



# **ECONOMIC DEVELOPMENT COMMITTEE**

## **FUTURE AIR AND SEA TRANSPORT POLICY**

### **A Consultation Document**

**May 2005**

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#### **1. Introduction**

- 1.1 The residents of the Island rightly aspire to a standard of living equal to if not higher than that of their European neighbours. To achieve this objective a small Island of 45 square miles with a population of just under 90,000 must create wealth by selling goods and services to the outside world. The Island has no natural resources other than its natural environment. Its main resource upon which economic success over the centuries has depended, and upon which future success will continue to depend, is the business acumen of Island residents and the skills/experience of its workforce and the consequential ability to take advantage of the business opportunities that are presented in overseas markets.
- 1.2 Given the inevitable dependence of the Island on export markets whether it be the agriculture, manufacturing, tourism, finance industry and other service sectors it should come as no surprise that all sections of the Island's economy are heavily reliant on the quality, capacity and cost of the air and shipping services that link the Island to those markets.
- 1.3 In addition to the Island's economic dependence on the air and sea transport services, the Island's residents also have a heavy reliance on such services. Whether it be the impact on the cost of goods brought in Jersey, or the reliance on the transport services for access to hospital treatment not available in Jersey, access to University education, contact with families and friends, access to foreign holiday destinations and for sporting and cultural links – and more besides – the quality, capacity and cost of the air and sea transport services are an important feature of the every day life of every resident in the Island. Cut off from the outside world by stormy weather or by fog, Island residents have soon recognised just how dependent they are on what have been described as the Island's "lifelines".
- 1.4 The problem that has for long faced the Island is that while the economy and the quality of Island life is so heavily dependent on the quality, capacity and costs of the air and sea transport services, the Island is small, much of the traffic between the Island and the United Kingdom and France is seasonal in nature, and there is an imbalance in freight traffic to and from the Island (that is, the value/volume of goods imported greatly exceed the value/volume of goods exported). As a result many of the transport services provided have been and remain at the margin of profitability.
- 1.5 A particular problem arising from the limited size of the Island's population is that it is difficult to generate substantial traffic growth from the Island. The size of the Island and the nature of the economy also places limits on the traffic growth potential from outside the Island, particularly when compared with the opportunities presented by many other sea and air routes in western Europe.

- 1.6 In addressing the issue of a future policy towards the air and sea transport services reference can be made to two possible options in relation to an overall strategy. One would be to assume that a key factor in achieving the Island's economic growth plan is the provision of adequate air and sea transport services at reasonable cost. The alternative would be to assume that the air and sea transport services are determined by market forces and that achieving the economic growth plan objectives will create the conditions necessary to support adequate air and sea transport services.
- 1.7 If it is accepted that adequate air and sea transport services are an essential pre-condition for the success of the economic growth plan it may be argued that Government intervention is called for to ensure that the air and sea transport services are of a sufficient capacity/quality to avoid frustrating the economic policy objectives. On the other hand if it is argued that the air and sea transport services should be left to the market to determine then Government's role is simply to create an attractive business environment which facilitates the economic growth upon which the demand for and the provision of those services will depend. The argument might then be advanced that Government should not interfere with the market process by seeking to licence/regulate the provision of the air and sea transport services concerned.
- 1.8 An example of these different policy approaches can be provided in relation to the visitors' demand for air and sea transport services. Some will argue that it is necessary for Government to intervene through offering incentives to airlines, or reducing harbour and airport costs, in order to make the Island more attractive to tourists and to low cost carriers bringing them from regional airports. The argument then runs that through this action the air and sea transport operators are more likely to maintain their services, and offer the prospect of lower prices. Others will argue that such action is of little consequence if the fundamental attractions of the Island through a failure to invest in hotel accommodation or tourism infrastructure means that the Island is less attractive to tourists by comparison with other destinations. They would take the view that what is needed is for Government to create or to help create a more favourable business environment for the tourism industry whereupon there should be no shortage of demand for the services that this industry provides and this would then be responded to by the air and sea transport operators.
- 1.9 The Strategic Plan 2005-2010 adopted by the States and the Economic Growth Plan proposed by the Economic Development Committee favour the latter approach.

## 2. **Strategic Plan 2005-2010**

- 2.1 Any air and sea transport policy must be consistent with the overlying strategy for the Island which the States have adopted. In addressing the air and sea transport policy it is important therefore to first see what the Strategic Plan 2005-2010 has to say about air and sea transport services and to analyse the extent to which the aims of the Strategic Plan rely upon those services.

2.2 Strategic Aim 1 is to create a strong and competitive economy. As has been stated earlier in this policy report the Island's economy is inevitably dependent upon air and sea transport services if it is to serve the export markets upon which the Island's current economic strength and future economic growth will continue to depend.

2.3 Within Strategic Aim 1, under the section on encouraging enterprise, innovation and diversity reference is made to –

“1.2.5. – formulating a comprehensive external transport and communication strategy which will benefit both business and residents with the success indicators being stated as –

- improvement in air/sea transport links;
- reduced travel costs;
- an increase in passenger numbers;
- an efficient, effective and competitive communication structure.”

2.4 In addition the air and sea transport services can be considered to have an essential part to play in support of other aims under the umbrella of encouraging enterprise, innovation and diversity –

“1.2.1. – actively support the promotion, diversification and further development of the financial services industry in the Island.

“1.2.2. – encourage the development of new enterprises and companies with high value added potential and which contribute most to the community.

“1.2.4. – develop a tourism strategy which will investigate new opportunities and “niche” markets.”

2.5 The Strategic Plan also calls for an open economy which encourages competition and minimises the cost of doing business. Again air and sea transport services have an important part to play in this respect particularly in respect of –

“1.3.2. – maintain and develop policies which are consistent with free and open trade across borders and encourage greater competitiveness in domestic markets.”

2.6 The Strategic Plan does not refer specifically to the importance of transport links when addressing the strategic aim “to enhance quality of life” but it can be considered to be an important element of this aim particularly in respect of access to services.

2.7 Given the size of the Island and the fact that it cannot hope to provide all the private and public services that an affluent population desires, air and sea transport services are also important for access to services –

“3.1.1 – ensure that proactive measures are taken so that all groups have access to services as required”.

2.8 The air and sea transport services also have a link to the aim to invest in Jersey’s youth, particularly in developing ways of diversifying the economy so that a wider range of jobs and careers are available to young people and to attract young people to return to the Island after full time education.

### **3. Economic Growth Plan**

3.1 The quality, capacity and cost of the air and sea transport services can be expected to have both a direct and indirect influence on a number of the elements of the economic growth plan –

- attracting skills to the Island when these are not currently available;
- attracting new business enterprise;
- encouraging competition.

All of the existing sectors of the Island’s economy are dependent on air and sea transport services in one form or other. In seeking to diversify the economy these services will also be a factor in Jersey’s relative attractiveness.

