

REVIEW OF
THE JERSEY CONSUMER COUNCIL

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1. INTRODUCTION

The Commission

1.1 PACT Consulting Ltd was commissioned by the States of Jersey, Economic Development Department, to review the constitution and role of the Council after 13 years of operation, and to take account of changes in the policy making environment in Jersey, in particular changes to competition policy and regulation and in the processes for public appointments and accountability. The Consultants were not asked to evaluate the system for consumer protection or the scope and effectiveness of consumer law in Jersey which is beyond the remit of this review.

Outline methodology

1.2 The approach involved three parts:

- Desk research;
- Attendance at meetings and face-to face interviews; and
- Report writing.

1.3 Consideration of the effectiveness of the organisation and the delivery of recommendations to increase effectiveness are at the heart of this review.

1.4 Our approach involved reviewing the organisational structure of the JCC in the context of best practice in consumer councils in other jurisdictions, particularly the UK, and in relation to the core principles promulgated by Consumers' International. We considered the arrangements in Malta and Cyprus, since these are both independent island states with their own consumer councils and associations.

1.5 A web-based investigation of the approaches taken by international organisations, for example BEUC (the European Consumers' Organisation) and Consumers International (an independent global campaigning voice for consumers), was also undertaken to provide relevant material for this report.

1.6 Within Jersey 20 interviews were undertaken, involving the members of the JCC, Ministers, regulatory bodies and stakeholders. These interviews were based on a template of questions, to ensure a consistent approach and that all matters were addressed comprehensively. Interviews were undertaken using 'Chatham House' rules to enable participants to express their views freely without any concerns about being quoted publicly. A record of all interviews was taken and used in the preparation of this report.

1.7 In addition, a meeting of the JCC was attended on 26 June, 2008 in order that the operation of the Council could be observed at first hand.

1.8 The project was undertaken in June and July 2008.

Outline of report

1.9 This report comprises six sections:

- Section 1 is the introduction.
- Section 2 describes the current role and structure of the JCC.

- The principles of consumer protection and their importance for the JCC are described in Section 3.
- A description of some of the key features of other Consumer Councils is provided in Section 4.
- Based on our research and the interviews, Section 5 reports the key issues that have been identified for the future operation of the JCC and makes recommendations for changes.
- The conclusions and recommendations are summarised in Section 6.

1.10 The following appendices are also enclosed:

- Appendix A: Methodology
- Appendix B: List of interviewees
- Appendix C: Interview template
- Appendix D: Current Membership
- Appendix E: UN Guidelines for Consumer Protection
- Appendix F: Consumer bodies in other jurisdictions

2. ROLE AND STRUCTURE OF JERSEY CONSUMER COUNCIL

Remit of the JCC

2.1 The Jersey Consumer Council (JCC) was established by the States of Jersey in 1995 to 'seek information, investigate, highlight and publicise anomalies and irregularities in consumer affairs and to encourage good trading practices by local business, with the assistance of the Trading Standards Department and other States' Departments as appropriate'. In addition, the JCC functions are to promote good trading practices, the ability to exercise individual rights, value for money and adequate compensation.

A brief history

2.2 During the late 1970s and in the 1980s a Watchdog group was set up from a cross-section of the community. The main issue concerning this group was the charging of Value Added Tax (VAT) equivalent prices in Jersey.

2.3 In the early 1990's, the then Policy and Resources Committee had concerns about the lack of basic consumer protection in Jersey. Lady Wilcox, Chairman of the UK National Consumer Council, was invited to discuss consumer issues and to stimulate an active debate with interested organizations in order that Jersey could move forward with effective consumer legislation.

2.4 There was general agreement for action and on 16th February 1993 States agreement was reached in principle that the Island should have a Fair Trading Law.

2.5 The report accompanying the Proposition set out four roles for legislation:

- To protect consumers from damaging and undesirable practices;
- To provide redress in appropriate cases;
- To raise trading standards and to facilitate competition in the Island; and
- To ensure that Jersey kept abreast of consumer protection measures and trading standards within the European Community.

2.6 These proposals would have introduced a general prohibition on unacceptable trade practices, many of which remain unregulated. At the time of the establishment of the JCC, the Policy and Resources Committee envisaged that a detailed Fair Trading Law would be adopted soon afterwards, but this has not yet happened.

2.7 Several pieces of consumer legislation have been introduced in recent years, however. A Consumer Safety (Jersey) Law was introduced in 2006. The States passed the Distance Selling (Jersey) Law in 2007 which came into force in March 2008 and a Supply of Goods and Services (Jersey) Law was adopted in September 2008. The latter will significantly enhance consumers' contractual rights on the island by replacing Jersey customary law which can be rather obscure to consumers. Consumers will need clear information on these new rights and assistance in exercising them.

2.8 At the time of the decision to set up the JCC, it was intended that the Office of the Chief Adviser would provide research support and secretarial services for the Council and that expenses would be met by the States.

Membership

- 2.9 The agreement founding the JCC specified that it should have 9 members as follows.
- Chairman appointed by the States
 - representative of the Citizens Advice Bureau
 - representative of the Standing Conference of Women's Organisations
 - representative of the legal profession
 - representative of the Jersey Hospitality Association
 - representative of the Jersey Chamber of Commerce
 - representative of the TGWU (now Unite)
 - two members of the public
- 2.10 Following a agreement with the former Industries Committee, however, the Council sought to increase the number of members of the public to 4, but this remains an unofficial arrangement without States approval. The Council's Business Plan 2008 nevertheless describes its membership as comprising eleven members, namely 6 representatives of organisations, 4 members of the public (including one vacancy) and the Chairman. A second member of the public and qualified lawyer has since resigned. The current membership is listed in Appendix D. The JCC meets ten times a year usually on a weekday at lunchtime.

