have been selling off their foreign investments in order to scale down losses.

6.3 Jersey Telecom is currently looking to compete on its own terms in the market. Already Wave Telecom competes successfully on Guernsey and there are proposals to expand into the cruise ship market and to develop e-commerce services.

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[4] See Warf, Barney: Mergers and Acquisitions in the Telecommunications Industry. University of Kentucky 2003

[5] Jersey Telecom Annual Review 2005

6.4 After a sell off, the priorities of those who run Jersey Telecom will change. Accountability to shareholders and investors will come before the needs of the island. Stability is integral to the provision of telecommunications in Jersey, not just for the general public, but also for the island's finance industry.

Jersey Telecom Employees

7.1 Traditionally telecoms have employed large, highly skilled workforces. With full privatisation the size of the Jersey Telecom workforce is very likely to be cut, as has been the case in the majority of privatisation situations in European countries. The World Bank found that in a study of across countries from 1981 to 1998 "privatisation significantly reduced employment in the telecommunications sector. Moreover, countries that transferred more ownership shares to private investors often experienced steeper reductions in employment".[6]

7.2 Most European countries that have undertaken the full privatisation of their telecoms have witnessed significant drops in employment in these new companies. After privatisation Deutsche Telecom sought to reduce its workforce by 60,000 by 2000. From 1997 to 2004 BT reduced staff numbers from 127,500 to 91,600. Cable and Wireless more than halved its workforce during the same period, from 10,150 to 4,398.[7] The sale of Guernsey Telecom to Cable and Wireless also led to a reduction in workforce numbers.

7.3 The European Industrial Relations Observatory also finds that privatisation leads to a reduction in employment in telecoms companies and an increase in restructuring because of the demands of private investors. EIRO also finds that new entrants to markets are more likely to provide lower pay and conditions, as has been the case in Spain and Italy.[8]

7.4 Public ownership is also conducive to good industrial relations, according to EIRO.[9] They find that protection and guarantees for workers are usually more pronounced in state owned companies, especially in terms of the security of the employment relationship.

7.5 Jersey Telecom currently enjoys good relations with staff and their union, Amicus. This positive relationship has contributed to the success of the company. The Managing Director's Review 2005 states: "We take great pride in the skills, ability and positive attitude of our employees…they consistently deliver the very high standards of customer service that we strive to achieve". The number of days lost through accidents at Jersey Telecom is also well below industry averages.

7.6 There have been no formal assurances given to either the union or directly to Jersey Telecom employees concerning their job security. If a sale were to happen, the States should include responsibilities for retraining and redeployment in instances of redundancy in the memorandum of sale.

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[6] See Xu, Lixin Colin: *The Impact of Privatisation and Competition in the Telecommunications Sector around the World,* 2002

[7] See CWU Research: E*mployment Trends in the British Telecommunications Industry*, available from www.cwu.org

[8] See EIRO online: *Privatisation and Industrial Relations*

[9] ibid

Pensions

8.1 Jersey Telecom employees provide a vital public service to the island. Providing a decent, well run pension package is vital for maintaining the morale of loyal, long serving staff. Current pension arrangements for existing employees should continue with the membership of PECRs.

8.2 Jersey Telecom employees have serious concerns about the security of the pensions if a sale were to proceed. Pensions are not currently covered by UK TUPE regulations therefore any sale should be conditional on the membership of the new owners of Jersey Telecom in membership of PECRs as an admitted body.

TUPE

9.1 Amicus is of the view that no sale of Jersey Telecom should take place until full employment protection legislation is in place. Amicus welcomes the news that The States government is currently working on the adoption of TUPE regulations, however, it is possible that this legislation will not be implemented for at least another 18 months.

9.2 TUPE legislation is designed to provide protection for employees in cases of business transfer. The requirements of TUPE are not onerous for employers and are conducive to a smooth transfer of undertakings, with defined responsibilities for buyer and seller.

9.3 The UK currently has in place TUPE legislation that covers the minimum requirements of the EU regulations including transfer of union recognition and protection against dismissal. Amicus would urge the States of Jersey government not just to match these provisions but to go further and to include regulations relating to the transfer of pensions in its TUPE legislation.

9.4 If a sale is to take place, Amicus should be consulted at every stage of the process to ensure that Jersey Telecom employees are protected throughout the transfer. The 'Blue Book' of Jersey Telecom employees' terms and conditions agreements should also be incorporated into the working practices of the new company. These agreements have contributed to the smooth running of the company and have come about as a result of a positive and constructive dialogue between management and the union.

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