3.2 The Economic Growth Plan when referring to air and sea transport includes the following statement –

“The overarching policy to ensure that the external transport infrastructure supports economic growth is that market forces should be allowed to operate where there is no clear indication of market failure or threat to required service levels. The Economic Development Committee will publish later in 2005 a review of external transport policy in Jersey. This will be vital for ensuring that transport links are maintained and that economic growth can take place. The Economic Growth Plan gives a clear indication of the appropriate policy guidelines but it will be for this review to determine the way forward. The Economic Growth Plan would suggest that the high level approach should be in terms of the policy for the air routes:

- continuation of open skies;
- resistance to subsidies to travellers or airlines;
- focus on maximising efficiency of the airport.

In the case of ferry services to and from Jersey there may be greater risks in allowing market forces to prevail in the provision of ferry services, not least in the danger of monopoly/price war cycles and the breakdown of the winter service. The Economic Development Committee's review of external transport policy will have to consider the policy options of the ferry services and whether the appropriate response is to allow a licensed monopoly to operate or whether there are other viable alternatives."

#### **4. Key Elements in the Provision of the Island's Air and Sea Transport Services**

4.1 Before considering what policies the States should adopt in respect of the Island's air and sea transport services it is considered helpful to identify the essential elements in the provision of quality, reasonably priced air and sea transport services of adequate capacity.

4.2 The essential elements will include the following –

- the level of demand

The air and sea transport services rely on a sufficient level of demand for their viability. This level of demand will be influenced by the level of activity of all of the Island's economic sectors, the number of people living and working in the Island, and the purchasing power of Island residents. At the same time, as noted earlier, the level of economic activity, and the attractions of the Island to business enterprise and immigrants, will be influenced by the quality, capacity and cost of the air and sea transport services provided;

- the interest of air and sea transport operators in serving the Island

The interest of operators of air and sea transport services in serving the Island depends on these services being sufficiently profitable to give investors, owners and operators a sufficient rate of return to persuade them to maintain such services rather than direct their resources elsewhere. This is particularly so because the Island is largely reliant on non-local air and sea transport operators;

- the quality of the transport infrastructure (i.e. the Airport and the Harbour) and the costs faced in using that infrastructure.

The configuration of the Harbour and the depth of water at all states of the tide places a limit on the size of ship that can be accommodated and the timetable of the ferry services. The length of the runway at Jersey airport limits the size of aircraft that can be used.

The influence of the cost of using the transport infrastructure can be both absolute and relative. If the absolute cost is high this may reduce the profitability of the services operated particularly when the demand for the

services provided is price sensitive and the cost cannot be passed on to the user without affecting the level of demand. If the relative cost is high, transport operators also may choose to allocate their resources to more remunerative alternative destinations.

- the degree of competition

On the matter of competition the Island has always faced something of a dilemma. On the one hand the argument is advanced that many of the routes serving the Islands cannot stand competition because there is insufficient traffic to support more than one operator at a viable level of operations. On the other hand it is argued that in the absence of competition the user will not obtain all the benefits that competition brings – lower prices, and a greater concern to satisfy the customer through the quality and level of service provided.

- the influence of foreign legislation/policies on the activities of air and sea transport service operators;

For the most part the air and sea transport services have a point of origin/destination in the UK or another EU Member State. As a result while the Island may seek to apply restrictions on the use of the Harbour or Airport infrastructure through a ramp licence or air transport licensing regime this may come into conflict with EU Directives/Regulations that apply in EU Member States. Likewise, while the Island may be keen to see air and sea transport services established, EU Regulations on the allocation of slots at Community airports may limit the Island's ability to be the master of its own destiny in the provision of air services. Differences in the approach to air and sea transport services between Guernsey and Jersey can also have an impact. There may also be international agreements to which the Island is a party that will impinge upon the Island's freedom of action.

- the policies of the States of Jersey

Air and sea transport services will be influenced by whether the States decide to intervene through licensing air and/or sea transport services to and from the Island or leave the air and sea transport services to market forces.

## **5. Current Policies**

- 5.1 Current policy regarding air and sea transport services reflects the importance of those services to the Island's economic and social well being. Although they have been referred to earlier in this report in general terms it is considered helpful to the consideration of future policy to have a clear understanding of what underpins current policy –

- all the Island's industries are faced with keen competition from other business locations. Difficulties faced in the communication links or in the cost of those links can be expected to have an adverse effect on the competitiveness on the Island's industries, and thereby on the general economic wellbeing of the residents of the Island;
- the Island's residents are dependent on air and sea transport services for the import of the goods and services which they enjoy. The rate of inflation, and the cost of living generally in the Island is also affected by the cost of transport to and from the Island; for example many Island traders seek to justify the fact that their prices are not lower than prices in the United Kingdom, notwithstanding the absence of value added tax in Jersey, by reference to the high cost of sea transport;
- the economic mainstay of the Island is currently the provision of financial services, and this sector relies on a high standard of air service. The financial institutions in the Island serve international markets and it is therefore essential for them to have good access to the London hub airports for access to the City of London and interlining with international air services;
- the Island's tourism industry is heavily reliant on air and sea transport services to and from the United Kingdom and to and from the continent of Europe. In the absence of good reasonably priced air and sea transport services visitors are likely to be lost to competing destinations. The tourism strategy is to diversify markets and attract more visitors from mainland Europe and beyond. These require good direct services if possible but also rely upon being able to journey to the Island interlining through the London hub airports;
- the Island is seeking to diversify its economy and to take advantage of new business opportunities. These opportunities are more likely to be exploited successfully if there are good communication links between the Island and international markets;
- the Island relies on the United Kingdom for higher education services (i.e. University education). Student access to the United Kingdom is dependent on good year round air and sea transport services. The ability of many to afford University education is also affected by the cost of the air and sea transport services available;
- while the Island has a high standard of health care it is not able to support many specialist health services. Such services have to be contracted out to the United Kingdom, and for these services patients and their families rely on air services between the Island and the United Kingdom;
- Island residents have strong links with the United Kingdom and Europe generally. Of the current resident population of the Island some 50% were born outside the Island, leading to a high propensity for visiting friends and relatives;

- Island residents have the same aspirations for international travel as residents of mainland Europe. These aspirations can only be fulfilled if there are adequate air and sea transport services available;
- the enjoyment of many cultural and sporting services and contacts depend upon the air and sea transport services. Without those services there is a real risk that Island residents will be excluded from many aspects of everyday life that for the most part are common place to the residents of mainland Europe and the United Kingdom;