Roles and responsibilities

- 2.11 A partnership agreement with the former Economic Development Committee of the States which is still operational underpins the role, lays down conditions for grant funding and specifies some operating procedures. It gives the Council scope to decide its own work programme subject to submission of an annual business plan. In its Business Plan for 2008, the JCC proposed:
- To continue to promote fair trading based on access to information and education for all members of the community.
 - To support the introduction of the "Goods and Services Supply (Jersey) Law".
 - To continue to provide a pivotal point of contact for public view and opinion.
 - To review, in consultation with others, the Council's own terms of reference and membership.
 - To widen its "watchdog" responsibilities and consider introducing at least five sub-groups which will be under the umbrella of the main body of the Jersey Consumer Council.
 - To strengthen and expand its Price Watch campaign to include better analysis of data collected, more public access to this data through a web site link and to include further price investigations of 'white' goods, 'brown' goods, cars, other goods & services etc and to keep up with the monthly petrol price watch.
 - To continue to communicate on a range of issues with the Jersey Public through regular eight page newsletters and to closely monitor alternative Island wide distributors to keep newsletter costs down.
 - To continue to support and promote issues that promote competition and are anti-inflationary e.g. voting with one's feet and shopping around to get the better deal.

- To ensure the Council's funds continue to be managed in an effective and accountable manner.
 - To consult with States Departments and respond to any report/amendment or Law that may have an effect on consumer issues.
 - Contribute to the debate and discussion about future Ferry operators and to influence 2009's Service Level Agreements.
 - Continue to support Operation and Regulation of Estate Agents.
 - To evolve and enhance its positive partnerships with community user group, to include a "Youth Consumer Council".
 - To conduct surveys of public attitudes/ opinions on consumer issues.
- 2.12 The Business Plan says that the aim of the JCC is not only to provide an essential consumer service but also to “punch above its weight”.

Resources

- 2.13 Two Partnership Agreements signed in 2005 provide the authority for the payment of grant funding for the JCC. The one provides for the JCC to receive an annual grant of £45,000 for which it is required to submit a business plan and quarterly progress reports. The other is specific to the Price Watch Scheme for the operation of which the Council receives an additional sum of £45,000 a year.. The terms of these agreements are no longer rigidly applied and in practice the total grant is now paid in quarterly instalments based on the business plan and budget. Figures for the third quarter 2008 show revised estimates amounting to £37,975 for that quarter (considerably in excess of the amount originally agreed). Actual payments are based on an evaluation of quarterly performance reports. In practice half of the budget is used to produce and distribute a Newsletter which is sent to all households on the Island.
- 2.14 The Council employs an administrator and operates from small offices in the centre of St Helier.

3. PRINCIPLES OF CONSUMER PROTECTION

Key principles

- 3.1 The application of consumer law and practice has developed considerably in the last quarter of the 20th Century with increasing concern about consumer rights, recognition of the importance of consumer representation, and determination to clarify their role in relation to competition and good trading practice. Western Governments have enshrined consumer rights in law and established significant regulatory bodies to educate and inform consumers, promote and protect their interests against unfair commercial practices. Governments, through regulatory bodies, have also required companies to establish effective internal complaints arrangements and fund independent appeal mechanisms such as Ombudsman Schemes to provide redress for consumers when they have been treated unfairly, not received goods and services of a satisfactory standard and suffered loss. The actual levels of consumer protection and the availability of accessible redress mechanisms for consumers varies significantly between individual countries.
- 3.2 Consumers' International sets out eight basic consumer rights as being:
1. The right to satisfaction of basic needs - to have access to basic, essential goods and services; adequate food, clothing, shelter, health care, education, public utilities, water and sanitation.
 2. The right to safety - to be protected against products, production processes and services, which are hazardous to health or life.
 3. The right to be informed - to be given the facts needed to make an informed choice, and to be protected against dishonest or misleading advertising and labelling.
 4. The right to choose - to be able to select from a range of products and services, offered at competitive prices with an assurance of satisfactory quality.
 5. The right to be heard - to have consumer interests represented in the making and execution of government policy, and in the development of products and services.
 6. The right to redress - to receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services.
 7. The right to consumer education - to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.
 8. The right to a healthy environment - to live and work in an environment that is non-threatening to the well being of present and future generations.
- 3.3 In 1985 the UN General Assembly, formalised its approach to consumer protection. The UN:
1. Decided to adopt the guidelines for consumer protection (see Appendix E);
 2. Requested the Secretary-General to disseminate the guidelines to Governments and other interested parties; and

3. Requested all organizations of the United Nations system that elaborate guidelines and related documents on specific areas relevant to consumer protection to distribute them to the appropriate bodies of individual States.

Importance for JCC activities

- 3.4 While all of the principles espoused by Consumers' International are important, the focus of JCC activities for consumers in Jersey would be expected to be primarily directed towards delivering rights 2-7 inclusive and in practice much of its work falls within these topics.
- 3.5 Consumer Councils exist to ensure consumers get a better deal through their advocacy of better business practice, more effective legislation on consumer rights, protection and redress, and more responsive public services. In doing so, and where required by Governments, they often reflect the needs of particular disadvantaged groups of consumers – pensioners, disabled people, those who live in rural areas, those with low incomes and others who are vulnerable and less able to make their own voices heard. Some Councils also recognise the need for consumers to be encouraged to make decisions that are more sustainable than their present practice in the face of climate change concerns.