## **Air Transport**

### **Regulation of Air Services**

- 5.2 For many years it was felt that adequate air transport services could only be ensured if they were subject to regulation. While there was sympathy for the argument that the most favourable cost of air travel together with the provision of a quality service would be best obtained through competition, it was believed that a degree of regulation was needed in order to safeguard user requirements and particularly those of Island residents. It was believed that licences should be withheld where the air transport services to be provided were considered to be contrary to the best interests of the greater number of persons using or likely to use the air transport services, and the interests of Island residents in particular – for example, the Island authorities objected to the granting of licences by the UK Civil Aviation Authority for the operation of summer only charter air services that were expected to have an adverse impact on essential year round scheduled services by drawing passengers away from them.
- 5.3 For air services between the United Kingdom and the Island regulation was undertaken prior to 1998 solely by the United Kingdom Civil Aviation Authority. In 1998 the Air Transport Permits (Jersey) Law was enacted which provided for air services between the United Kingdom and the Island to be subject to regulation by both that authority and the Island authorities. Air services between the Island and destinations outside of the British Isles are not covered by this law and remain subject to approval by the United Kingdom Department for Transport.
- 5.4 The current policy is that the interests of Island businesses, residents and visitors are likely to be best served by generally encouraging competition, and avoiding the imposition of unnecessary administrative costs either on the airlines or on the authorities. In pursuing this policy the Island has come into line with policies being applied by the United Kingdom Government and by the European Union generally. This approach is described as an “open skies” policy.

### **The cost of Airport services borne by the providers of air services**

- 5.5 In November 2002 the States adopted a proposition of the Harbours and Airport Committee (P198/2002) on Jersey Airport: Future Funding. In adopting the Proposition the States agreed “in principle that additional funds from general revenue should be made available for use in encouraging the provision of new air services and/or the offer of low fares on existing and/or new air services, and requested the proposed Economic Development Committee, together with the Harbours and Airport Committee, to bring forward for approval by the States proposals for implementation in 2004”.
- 5.6 This decision followed upon short term measures for 2003 recommended by the Airport Funding Task Force. Grants of £500,000 from general revenues and £500,000 from the Tourism Development Fund were made available and these funds were used to –
- reduce the passenger service charge at the Airport in respect of every passenger arrival in 2003;
  - provide marketing support aimed at increasing passenger numbers and retaining existing passengers;

Also during 2003, the Harbours and Airport Committee agreed to repay passenger service charges (excluding the security charge) paid by individual airlines providing year round scheduled services in respect of passengers carried in 2003 additional to those carried in 2002; over £200,000 was rebated to the Airlines.

- 5.7 In addition the Harbours and Airport Committee altered the structure of Airport charges. 40% of the fixed landing costs was transferred to the variable passenger service charge, and the passenger service charge was then split equally between arriving and departing passengers. This was welcomed by the Airlines who saw the changes as helping to improve the viability of their services and therefore to encourage future investment in routes serving Jersey.
- 5.8 The Harbours and Airport Committee has also been aware that improving the overall commercial performance of the Airport would have a beneficial impact on Airport charges. The Committee has taken action to reduce expenditure and generate additional rental and other income and is mindful of the need to monitor continuously the Airport’s business performance.
- 5.9 Consideration has been given to the possibilities of further general reductions to Airport charges and to discounting charges for new and enhanced services. Options discussed with the airlines have included –
- asking the States to make an ongoing contribution from general revenues towards discounting charges for new services and to stimulate the growth of existing routes, and

- meeting the cost of security at the Airport from the general revenues of the States. The effect of this would be to immediately reduce Airport charges by an estimated £2.45 per passenger.

However it was agreed between the relevant Committees of the States that any debate of these proposals should be delayed so that they could be considered within the framework of the Strategic Plan, and the future policy on the maintenance and enhancement of the Island's air transport links could be considered as part of the Economic Growth Plan.

- 5.10 The Harbours and Airport Committee provides incentives and discounts covering new routes and replacement routes. A new route is a route which has not been flown year round by a scheduled airline for a winter or a summer season; and a replacement route is where one airline ceases a service and another wishes to take up the service immediately or very shortly thereafter.
- 5.11 For new routes the incentive comprises a 50% reduction of both landing fees and passenger service charge for year one and year two; then a 30% reduction on both charges in year three. This three year incentive is to persuade airlines to invest in new Jersey routes of benefit to tourism, the finance industry and Island business interests generally.
- 5.12 For replacement routes the offer is a 50% discount for both landing fees and passenger service charge for a twelve month period; this is in order to maintain existing air routes to Jersey and to provide an immediate benefit to the replacement airline. It is offered for year round scheduled airline operations.
- 5.13 All applications for new route incentives or replacement discounts are considered by an evaluation panel comprising the Airport Director and Finance Director who consider each application on its merits. The Evaluation Panel negotiates directly with the airline applying the policy principles but with the ability to be flexible and to vary the special conditions of each application as is necessary.

### **Slot allocation/protection**

- 5.14 On the subject of the influence on air services of the allocation and availability of slots at the London hub airports of Gatwick and Heathrow, the Island authorities continue to press for greater security for the air services to Gatwick and for a return to access to Heathrow. Submissions have been made to the United Kingdom Department for Transport and to the European Union Commission. While the Island is not embraced by the EU regulations on air transport matters, because the Island is not part of the EU, the issues raised by the EU in respect of airport slot allocation and regional air services are of equal significance for the Island.
- 5.15 The current view is that the most practical and effective solution to the issue of how to safeguard essential air services to the London hub airports is for slots to be ring-fenced at those airports. It is considered of fundamental importance

that the United Kingdom Government should adopt the policy of allocating slots at each of the London hub airports for regional air services, that this policy should extend to the routes to and from the Island, and that the United Kingdom Government should be faced with no obstacles in exercising that policy through EU legislation. The Island has therefore represented to the United Kingdom Government and to the EU Commission that the following action is required –

- to ensure there are no barriers in EU legislation that prevent the United Kingdom from giving the same support to the Island that could be given to air services within the European Union;
- to amend existing EC legislation to give Member States greater freedom/discretion to safeguard regional air services, such as those to and from the Island, in the public interest;
- for the United Kingdom Government to take the steps necessary to safeguard the slots required to maintain an adequate level of air service between the Island and the United Kingdom hub airports at Heathrow and Gatwick.

### **Sea transport**

5.16 In respect of sea transport the current policy approach varies according to the nature of the service. For freight movements between the Island and the United Kingdom and between the Island and France there has been no attempt to interfere through a licensing process. For the passenger/car carrying ferry services between the Island and the United Kingdom and between the Island and France the States have pursued an interventionist policy through the medium of the licensing of the ramps in St Helier Harbour. For the pure passenger carrying vessels plying between the Island and France there has been no intervention.

5.17 The tender process engaged in 1997/1998 in respect of the passenger/car carrying ferry services between the Island and the United Kingdom is indicative of the approach to date in respect of these services, and also the services to France. The tenders were evaluated having regard to the following criteria –

- the provision of a reliable frequent service;
- the arrangements for backup vessels;
- what weather and sea conditions would prevent sailings given the nature of the craft to be used;
- the length of time the sea journey would take;
- whether the sailings from Jersey would be direct or via Guernsey;
- which UK port would be served;

- the standard of quality, safety etc of the vessel to be used;
- the overall capacity particularly in the peak months;
- the level of service in the winter months;
- the overall reliability of the vessels to be used;
- the likely fare levels;
- the convenience of the schedules;
- the standard of customer care;

The outcome of the negotiations on the passenger/car carrying vessels was the granting of permits for the use of the ramps in St Helier Harbour on condition that the provisions of service level agreements entered into with the companies concerned were met.

5.18 The cost of Harbour services to the transport operators has been the subject of a number of reports over the years, particularly in respect of the cost of importing goods into the Island. Current plans are to focus on this issue through a greater commercialisation of the Harbours and to give the Jersey Competition Regulatory Authority the role of monitoring the pricing of the services of what would become “Harbours Limited”.

## **6. What should be the Policy Objectives for the Future?**

### **Air Transport Services**

- 6.1 The key air transport service requirements to be served by future policies, which have been referred to in part above, are –
- the provision of air services from as many points of origin in the United Kingdom and the Continent of Europe as possible;
  - the provision of sufficient capacity and frequency to meet all categories of demand;
  - the provision of services at the lowest possible cost;
  - sustaining existing traffic levels and encouraging traffic growth;
  - sustaining sufficient viability of the air services provided on which long term security of service provision depends;

- the provision of adequate airport facilities to accommodate present and future aircraft movements and passenger throughput;
- a level and structure of airport charges that encourages airlines to provide air services at the lowest possible cost to the customer.

These requirements can be summarised as - route spread, year round capacity, year round frequency, security of service and low cost.

6.2 The experience of the air services in recent years has been mixed –

- services to London Heathrow have been lost;
- services to Paris and Zurich have been lost;
- existing carriers have sought to lower the cost of air travel, and in many cases with considerable success;
- the airlines have argued that the continued provision of low cost services is threatened by the relatively high level of airport charges at Jersey Airport;
- low cost airlines have put considerable pressure on Jersey Airport to make substantial reductions in airport charges;
- the reduction in the number of visitors, and the contraction in the number of beds in hotels and guest houses, and the low fares policies of the scheduled airlines have reduced the need for charter flights;
- the provision of services continues to be influenced by the nature of the aircraft in an airlines fleet;
- competition has been to the advantage of users generally;
- there is no evidence that the air services provided are other than at the margin of profitability;
- the open skies policy has not attracted high volume low cost operators, partly because of the level of airport charges but more so because of the limited opportunities for traffic growth and the low cost services already being provided by the existing scheduled operators.

### **Sea transport services**

6.3 For the Island's freight services there is a need for capacity, frequency, security and low cost in respect of the services to the United Kingdom. There is an increasing demand for similar requirements in respect of freight services between the Island and France. For passengers and private car movements

there is a need for adequate capacity and service frequency year round, security/stability of service provision, and for low cost.

6.4 The experience of the shipping services in recent years has been mixed –

- the level of traffic on the northern route to the United Kingdom has been affected by the reduced size of the tourism industry, and competition from low priced air travel;
- the level of traffic on the southern route to France has been favourably influenced by competition between the two operators of passenger/car carrying ferry services;
- prices for carriage on the northern and southern routes remain relatively high compared to UK/France cross-Channel services;
- trade with France is restricted by the limited freight capacity of the daily ferry services;
- Island residents with second homes in France remain affected by the limited ferry services available in the winter months;

### **How can future policy objectives be best achieved?**

#### **Air transport services**

##### **“Open Skies”**

- 6.5 At the end of twelve months of applying an open skies policy the Economic Development Committee asked all interested parties for comments on whether or not this policy should now be made more permanent through the repeal of the Air Transport Permits (Jersey) Law. The responses showed that there is general support for the open skies policy. At the same time there are some who remain attracted to the idea of some form of licensing arrangement which would give the Island authorities the opportunity to set conditions to be met by the permit holders in terms of the frequency, capacity, and cost of the services provided.
- 6.6 The Committee’s conclusion is that, overall, greatest advantage is to be obtained from an open skies policy and that therefore this policy should be made more permanent through the repeal of the Air Transport Permits (Jersey) Law. With the taking of this course of action it has to be understood that the Committee will not have the ability to require airlines to enter into any service level agreement setting out the conditions of service. However there is no evidence that in a competitive environment the airlines will not provide the services sought at the lowest possible cost if the economic/trading conditions are such as to encourage this.

### **Reducing Airport costs**

- 6.7 The airlines have generally welcomed the open skies approach. However, they consider that the full benefit of such an approach is frustrated by the high cost of operating through Jersey Airport. The operators of low cost air services in Europe have supported their low fares by either operating from low cost airports or negotiating lower landing fees at higher cost airports. The argument advanced by airlines serving Jersey offering low fares is that the level of airport charges is important in determining their ability to maintain these low fares; the argument runs that present airport charges in relation to the low fares presently on offer are extremely high and have a significant adverse impact on the overall viability of the air service provided.
- 6.8 The question that needs to be considered in the first instance is why Jersey Airport costs are high. Could they be lowered if the airport was to be operated differently, and/or was able to generate more income from commercial activities on airport land? Or must Jersey always be a high cost location. If the latter is the case the further question then arises is whether there are any "costs" that if removed in their impact on airport charges could be for the benefit of the community at large. For example, should the taxpayer pay for investment in essential airport infrastructure and would this help to reduce the cost burden on the airport and consequently on the airlines/airline users. Also would this be to the advantage of the private sector and the economy as a whole? Set against this is the fact that if the cost of essential airport infrastructure is met from the taxpayer this will mean less money for spending on other public service projects.
- 6.9 The States in adopting P198/2002 on the future funding of the Airport agreed that Jersey Airport should be viewed as a strategic asset for the Island. In this context, a contribution by the taxpayer towards the cost of essential Airport infrastructure, if it was needed, would be preferable to a policy of subsidising individual airlines. If the Island should be faced with the prospect of only being able to obtain air services if a subsidy is extended to individual airlines it is suggested that a tender approach should be adopted This would be in line with the tendering arrangements for those wishing to operate services in the EU that can benefit from the public service obligation subsidy arrangements provided within the framework of EU air transport policy.
- 6.10 Substantial investments will be required at the Airport to maintain the facility so that it can be used by the wide range of aircraft capable of being accommodated by the present runway length. The Committee does not support the argument, if it should be advanced, that the Airport should be expected to fund all its future capital requirements solely through an increase in the fees borne by the airlines. In Europe major infrastructure projects attract European Investment Bank funding (at a low rate of interest) or infrastructure grants from the European Community.
- 6.11 Consideration has been given to whether further changes in the structure of the Airport charges would help secure the objective of encouraging the provision of new air services and/or the offer of low fares on existing and/or new services.