4. OTHER EXPERIENCE

- 4.1 Much can be learnt from experience elsewhere. To help inform the future development of the JCC we have reviewed the structures and operations of consumer councils from the UK, Cyprus, Denmark, Guernsey, Ireland, Isle of Man and Malta. Not all are comparable to the JCC; some are government departments with specific statutory responsibility for law enforcement, while others are consumer representative bodies and advice agencies. Nevertheless their arrangements indicate other approaches that may be of relevance for the future development of the JCC. The detailed review is at Appendix F and we have drawn on this in our recommendations for reform of the JCC.

5. KEY ISSUES AND RECOMMENDATIONS

- 5.1 The JCC has made a valuable contribution to consumer protection and policy development during the past 13 years and with limited resources has vigorously pursued the objectives which it was given at the outset. A number of issues were, however, raised with us during interviews with members and stakeholders and are reflected in our analysis.
- 5.2 This project has evaluated the JCC under five headings:
- The current scope of the Council and its constitution, and the extent to which it reflects the needs of its stakeholders and the Jersey market place;
 - Independence;
 - The role and function of the Chairman;
 - The appointment and role of members of the Council, its representativeness, and mechanisms for refreshing membership over time; and
 - The operational effectiveness of the organisation in delivering its objectives and plans, and in meeting the expectations of its funding body.
- 5.3 Within the context of the agreed business plan and budget, the Council is now required to report quarterly on its performance. The business plan is wide-ranging and includes activity requirements such as ensuring the office is open from 9am to 5pm from Monday to Friday, producing and distributing the quarterly newsletter, and ensuring price data is collected for example. These are supplemented by generic requirements such as updating the website, lobbying the States and publicising consumer rights. The potential scope is vast but, to date, there have been no objective quality criteria against which the performance of the JCC and its effectiveness can be measured. This provides potential for conflict and dissatisfaction by both the Council and the Economic Development Department since failure to deliver the activity or differences of view over the quality of the outputs can result in funds being withdrawn. Pact Consulting Ltd has drawn conclusions about the effectiveness of the JCC, in the context of the resources available to it and in the light of comments made in interviews with a wide range of stakeholders and interested parties in Jersey. The consultants have also drawn on 30 years experience of consumer policy and practice in the UK and European Economic Community.

Scope and constitution

Role

- 5.4 The role of the JCC as stated in the Partnership Agreement is to 'seek information, investigate, highlight and publicise anomalies and irregularities in consumer affairs and to encourage good trading practices by local businesses'. In addition, the JCC seeks to promote the ability to exercise individual rights, value for money and adequate compensation. These objectives imply a watchdog role on behalf of consumers but do not specify any specific advocacy role in relation to legislation or the promotion of regulations to protect consumer interests.

- 5.5 The Council was set up by an Act of the States but this has the status of a decision, not of legislation. It was originally intended that the initiative to establish the Council would be supported by a fair trading law which would have underpinned its activity and provided a means for improving outcomes for consumers. In the event this legislation was never passed and the Council's attempts to initiate new legislation in a variety of areas to protect consumers have been largely unsuccessful. There is widespread recognition of the need for consumer protection legislation on the island and there is significant support for the recently adopted Supply of Goods and Services Law.
- 5.6 The Council has the status of an unincorporated not-for-profit organisation. The vague scope and lack of a formal statutory basis with clear objectives gives the Council considerable freedom to decide its own Business Plan and agendas, which is considered important by the members. It has undertaken some very valuable work such as the report on its consultation of estate agents practice and recommendation for a law to regulate their activities. It has also resulted in the JCC becoming involved in a wide range of initiatives which appear to be largely driven by the specific interests of the members, but which are not grounded in research or from a formal assessment of consumer needs and priorities on the island. Lack of clarity over the role and limited protection for consumers in law also results in a disproportionate amount of time being spent on dealing with individual problems and queries for which the Council has neither the personnel, technical expertise nor systems in place. The Council is in effect trying to plug perceived gaps in existing advice services, the responsibility for which lies with the Trading Standards Service and the Citizens Advice Bureau. Its activity is spread too thinly to achieve the level of influence which consumers deserve.

The changing economic and regulatory environment

- 5.7 The world economy is changing in ways that could have an adverse impact on many consumers. Globalisation of trade will open new opportunities but higher oil and commodity prices will put increasing pressures on consumer spending. Food and energy costs have a significant impact on all family budgets. In Jersey, fuel and food prices have risen 26% and 13% respectively during the 12 months to June 2008 adding to inflationary pressures¹. Pensioners and those people on low incomes are particularly affected by increases in the cost of these essential products. The "credit crunch" and the increasing difficulty of obtaining financial services will impact on many people and especially those with lower and fixed incomes, or who are seeking accommodation or to buy or sell property, prices for which are acknowledged to be very high on the island. These issues alone would justify a reconsideration of priorities within the context of the Jersey Island economy, but also underline the need for strong, evidence-based and effective consumer representation and advocacy.