Options considered, which could be without cost to the general revenues of the States, include –

- replacing the present landing fee based on the weight of the aircraft by an increase in the present passenger service charge;
- varying the Airport charge according to –
  - the distance travelled (e.g. a lower charge the longer the distance);
  - the time of year (e.g. a lower winter and higher summer charge);
  - the time of week/day (e.g. a higher charge for the summer weekends);
  - the fare charged (e.g. a lower airport charge for a lower fare);
- setting a fixed charge for the year as a whole based on passengers carried in a previous period so that an airline would benefit in that any passengers carried over and above the base number would be carried without incurring an additional airport charge for that year;

6.12 Some of these options would have greater support among the airlines than others. Depending on which option is considered there will be winners and losers amongst the existing air service providers. For example, with the replacement of the landing fee by an increased passenger service charge it is to be expected that summer only service operators with a high load factor could pay more than at present; the year round service operators with low load factors in the winter months could pay less than at present. Airlines using larger, heavier aircraft would benefit more from the transfer of charges than those airlines using smaller lighter aircraft. There is a general view among the airlines that any changes in the structure of airport charges should be the result of proper analysis of their effect; that there should be a level playing field between the airlines; and that any new charging structure should be simple to apply.

6.13 In principle, the airlines with whom discussions have been held are most supportive of the replacement of the present landing fee with a higher passenger service charge and for the airport charges to be split equally between the arriving and departing passengers. This is seen as a way of reducing the level of fixed costs and benefiting the airlines' "bottom line". While a higher passenger charge might be thought to discourage the growth in passengers, the airlines have argued that the greater benefit from this lies in the reduction of fixed costs and enhancement of their profitability upon which future investment will depend. On the other hand the inclusion of a higher passenger service charge on the airline ticket, if it is separately identified, might be seen as a psychological barrier, and the airport also would be at risk as revenues would fall if passenger markets declined. The International Civil Aviation Organisation principles that airport charges should be related to airport costs also would not be complied with.

- 6.14 Airports in the United Kingdom in setting their charges have structured incentives based on capacity increase, frequency increase, passenger numbers increase and growth targets. Jersey Airport should be encouraged to engage in similar commercial practices and, for example, continue with discounting airport charges for airlines operating new air services or replacing of a withdrawn service.
- 6.15 The aim of the airlines to see a reduction in airport charges across the board on a level playing field, non-discriminatory basis, was achieved in part by the States decision in November 2002 that community services such as the public meteorological service should be paid for by the tax payer/user rather than by the airlines.
- 6.16 The airlines have argued that a further contribution should be made to a general lowering of airport charges and that this should be achieved by the cost of security at the Airport that is presently met by the airlines and their passengers being met out of the general revenues of the States. The view is held that the security measures at the Airport are part of the general response to a world wide terrorist threat and that in common with other measures, such as costs of running an enhanced police service, the cost of Airport security should be met by the community at large. The same view has been expressed by others such as the British Air Transport Association, and the European Transport and Energy Commissioner. However, the transfer of the costs of security from the Airport and Airport users to the taxpayer would involve a significant sum of money being diverted from essential public services (£1.8 million in 2004).
- 6.17 The idea of providing additional sums from general revenues to encourage the provision of new air services and/or the offer of low fares on existing and/or new air services was generally supported – at least in principle – by the States in November 2002. However since that date there has been a change in the financial climate regarding public revenues/expenditure with a consequence that any direct incentives to airlines can be expected to have to be at the expense of expenditure on core public services.
- 6.18 The Committee considers the Airport is the most appropriate body, in consultation with the Tourism Department and other interested bodies, to be responsible for encouraging airlines to operate new routes and to increase frequency/capacity on existing routes. However, the Airport should not have to be required to do this because it is in their commercial interests to increase the number of passengers passing through the Airport. The Airport should be run on a commercial basis and its overall corporate and management structure should be that best suited to achieving this. The structure and level of Airport charges should be independently monitored and it is believed that the Jersey Competition Regulatory Authority would be best equipped to undertake this role. However, it should be in the Airport's best interests to ensure that it operates as efficiently as possible, at the lowest possible cost, maximising revenue through increasing the number of users of its services, and maximising the return from its land assets. The Committee will be giving further consideration in the months ahead, prior to the changeover to ministerial government, to what

further changes might need to be made to the management arrangements at the Airport to best achieve the desired results.

6.19 The successful commercial operation of the Airport, and of the airlines serving the Island, is most likely to be achieved if the Island's economy is buoyant and this is reflected in the demand for air travel. This is particularly so in the case of visitors to the Island. As has been stated in the recently published Tourism Strategy the future success of the tourism industry depends largely on enhancing the Island's attractiveness to visitors, and this will call for further investment in tourist facilities and infrastructure. If the tourism product does not have market appeal, any attempt to attract tourists by reducing the level of Airport charges in the hope that this would be reflected in lower air fares would be unlikely to succeed. If it is possible for funds to be made available from general revenues to be used in encouraging business growth, these funds would be employed most effectively if they are used for specific projects from which a beneficial return can be expected to be obtained. Particularly where those projects involve investment in enhancing the Island's market appeal. This would be preferable to spending money indiscriminately on subsidising the airlines through a reduction in Airport charges.

6.20 The cost to the tax payer of subsidising air transport services, if it was to be considered, would depend on the extent of the support sought. Three possibilities might be referred to –

- as in 2003, a sum of £500,000 could be made available from General Revenues to be used to discount Airport charges, which discount could be offered to airlines operating new services, replacing a withdrawn service, or significantly increasing the capacity offered on existing services;
- as noted in paragraph 6.16, the cost of security services could be met by the tax payer at a cost of £1.8 million. This would be equal to some £2.40 per arriving passenger;
- the Airport charges borne by the airlines could be met in whole or in part by the tax payer at a maximum cost of £12.5 million. This maximum cost would be equal to some £17.00 per arriving passenger.

6.21 If the full benefit of a taxpayer subsidy was passed on to the passengers the price of an air ticket could be reduced by between some £2.40 and £17.00 per passenger depending on the option chosen. It is not expected that even with the higher of these two figures this would have other than a marginal impact on the number of passengers travelling to and from the Island. This view is supported by OXERA in an independent review of the funding of Jersey Airport that was commissioned by the Policy and Resources Committee in 2001. The airlines take a contrary view, particularly where Airport charges represent a significant proportion of the low fares offered by a number of the airlines. An argument also advanced by the airlines is that a significant reduction in Airport charges could be used to improve their bottom line profitability and as a result they would be more likely to maintain and expand their existing services and offer low fares. It is further argued by some that through such action UK low

cost airlines not presently serving the Island would be more likely to provide air services between the Island and the United Kingdom. However there is no certainty that these benefits would be enjoyed, although a failure to pass the benefits of lower airport charges on to the user might be a matter that would be of interest to the Jersey Competition Regulatory Authority. It also cannot be said for certain that the present level of service and present low fare opportunities would only continue to be provided if subsidies were to be offered.

6.22 Against this degree of uncertainty about what benefits would be available to the user if the tax payer was to subsidise the airlines through a reduction in Airport charges must be set the consequence of such action for the amount of money that would be available to support essential public services. The following are examples of the kind of choice that might be faced –

- £500,000 would equate broadly to the present grant made to the Jersey Opera House;
- £1.8 million would equate broadly to the cost of the public library service;
- £12.5 million would equate broadly to 10% of the budget of the Health and Social Services Committee; or
- would equate to another 1% on the proposed general sales tax.

In considering the choice before the taxpayer it should also be recognised that the benefit of any reduction in air fares would be received by business travellers as well as Island residents or tourists. If businesses need support it is considered there are better ways of making that support available than through an indiscriminate subsidising of Airport charges.

6.23 The Committee in the light of the foregoing has concluded that in the present financial climate facing the States any contribution by the taxpayer towards the cost of Airport services should be limited to sharing the cost of essential infrastructure investment (e.g. runway resurfacing and concrete replacement where the Airport is required to pursue non-commercial actions on the grounds of the best interests of the community).

### **Safeguarding Airport slots**

6.24 The ability of airlines to offer a service between the Island and the London hub airports of Gatwick and Heathrow is dependent upon the safeguarding of slots at those airports for the Island's air services. The Committee will continue to press the United Kingdom Government and the European Commission for greater security in this respect.

The Committee has responded to two consultative exercises on slot allocation and the protection of regional air services –

- a UK Department of Transport consultation paper on the protection of regional air services to London; and
- a European Commission consultation on “commercial slot allocation mechanisms in the context of a further revision of Council Regulation (EEC) 95/93 on the Common Rules for the Allocation of Slots at Community Airports.

6.25 The policy inclination of the European Commission, which seems likely to be supported by the United Kingdom Government, is that the scarce resources at the London hub airports should be obtained by airlines on an ability to pay basis. In other words those who attach the greatest value to the slots should be those best able to acquire them. The possibility is that in the future this process could be engaged in by public authorities as well as by the airlines. However, the cost that the Island would incur by participating in such a market place would be very high, particularly if Heathrow Airport is involved.

6.26 The Committee has no reason to believe that the air services operated by the incumbent airlines from Gatwick Airport are at risk. However, if the situation should change the Committee will take every possible step to ensure that the required number of slots at Gatwick Airport are available to be used by a suitable airline.

6.27 An independent report for the European Commission on a study to assess the effects of different slot allocation schemes based on market mechanisms recognised that with such mechanisms it was more likely that slots are allocated to airlines willing to pay most for them. Those airlines serving destinations such as the Island cannot be expected to outbid airlines serving intercontinental or other international destinations. If financial considerations rather than regional policy objectives are likely to determine the outcome it can be expected that the regional air services will suffer. The independent study suggested that the accessibility of the regions to the hub airports could be safeguarded in either of the two following ways –

- slots can be “ring fenced” for particular destinations, so that they are effectively excluded from the main secondary market for the slots; or
- slots can be bought by, for example, regional authorities to ensure the provision of services to their region.

6.28 Given the importance attached to the air services between the Island and the London hub airport, the Committee cannot accept that the level of air service provided should be left to a market based slot allocation process. The Island cannot be placed at risk from individual airlines taking a purely commercial decision to use a slot at a London hub airport for a more remunerative intercontinental service rather than a service to the Island.

6.29 The value that airlines place on a slot at a hub airport also has implications for the proposal that regional authorities should be able to buy slots. The Island is

in a disadvantageous position in this respect compared to regional authorities within the European Union.

6.30 The air services upon which the Island depends are in a special category and call for particular recognition from the European Union. This is because the Island is outside the European Union for air transport policy/directives. Such matters are not covered by the protocol to the EC Treaties that defines the Island's relationship with the European Union. At the same time air services between the Island and the United Kingdom have been treated as "domestic" by the United Kingdom, and can be compared to the services operated from the regions of the United Kingdom to the London hub airports; while the services between the Island and the third countries are treated as international. What is important for the Island therefore is to maintain the view expressed to the UK Government and the European Commission that –

- there should be nothing in EU legislation that prevents the United Kingdom from giving the same support to air services to and from the Island that it can give to air services within the European Union;
- existing EC legislation should be amended to give Member States greater freedom/discretion to safeguard regional air services such as those to and from the Island, in the public interest;
- the United Kingdom Government should take the steps necessary to safeguard the slots required to maintain an adequate level of air service between the Island and the United Kingdom hub airports of Heathrow and Gatwick.

### **Sea transport Services**

6.31 The position on the sea transport services is that there is considerable doubt as to whether the present policy is serving the best interests of the Island. There are four areas of demand to be served – freight movements to and from the United Kingdom; an increasing demand for freight movements to and from France; passengers and cars between the United Kingdom and the Island; passengers and cars between the Island and France. The issue is how best to meet these requirements. There is an element of conflict in that the freight movements call for a conventional ferry service whereas the movement of passengers and cars calls for high speed services which reduce the travel time.

6.32 The consultants OXERA were appointed in 2004 to undertake a study of the viability of the ferry services to and from the Island. Their analysis reached the conclusion that for both the southern and northern routes the best option would be the operation of services year round by a monopoly provider, with that provider being subject to licence, appropriate service level agreements, and also oversight by the Jersey Competition Regulatory Authority.

6.33 This conclusion is consistent with –

- the views expressed in the past by the Island authorities particularly in respect of the northern route where the view has been influenced by experience with services provided in the past by British Rail, Sea Link, British Channel Island Ferries and Commodore/Condor;
- the experience of the Isle of Man Government in securing the provision of passenger/car ferry services between that Island and the United Kingdom, where satisfactory year round services have been achieved through a contractual arrangement with a single operator. Thereby the latter provides an agreed level of service, and is subject to restraint on the rate of price increase, in exchange for protected access to harbour facilities at Douglas;
- the tenders for the northern route in 1998 from P&O and Hoverspeed included the view that the route could only support one operator, and that both tenderers were only interested in operating a service if they were the sole operator;
- the arguments advanced by both Condor and Emeraude in respect of their operations on the northern and southern routes respectively that investment in modern passenger/car carrying ferry ships requires some certainty of a return being obtained on that investment.

6.34 As OXERA have shown in their report one of the problems faced by the Island is how to satisfy the objective of having a year round service against the background of large seasonal variations in demand. If the Island only wished to have services operating between say mid-March and mid-November there might be more opportunity for long term viable competition; it is the need to earn sufficient profit in the summer to carry the loss making winter services that gives rise to the conclusion by some that having just one operator is likely to be to the Island's long term benefit.