¹ Jersey Retail Prices Index June 2008, Statistics Unit

- 5.8 The 2005 Economic Growth Plan identified inflationary pressures on the island and stressed the importance of action to strengthen the consumer voice in Jersey. Another report in 2006 on the JCC concluded that 'there have been significant changes in the environment within which the Council operates'. It cited the move to Ministerial government and scrutiny panels, the incorporation of Jersey Telecom and Jersey Post, the establishment of the Jersey Competition Regulatory Authority (JCRA) and the Jersey Financial Services Commission (JFSC) as well as the increase in the number of issues where there are legitimate consumer concerns which need to be articulated and addressed.
- 5.9 The activities of these new regulatory bodies could potentially have a significant impact on consumers and on the economic context in which consumers make decisions to purchase products and services. The Jersey Financial Services Commission's key purpose is to maintain Jersey's position as an international finance centre with high regulatory standards. Investor protection – reducing the risk to the public of financial loss due to dishonesty, incompetence, malpractice or the financial unsoundness of financial service providers - is one of its main objectives. This includes large and small investors, people with savings and pensions. Its scope covers the banking and insurance markets which are of vital importance to the island's economy and its citizens. Although it is not perceived as pro-active in promoting and defending consumer interests, and it does not have statutory responsibility for consumer protection, the JFSC has significant powers. It can issue policy statements and guidance, compliance with which is taken into account when considering whether particular businesses should be licensed, and can bring pressure to bear in the light of complaints against authorised firms (Registered Persons). The JCC has identified a significant range of issues for consumers in relation to bank charges, consumer credit, and financial complaints and should be working closely with the FSC as one of its major stakeholders. Indeed, the collaboration between the JFSC, JCC, CAB and Trading Standards in producing a Guide to the Code of Practice for Consumer Lending is an example of what can be achieved by collaborative working. While individual citizens may not realise the connections between their personal circumstances and developments in financial markets, the JCC should be able to identify those linkages on their behalf and ensure that their interests are appropriately represented so they can be taken into account by the JFSC. With additional resources, these relationships could, and should, be strengthened.
- 5.10 Economic power on the island has been concentrated, particularly in the retail sector. Inflation is increasing and competition issues led to the establishment of the Jersey Competition Regulatory Authority. The JCRA's role is to promote competition and consumer interests through economic regulation and the enforcement of Jersey's Competition Law. It does not have the specific consumer protection role of its counterparts in the United States and UK but promoting consumer welfare through competition and making markets work more effectively is a common interest with the JCC. The JCRA recognises it depends on individual consumers to provide information to assist its enquiries. There are mutual interests in the application of the Goods and Services Tax (GST), since competition law prevents anti-competitive agreements which

could artificially inflate prices. Issues relating to the introduction of competition in telecommunications, the ability for consumers to switch suppliers, and the gradual introduction of competition in postal services, impact on all consumers. The JCRA is currently consulting on Jersey Post's Quality of Service Standards which the JCC is considering.

- 5.11 The JCC responds to consultations from both the JFSC and JCRA some of which it has found to be extremely technical, lacking a specific consumer focus, and hence difficult to manage. However, the lack of data and market research to inform and underpin its views mean that its responses generally lack the necessary impact. One exception to this was in relation to the application for an exemption for a vertical distribution agreement between Esso Petroleum and Roberts Garages, where the availability of fuel price data collected by the Council was informative. Operationally, the JCC's relationships with these bodies can best be described as ad hoc i.e not formalised, planned or regular. For example, there is no ongoing mechanism for briefing the JCC on the issues under review, as there is little time within Council meetings to do this, to debate the potential consumer impacts of different policy options or identify where consumer research would be valuable to provide evidence which is otherwise lacking. As public bodies the JFSC and JCRA have a different remit from the JCC but they do have a consumer interest and are organisations with which the Council should be actively engaged. Both are better resourced and it is essential that duplication of effort is avoided. Indeed, under the legislation² establishing the JCRA, it would be possible for it to commission specific reports analysing the consumer view of particular proposals from an appropriately resourced consumer council, either on its own initiative or at the direction of the Minister.
- 5.12 Both the post and telecommunications services have been restructured. They remain wholly owned by the States but their statutory monopolies have been withdrawn to allow for the introduction of competition. The Council has been frustrated in its inability to influence the operations of these organisations. While the Chairman puts in a vast amount of time to this role, they do not feature highly in the Council's priorities. Yet in these markets strong consumer bodies are important to provide high quality information and advice to enable consumers to get a fair deal, represent their interests and put pressure on suppliers to raise standards. Because the Council often lacks an evidence base, and the ability to conduct consumer research to inform its opinions, the representations may be viewed as anecdotal and the responses to consultations as lacking in depth. In the absence of specific legislation the Council needs to work with relevant stakeholders to find alternative ways of achieving their desired goals. For example, identifying issues at an early stage before views are fixed could enable the JCC to influence the content of consultative documents before they are finalised so that new approaches which highlight clearly the consumer issues can be developed, and then be addressed. The development of mutual respect for the differing roles of regulator and consumer voice may in time bring about a change in focus and lead to an increase in institutional support for the JCC's desired outcomes. It

² Competition Regulatory Authority (Jersey) Law 2001 revised 1 January 2006

does not currently have the resources to do this. Furthermore, there are an increasing number of consultation documents issued by Government and Regulators on which the Consumer Council has not had the resources to make more than a limited response. More consumer friendly approaches to engaging with consumers and their representatives have been developed in the UK by the National Consumer Council, Food Standards Agency the Financial Services Authority and there is significant good practice guidance in this area which is worthy of consideration.

JCC Resource limitations

5.13 The JCC has limited resources most of which are used on the Price Survey, production and distribution of the Newsletter, dealing with enquiries and routine Council business. It is unable to undertake research or systematically collect evidence to inform and underpin its work and opinions, which would significantly enhance its credibility with its stakeholders, particularly those in Government and the Regulators. The Council has already recognised the need for more detailed subgroups to focus on particular issues of concern and has suggested 5 topics:

- Communications and Media;
- Ecommerce, Retail and Price Watch;
- Legal and Regulation;
- Travel and Transport; and
- Utilities.