6.35 This is particularly so in respect of the northern route. The position on the southern route is complicated by the fact that traditionally it has supported competition in the carriage of passengers and little difficulty existed so long as the competition was between a relatively slow passenger/car carrying ferry and a passenger only fast hydrofoil. With the replacement of the hydrofoils with passenger/car carrying fast ferries the previous balance has been upset. An attempt by the authorities to maintain the balance by refusing permission to one operator to carry cars on its passenger/car carrying ferries proved to be untenable. There were strong customer pressures arising from the fact that there were occasions when the ferry service provided by one operator could not accommodate those wishing to travel to France at a time of their choice and the other operator had a vessel available which could carry cars but which the authorities had sought to prevent from offering such a service.

- 6.36 One of the problems faced in respect of the northern route is that its viability traditionally has been dependent on the operator concerned being able to service both Guernsey and Jersey. Therefore, without the concurrence of Guernsey – which was obtained for the tendering process in 1998 – it would be difficult to secure the policy objectives.
- 6.37 As far as the southern route is concerned, where there are two operators, it is reasonable to expect that consumers, having enjoyed the benefits of competition, would not take kindly to the removal of that competition by the action of the authorities.
- 6.38 In considering what policy action to take for the future regard must continue to be had for –
- how to cope with the significant seasonal fluctuations;
  - how to maintain loss making winter services;
  - how to provide backup for the fast ferries particularly on the northern route to cope with adverse weather conditions;
  - what legal constraints arise from EU, French, UK or Jersey legislation;
  - what role the JCRA would have in overseeing the services.
- 6.39 Focussing on the policy aims which have been referred to earlier in this report the following further comments might be made in respect of the sea transport services –
- stability and reliability of service

In the past this was reflected in the argument that if an operator was unable to earn a reasonable return on the capital invested there was a great chance that either the ferry services would be disrupted by the financial collapse of the operating company, possibly most damagingly in the middle of the tourist season, or there would be a lesser ability to justify the investment in modern equipment. In the past justifying the investment also presented difficulties because the vessels that were suitable for the Island routes were not always well suited to other routes which had a larger capacity requirement, and therefore the companies had to be encouraged to invest in vessels that had a relatively limited market. The demand by Island residents for a reliable service also called for a service that could cope with the fast ferry disruptions caused by bad weather – and Murphy's Law suggests that this was always most likely to happen at times such as Christmas or at Easter when the many Island residents or their families seeking to travel between the Island and the United Kingdom would be most disadvantaged by the absence of a service. Another aspect of reliability are the problems that can be experienced if there was to be no backup throughout the year to cope with mechanical failures;

- ensuring a year round service

Island residents and local businesses require a year round service. The reaction to the threatened loss of the Emeraude service was evidence of the number of Island residents who now have properties in France for whom a car carrying year round service on the southern route is essential – not only at holiday times but also at other times when the owners of the properties have wanted to travel to France for maintenance and repairs.

These concerns gave rise to the creation of the Southbound Transport Group to protect the interests of Island residents. That body is firmly of the opinion that it would not be in the best interests of the Island to adopt an “open seas” policy. In its view uncontrolled competition will simply cause deterioration in services, and the group is in favour of following the Manx Government example of entering into a contractual arrangement with a single operator.

- Low prices

An issue to be considered is whether low prices are most likely to be achieved long term through an operator having an agreement with the authorities which gives a long term prospect of recovering the investment needed in exchange for price constraints; or whether low prices are most likely to be achieved if there is competition on the route. Consideration needs to be given to whether the Competition Regulatory Authority could monitor and control prices. However experience elsewhere shows that such controls are never easily applied and that competition is a better way of achieving low prices than some form of regulatory process;

- The demand/supply relationship

The optimum relationship between demand and supply in most markets is to be achieved by encouraging competition. Competition should ensure that there is sufficient capacity available. Also where there is not competition there must be doubts as to whether an existing operator would be encouraged to stimulate traffic beyond the capacity of existing vessels which would bring in its train the need for investment in further capacity which while justified for the peak months when the extra demand was unsatisfied would not be called for in other months of the year.

6.40 What is clear is that the Island authorities need to take that policy course which introduces the least constraints on the ability of operators to respond to market forces. In this context there is evidence that the utilisation of vessels on both the northern and southern routes is enhanced if operators have the opportunity to join the services between the Island and the United Kingdom and the Island and France with services running between France and the United Kingdom. There is also the issue of the need for improved frequency and capacity of freight services between the Island and France if some of the objectives for

increasing trading links with France, and offering the opportunity for access to lower priced products is to be achieved. At the same time there is a need for security of service particularly on the northern route which is presently provided for by a condition attached to the permit issued to Condor, through the Service Level Agreement, that a traditional passenger/car carrying capacity vessel is available for use when adverse weather conditions prevent the operation of the fast ferries.

- 6.41 One option would be to have an open tender supported by some form of licensing, and for the successful tenderer to be that company that offers the most complete service to the Island both in terms of capacity, frequency, price etc.
- 6.42 The alternative is to facilitate competition by removing the present permit provisions and leaving it to the market place and the capacity of the harbour to accommodate the vessels concerned to determine the services to be provided. This might lead eventually to what might be described as a natural monopoly in that one company may not be able to survive profitably and leave the market to one other operator.

### **The role of the JCRA**

- 6.43 The JCRA were requested to comment on the role it would see for itself in connection with each of these policy options as they were referred to in the OXERA report, within the framework of the JCRA's current and future statutory responsibilities. The JCRA considered four policy options –
- franchise monopoly with peak season competition;
  - year round franchise monopoly;
  - open seas with quality regulations; and
  - open seas.
- 6.44 Under the first two options a tender process would be involved. The JCRA would see itself performing the necessary work for the granting of a franchise. This would involve drafting the tender documents, including the service level agreement; determining what types of obligations would need to be included in the SLA; developing the criteria for successful bids; inviting bids and evaluating these through both written submissions and formal oral hearings. Once a licence had been awarded, the JCRA would need to enforce the SLA and enforce competition law.
- 6.45 The JCRA believes that a key aspect in the tendering process would be to ensure that it is fully open and transparent and it is of the view that the licence period should be for a period of some seven to ten years. This it is thought would be sufficient for an operator to recoup any investment made in the route(s) and enable it to make a reasonable return on its investment but also

recognising that operators can relatively easily relocate elsewhere their ferries onto alternative routes.

6.46 How a successful tenderer would be chosen would depend on the selection criteria. The JCRA has identified two options –

- that prospective operators bid a lump sum, with the highest bidder being granted the licence; or
- a successful bid is based on the operator who could guarantee the lowest average price to the consumer throughout the period of the licence.

The JCRA recognise that price regulation is complex.

6.47 Where open seas with quality regulation is considered the JCRA would see its role as drafting and implementing minimum service level agreements including year round service requirements, as well as applying the competition law. If the situation developed whereby open seas competition resulted in one or more operators exiting the market leaving just one, the JCRA has suggested that consideration should be given to introducing a franchise monopoly model arrangement at that time.

6.48 If a pure open seas policy option is adopted the degree of regulation required from the JCRA would be minimal. There would not be a need for service level agreements and the services operated would depend on the capacity of the ramps in the harbour and the basis upon which Harbours allocated the use of those ramps. It is for consideration whether in these circumstances the Economic Development Committee should have a power of direction in respect of Harbours to require the latter to have regard to certain criteria in determining the use of ramps. For example, it might be argued that preference should be given to those operators who are engaged in the provision of a year round service; those that are prepared to provide greatest frequency of service particularly in the winter months; and those that provide better back up facilities particularly in the form of conventional ferries capable of operating in stormy weather.

6.49 The way in which the harbour operates is also something with which the JCRA would be involved. The JCRA's conclusion is that if the States wishes, in the case of Jersey Harbours, to address potential issues of efficiency and excessive or discriminatory pricing in an effective manner, the JCRA would recommend that the States puts in place (or enable the JCRA to put in place) regulatory measures such as an efficiency audit, accounting separation and (if appropriate) price caps, rather than relying purely on the JCRA's powers under the Competition Law.

6.50 If the JCRA were to be involved in the ways suggested, in respect of the activities of both the shipping companies and the Harbour (and the same thoughts would apply to the activities of the airlines and the Airport) the JCRA can be expected to require additional financial and/or manpower resources.

There would also be a need to review the JCRA's legal powers to ensure that it was able to do all that would be required of it.

### **Franchise or "open seas"**

- 6.51 If the tender process was to be followed the issue also arises as to whether the tenders should be split between the southern route and the northern route or whether the overall profitability of the services both north and south would be enhanced if an operator was able to serve both routes. There is also the question as to whether to separate tenders for a summer operation from a winter operation. The tenders for the winter period could be on the basis of what is the best service likely to be provided and what a service provider might require to provide such a service. Those requirements might take the form of lower harbour dues or some form of subsidy. A possible advantage of this approach would be to encourage greater price competition in the summer months without the operator being able to argue that summer prices needed to be kept high to cross subsidise the loss making winter services.
- 6.52 For the northern route there is the problem of a different period of the existing agreements entered into by the States of Jersey and the States of Guernsey with the current operator, Condor.
- 6.53 With regard to some of OXERA's specific comments it is questionable whether –
- an open seas policy for August alone would be practical;
  - that an auction based on price alone would be in the Island's best interests; service quality and frequency would be important criteria;
  - cooperation/collusion between Condor and Emeraude on the southern route would be possible without challenge under EU competition law.
- 6.54 The argument can be advanced that the market place is in a state of flux and that every opportunity should be given to the ferry operators to test the market. This might be seen as an argument for encouraging the present operators to compete against each other on both the northern and southern routes, and for any control over the quality of service to be exercised through the Harbour authority in the allocation of ramp times according to criteria previously agreed in consultation with the Economic Development Committee. This would appear to avoid the legal difficulties that might arise with EU legislation in the application of any form of restrictive licensing regime to services between the island and an EU Member State.
- 6.55 Arguments can be advanced in support of the policy option of a franchise monopoly on both the southern and northern routes on the grounds that there is insufficient traffic to support two operators on a long term basis. There are however as strong if not stronger arguments for allowing the users to enjoy the benefits of competition and allowing the market to decide what the service

levels should be. If the outcome of a market approach is that only one operator can survive then would be the time to assess the need for some formal franchise arrangement or other course of action to protect the user interests against the abuse of the monopoly position. Allowing the market to be tested, and assessing the benefits or drawbacks of competition through experience, might also be seen as the most practical course of action to contemplate at the present time given that –

- users have benefited from competing services on the southern routes, and are unlikely to thank government if those benefits are foregone by only licensing one operator;
- it is difficult to see on what basis one of the two operators on the southern route could be favoured over the other;
- if there is to be competition on the southern route it is difficult to see on what grounds competition also should not be encouraged on the northern route;
- in considering what policy approach to adopt for the northern route account has to be taken of the fact that there is no immediate prospect of joining Guernsey into new arrangements for the northern route because their existing agreement with Condor does not expire until 2008;
- an operator might be expected to obtain better vessel utilisation and be more viable if it can combine operations on the southern and northern routes, thereby also opening up the opportunity for the market for travel between France and the United Kingdom to be served;
- the desired improvement in the freight service between the island and France can be expected to call for a conventional ferry, and the viability of such a service may depend on the opportunity to operate a linked service from the Island to the United Kingdom;
- the application of the ramp licence requirement and associated service level agreements has given rise to operational difficulties, and the legal position in relation to international agreements and EU legislation is far from clear cut;
- applying a market approach would be more consistent with the States' Strategic Policy objectives, and also with the general desire to reduce regulation/red tape and the consequential costs associated with this.

## 7. **Recommendations**

### **Air transport**

7.1 In the light of the foregoing the Committee considers that –

- the continuation of the present open skies policy for air transport services will be in the best interests of the Island and of the users of these services;
- the Air Transport Permits (Jersey) Law 1998, as amended, should be repealed;
- pressure should continue to be maintained on the United Kingdom Government and the European Union Commission to obtain the required safeguards on slot allocation to provide for air services between the Island and the London hub airports of Gatwick and Heathrow;
- the Airport should be run on a commercial basis;
- support from the tax payer should be limited to making a contribution to the cost of the essential major infrastructure investments (e.g. runway resurfacing and concrete replacement where the Airport is required to pursue non-commercial actions on the grounds of the best interests of the community);
- any market abuse by the airlines or the Airport should be regulated by the JCRA

### **Sea transport**

7.2 In the light of the foregoing the Committee considers that –

- the present legislation providing for the issuing of ramp licences should be repealed;
- the allocation of ramp times should be left with the Harbour authorities which should have regard to agreed criteria in deciding ramp time allocation;
- the provision of shipping services should be left to the free market process;
- the Harbours should be run on a commercial basis;
- any market abuse by the shipping companies or the Harbour should be regulated by the JCRA.

7.3 The Committee is of the opinion that through the adoption of these recommendations the States Strategic Aim 1.2.5 referred to in paragraph 2.3 above can best be met. An “open skies” and “open seas” policy will mean that users will enjoy the fruits of competition in both the price and quality of the services on offer. By reducing red tape the transport operators will have lower costs to bear. Through taxpayer support for investment in the essential infrastructure of the Harbour and the Airport, transport operators would be faced

with a lower cost in using both facilities. Through the adoption of a commercial approach the management of the Harbour and the Airport will be able to encourage the development of new services and growth in passenger numbers. Together these actions are expected to –

- improve the Island's air and sea transport links;
- reduce travel costs;
- increase passenger numbers;
- provide an efficient, effective and competitive communications structure;

which are the success indicators that the Strategic Plan identified in respect of the formulation of a comprehensive external transport and communications strategy which will benefit both business and residents.

**20 May 2005**