5.14 Such groups should have power to invite external experts and additional stakeholders to provide information to help inform their discussions. This could strengthen the consultation responses of the Council by enabling more detailed submissions to be produced. Time for the additional meetings could be achieved by streamlining the full Council meetings so that the full Council meets only 6 times a year, with specific working groups meeting on the other 4 occasions.

5.15 However, these proposals from the Council reflect the current business plan priorities and activity. They are broad topics and could be seen to encompass everything the Council currently does. They do not take sufficient account of the regulatory developments and considerable institutional structures which now exist to protect users of financial services institutions, and promote competition. These organisations should be more consumer-focussed in line with international developments and the needs of Jersey consumers but will need assistance, clear and logical proposals, from the Council to move in that direction.

5.16 We consider that priority should be given to the services which impact most on the Jersey population as a whole such as post, telecommunications, financial services, transport, energy and retail pricing. The subgroups should have specific objectives with deliverable outputs. Their activities should be time-limited dependent upon the tasks in hand. No more than four sub-groups should be operating at any one time.

R1 The Council should be put on a statutory footing and its remit revised as follows:

- to identify and represent the interests of consumers to the States, Ministers and regulatory bodies,
- to provide advice to Ministers where specifically requested,
- to provide consumers on the island with information about their rights and responsibilities,
- to consult with consumers and respond to consultation documents issued by government, JCRA, JFSC and other public bodies and work with these organisations to strengthen consumer protection and understanding,
- to promote fair trading practices and the provision of effective redress mechanisms for consumers who are disadvantaged by unfair business practice,
- to act as a user group for utilities, transport services and such other services provided in the public interest as the Council shall decide, and
- to ensure disadvantaged and vulnerable consumers get a fair deal.

R2 To consider whether a formal memorandum of understanding should be established with the JFSC and JCRA to encourage collaborative working and strengthen non legislative means of consumer protection.

Independence

5.17 One of the strengths of the JCC is its independence from the legislature and from its sponsoring Department. This has enabled it to set its own agendas, decide its own priorities and day to day work. More recently it enabled the Council to conduct a high profile and controversial campaign against the introduction of the Goods and Services Tax involving direct action and the collection of signatures for a petition. This latter action provoked mixed reactions both within and outside the Council. A majority supported the policy direction and the Council agreed to oppose the introduction of GST in the States. Some members felt that the campaign was not included in the business plan, that it developed in ways which they had not envisaged, and that decisions regarding the direct action were taken at short notice without adequate consultation. Those members also questioned whether such direct action was appropriate for a publicly funded body. Others have suggested that the campaign was politically motivated and that once the States had agreed to introduce GST the JCC should have changed its focus to inform consumers about the changes and their implications and to advise Ministers on how the system should operate in practice to ensure fair competition.

5.18 All members and stakeholders agreed that the Council should be and be seen to be independent in its operation.

R3 That the Council must be appointed in a way which secures its independence from government and limits the potential for political interference in its decision-making and operations so as to retain credibility with consumers and their representative bodies on the island.

Role of the Chairperson

5.19 Much has been said about the role of the Chairman, the skills necessary for the post and the value in having a States Member as Chairman. The decision to establish the JCC required the Chairman to be a member of the States and

appointed by the States. Originally, we were told, this was to show the public that the States were committed to consumer affairs and in recognition that consumers needed a political champion. It was felt at the time that if the Council was disconnected from the States it would have no power, but politicians were nervous about losing control. This approach was also taken in the first appointment of a Chairman of the JFSC. Views on the issue are divided but the key points are as follows:

- the Chairperson must be independent of government and the administration;
- there is significant value to the Council in the regular contact with the law making process and contacts with politicians;
- documents, information, web-based services and other resources are made available to the Council as a result of the Chairman's dual role;
- the expertise that States Members acquire and knowledge of parliamentary processes is considered invaluable by Members of the Council, and would need to be provided in another way if the Chairperson was not a States Member;
- the joint role of an elected representative and Chairman of the JCC are incompatible and result in conflicts of interest; and
- externally the Council is criticised for having become politicised because of the electoral interests of the current Chairman.

5.20 Our interviews demonstrated that it would be useful for the JCC to maintain strong links with the legislature. However, questions were raised about how effective this was in practice. Very little consumer legislation has made its way into law in Jersey and trade associations, which are not chaired by States Members, are perceived to be much more effective in their lobbying activity. This, of course, reflects the imbalance in resources and expertise between the JCC and trade bodies, but also illustrates that it is not essential to have a States Member in the Chair if the expertise can be obtained from elsewhere.

5.21 There is no doubt that the commitment of the Chairman and his strong links with the legislative process in the Greffe has sustained the Council particularly in the years when its resources were very limited. The term of office of the current Chairman comes to an end on 31 December 2008 and the opportunity arises to introduce a new system of appointment which is compliant with the requirements of the Jersey Appointments Commission (JAC).

5.22 The JAC was established in 2002 to 'ensure that senior appointments to the public service and to autonomous and quasi-autonomous public bodies are properly made.' The Commission has established Standards for public service appointments and the procedures necessary to demonstrate good practice. These include:

- selection on merit
- open and transparent processes
- independent scrutiny
- probity
- equal opportunity

5.23 In relation to whether the Chair should in future be a politician, we consider the JAC's approach in relation to Membership of Societies to be relevant. In other words, such membership should not be an automatic bar to appointment, and

indeed a working knowledge of parliamentary procedures would be valuable. Nevertheless, issues in relation to conflicts of interest would need to be formally considered so that the roles are kept separate in the public interest. The most important consideration is that the individual should have the requisite skills to do the job and be independent of commercial or political interference.

5.24 Replacement of the current chairman, Deputy Alan Breckon, will have implications for the operations of the Council which are discussed below. The present Chairman considers that he spends approximately 3 days a week on Council business. This is a very high level of commitment and considerably more than most consumer bodies which have more extensive remits and significant staff support. It reflects the fact that the Chairman acts for the Council and interprets the role as Executive head of the organisation. As the position is unpaid, it is dependent on the individual having private funds or a separate income. Doubt was expressed about the possibility of recruiting someone who was not a paid politician in the absence of funding for the Chairperson.

R4 The JCC is a public body and its Chairperson has a high profile role which requires the person to be clearly independent of government and with significant public credibility. Future appointments should be subject to States approval, but should involve the JAC and be based on open competition against clear criteria and specified skills for the role.

R5 The Chairperson should be appointed on the basis of 1 or 2 days a week, the amount depending on the level of staff support. We would favour the lower level with the Chair's role being:

- to ensure that the Council meets its statutory objectives
- to pursue the strategy and policy of the organisation as agreed by the Council
- to appoint and monitor the performance of staff
- to ensure effective liaison with major stakeholders and regulatory bodies
- to be the main point of contact for parliamentary matters and
- to be the public face and voice of the Council

R6 The Chairperson should be appropriately remunerated for the role to avoid conflict of interest with commercial or political interests.

R7 In accordance with the JAC Codes of Practice, the term of office for the Chairperson should not exceed the maximum recommended time of 10 years. The appointment should be for 3 years, renewable once following satisfactory performance appraisal, in line with common practice in other jurisdictions such as the UK. A second reappointment should only take place following open competition, but the ultimate limit should be 3 terms.

Representation and Membership

5.25 Three issues arise in relation to the membership. The first is length of service. The membership of the JCC was prescribed in 1995. Several of the members have been in place since that time. A few have been changed by the organisations they represent, and there has been some natural turnover.

Although the constitution requires members to be appointed for renewable 3 year terms, the process has been informal and there is no limit on the number of reappointments. Two places have been left unfilled pending possible restructuring and other members consider that they have served their time and should be replaced. The Council suffers from a degree of inertia. There is a tendency to leave matters to the Chairman and administrator and although there is provision for voting when members disagree about a policy issue, none of those interviewed could recall a situation in which voting had taken place. Some have described the Council as dysfunctional and lacking in consumer expertise. Training might be appropriate to address this.

- 5.26 Secondly, there is significant representation of business and commerce, plus others who work in the private sector in the legal profession. This has resulted in criticism that the composition is illogical and results in discussion between stakeholders rather than a body designed to promote and protect consumer interests. We did not observe this in practice but several of the stakeholder representatives were unavailable for the June meeting and there appeared to be no mechanism for members to declare and record personal interests. Inevitably, the role of nominees from commercial organisations must differ from that of consumer representatives, and has been invaluable when highly technical issues have been under discussion. They should provide detailed information and guidance to the JCC to ensure that statements and actions by the Council are reasonable and appropriate and hence not likely to be subject to inappropriate criticism by private companies. They ought also to ensure that the JCC's activities recognise the constraints within which businesses operate and, where appropriate, take that into account in their representations. We heard evidence that this has happened, for example, in relation to some legal issues. They should not, however, dominate proceedings, be full members of the Council with voting rights, and influence consumer views.
- 5.27 It is not apparent that the flow of information between the JCC and stakeholder bodies represented on the Council is effective. While some representatives discuss matters with their nominating body and report back, others do not. Only two members said that they reported on the Council's work back to their organisations, and so one of the potential benefits from the stakeholder connections is not used. This reduces the effectiveness of the Council. Although it is possible that some interaction occurs outside formal meetings, there is little systematic and effective liaison between the bodies represented and the JCC. Thus, although the Council's membership is criticised for its commercial connections, in reality these links are weak, and the benefit which should flow from regular communication with nominating bodies is lost. This may in part be because such organisations view the Council as of little relevance to their 'lobbying' activity and therefore of limited consequence for their sectors. The Council, however, relies to a considerable extent on the professional skills and advice which some of these nominated members bring and would be concerned to lose that sectoral knowledge. They are also concerned about the cost of having to buy-in legal and professional expertise if that knowledge was no longer represented on the Council.

5.28 The table below summarises the representativeness of the JCC. This table describes the current representation on the Council of various groups of Jersey society who might be expected to have a positive role to play.

Criteria for membership	JCC situation
Age	Membership is ageing, partly due to several members having been on JCC since its formation. There are no representatives of young people nor directly of older people who are represented indirectly e.g. via the Standing Conference of Women's Organisations. Some JCC members are of pensionable age.
Gender	Membership is dominated by women – only the chairman and member from the Chamber of Commerce are male. Furthermore the Standing Conference of Women's Organisations directly represents women but there is no direct representation of groups of men.
Ethnicity	No specific representation of different ethnic groups exists on JCC. While this probably reflects relatively low numbers of residents from ethnic groups, there are for example significant numbers of Polish and Portuguese workers on the Island
Income	While JCC is particularly concerned with problems facing those with low incomes, no specific representation of such groups exists. The elderly who are often in lower income groups are represented indirectly on the JCC.
Family/ household size	While the JCC must represent families and households of varying sizes this is not achieved directly through representatives of such groups. Larger families and single parent households more often have low incomes.
Mobility impairments	There is no direct representation of those with mobility impairments on the JCC.
Learning difficulties	No direct representation of those with learning difficulties occurs on the JCC.

5.29 The membership of the JCC is ageing and younger people, in particular, are not represented. There would be a number of barriers to participation by young people including availability, their representativeness, interest, complexity of consultations, language, timing of meetings and lack of incentives. We received evidence that younger people would be unlikely to find involvement in the Council, as currently constituted, attractive, and the timing of meetings would prevent participation by students. Various other groups are unrepresented at present: the disabled (both physically and those with learning difficulties), low income groups and those from ethnic minorities. Given that the activities of the JCC are of particular importance to low income groups it is vital that a wider range of members is introduced onto the Council. Finally, with regard to composition, the Council as currently constituted is mainly composed of women and does not reflect the diversity of the island population.

5.30 There is no equalities legislation on the Island, but to maintain and enhance its credibility the JCC must be able to demonstrate that it truly represents a wide range of groups within Jersey society and is inclusive of those with special needs. We were not persuaded that all links with stakeholder bodies should be severed and all members be appointed in an individual capacity because of the importance of community groups in Jersey society and the value of stakeholder liaison to the Consumer Council, if appropriately sustained.

R8 That the Council should be restructured to reflect better the interests of consumers and population groups highlighted above. It should comprise 12 members (including the Chairperson) representatives from Citizens Advice, the Standing Conference of Women's Organisations, a representative of the elderly or pensioner groups, disability Groups, low income households and a representative of younger people such as a Youth Worker who can liaise with and involve young people outside formal meetings, 4 members of the public to reflect a geographic spread across the island and 3 appointed individuals with business or professional expertise but who are no longer practising and have no conflict of interest.

R9 All new appointments should be subject to the guidance and scrutiny of the JAC. This should apply not only to the public representatives and appointed members but also to those from stakeholder bodies. Appointments should be advertised, for a fixed term of three years, renewable once only. Stakeholder organisations must be reminded before the end of a member's term of appointment that a renewal must be sought or a new candidate proposed. No current members of the JCC should have their membership renewed if they have already been on the Council for 6 years.

R10 Appointments should be staggered so that there is provision for rotation of members and regular turnover.

R11 In view of the time commitment, and in line with good practise, it is recommended that members of the Council receive an appropriate level of remuneration at least to cover expenses, loss of earnings and any child care or similar costs.

Transition arrangements

5.31 If it is not possible for new arrangements to be implemented to meet with the timetable for appointment of a new Chairperson, it would be wise to set up transition arrangements to move from the current membership to a more representative consumer body. The vacant public representative spaces could be filled using the JAC process and named stakeholder bodies should be actively encouraged to review their membership so that the Council can be refreshed.

Funding and Operational Effectiveness

Funding and business planning

5.32 Much of the Council's impact to date has been due to the personal commitment and dedication of the current chairman, Deputy Alan Breckon who has driven the Council's work programme from the start. During the past 5 years more systematic and business-like systems have been introduced and

accountability has been strengthened through the business planning process and quarterly reporting mechanism. The Council's grant is dependent on the submission of an annual business plan and quarterly progress reports. The business plan constitutes an extensive programme which is not capable of delivery with the resources available. It commits the organisation to deliver a range of activities and there are no objective measures of effectiveness or quality. Much of this activity is actually focussed on arranging Council meetings, the production and distribution of the quarterly newsletter, the Price Watch data collection exercise and associated publicity, dealing with enquiries and preparing quarterly reports for funding purposes. Within the resources available this is all the Council can reasonably do.

- 5.33 Since the Council was set up it has operated on a shoe-string. Until 2003 the JCC did not have a specific grant. The Department for Economic and Commercial Development made a budget allocation of £25-30,000 and all receipts and invoices were processed through the Department accounts system as if they were a section of the Department. To facilitate increased independence and flexibility, from 2003 a grant was made available from the Department of Economic and Commercial Development. Since then an agreement between the JCC and Economic Development Committee has provided for an annual grant of £45,000 payable in advance as a one-off payment subject to adequate monitoring systems being put in place and the Council established its own bank account for this purpose. In 2005 tighter monitoring arrangements were introduced under a partnership agreement to ensure appropriate corporate governance arrangements were in place. Monitoring and reporting arrangements were established, and provided for the grant to be refunded in full or in part under certain conditions.
- 5.34 A second partnership agreement was established at that time, providing for a further grant of £45,000 for the JCC to carry out a Price Watch Programme to generate greater consumer interest in prices in the context of the EDC's anti-inflation policy. The Price Watch agreement includes similar planning and reporting requirements to the core grant and there are a range of specific objectives for the project, the data collection for which is out-sourced. Funding requests have increased significantly in the third Quarter of 2008 because of a significant rise in the production and distribution costs of the Newsletter which is distributed to 37,500 residential addresses. At the time when the research was done, the annual cost of distribution of the Newsletter exceeded the agreed annual grant. Despite the Council's best efforts no organisation had been found to share these costs and we considered that this position is unsustainable over the longer term³. It will continue to be an area of vulnerability because of the high delivery charges.
- 5.35 Annual budgeting has undoubtedly deterred long-term planning and insecurity of funding has meant that administrative support was limited until the appointment of the current administrator. For the JCC to function more effectively in the future it must be properly resourced and organised as a

³ Subsequently the Council has found a partner in the Opera House but the situation will need to be monitored.

professional body. This will enhance its reputation and effectiveness. It is essential that its actions are based on the best available evidence and that dedicated resources are made available to research issues to inform the Council's decision making and provide evidence for its responses to consultations.

R12 The States should provide a three-year rolling grant to fund the day-to-day operations of the organisation and enable more effective planning to take place. This should cover employment of staff, remuneration of members, accommodation and research costs. Other specific activities should be funded through time-limited project grants with clear objectives and deliverable outcomes.

5.36 The budgetary and business planning/ monitoring/ reporting arrangements in relation to the requirements of the Economic Development Department as the provider of funds to the Public Accounts Committee and Ministers are not clearly set out. As the JCC has evolved over time it has taken on board new activities, sometimes in an ad hoc manner. To some extent this is inevitable since the marketplace, and hence consumer issues, is constantly changing.

R13 The output measures should be streamlined and be more precise so that the activity can be clearly identified and the burden of the quarterly reporting arrangements is reduced.

Staffing

5.37 In terms of staffing even for the current remit, the JCC is under-resourced;

R14 A suitably qualified Director able to commission and carry out research on consumer issues, develop proposals for consideration by the Council, maintain an effective public and stakeholder communication strategy, make recommendations, administer the organisation and account for expenditure in line with public funding rules should be appointed to support the Chairperson.

R15 If the JCC is put on a statutory basis, a full-time researcher should be appointed to complement the role of Director and enhance the capabilities of the organisation.

Office accommodation

5.38 The present accommodation arrangements are not satisfactory. Because of the annual funding arrangements, the JCC is unable to lease premises and it shares accommodation leased by the Chairman. The offices are very conveniently located in the centre of St Helier. The Council has aspirations to be open to visitors and members of the public, which is not specifically included in the remit. However, the current offices are not accessible to those with mobility impairments and this could provide a barrier to the active involvement of disabled people and the elderly. There is currently no meeting room, although some space is available for that purpose.

Transparency

5.39 Transparency is particularly important for all public bodies. The way in which members are appointed and how decisions are made should be open and transparent. For that reason it is essential that the JCC adopt the JAC

appointment procedures as a matter of urgency. Currently the JCC meets in private in rooms often provided for free by stakeholders. While the majority of the Council's discussions are not private some elements might be. We recommend that the JCC meet in public so that their discussions are seen to be transparent by all, and the minutes of meetings, business plan and other important documents can be put into the public domain. This will enable greater understanding of their activities and permit easy press coverage. Furthermore while most meetings should be held in St Helier, we recommend that at least two meetings a year should be held in other parishes.

R16 Accessible offices with meeting facilities should be funded through the JCC grant.

R17 The JCC should be required to produce a concise annual report for the States describing its activities and plans for the future.

Campaigning Activity

The Price Watch campaign

5.40 The JCC collects petrol prices from 10 garages and prices of 300 products from local supermarkets and convenience stores on a monthly basis. Other than petrol the goods surveyed are lower priced day-to-day purchases to reflect a basket of goods; larger irregular purchases are not generally surveyed. This initiative was undertaken at the behest of the States but has a 'competitor' – the Jersey Evening Post with its Fair Play Campaigns. The JCC gains much kudos and significant publicity through the Price Watch campaign. Benefit mainly comes from the use of the information in the Newsletter and the periodic Price Flyer to promote the JCC's work but more significantly by others – the Co-op to advertise its price competitiveness, and the Jersey Evening Post which uses the data to substantiate topical reports about inflation or the impact of the GST, for example. The JCC has plans to circulate the data more widely, but it will be difficult to do so in a timely way, which could influence purchasing behaviour. We were given some evidence that it does encourage some people to shop around, or at least be more price aware.

5.41 Doubts as to the effectiveness and utility of this project have also been aired with us. The JEP's campaigns were generally considered to have more impact, albeit that they are ad hoc and do not generate data over time. Questions were raised about whether the JCC could use the JEP more effectively to highlight issues, by undertaking more analysis of the data it collects and by linking it to policy needs. Questions were also raised about the quality of the data. The data is, inevitably, lagging behind the marketplace. Price setting is dynamic with some retailers altering prices daily in response to changing costs, availability, demand, special offers, competitive pressures etc. Furthermore it is a large database including many elements that may not be exactly comparable between different retailers. This undermines its utility. However, the JCC Price Watch has one very important strength – it is completely independent and not subject to the influences of business or advertisers. Accurate information and price comparisons are essential to assist consumer choice but there is insufficient evidence that the Price Watch campaign provides what consumers desire and only anecdotal evidence of whether consumers use it. The Price Watch is commissioned through a

consultancy which collects the data on behalf of the JCC. As a result it consumes significant resources and should be a major tool for the Council's involvement in issues of competition, and access for consumers. In practice, most of the resource goes into collecting vast quantities of price data, far in excess of what the JCC can routinely analyse, the value of which is mainly to generate publicity. The extent to which it is valued by individual consumers is unknown.

- 5.42 Shoppers using supermarkets tend to purchase from their nearest shop. Individual purchases are generally relatively small, although consumers may spend a lot at any one time. Low prices on a few goods does not necessarily encourage people to travel to a more distant shop. Petrol, by comparison, is a high value, regularly purchased, product and consumers can, relatively easily, travel to a competitor supplier. Petrol Price Watch therefore brings different benefits from the general Price Watch data.

R18 We recommend that research is commissioned to understand how consumers use the Price Watch survey data in their purchasing behaviour, what trend analysis could be usefully developed and whether the survey should be retained or developed in a different way across a number of markets to provide a snapshot of the issues facing consumers in different markets.

R19 Depending on the outcome of the above research, we suggest that consideration be given to releasing resources from the Price Watch activity to fund a statutory consumer council, and that Ministers consider whether the JFSC and JCRA should be required to provide additional resources to the Council to fund consumer research and develop policy of relevance to their activities and consultations.

The GST campaign

- 5.43 A notable change to Jersey's economy has been the recent introduction of GST (the Goods and Services Tax). Criticism has been levied at the Council for its choice of direct action, a public demonstration, to campaign against the GST after the States had approved the concept. While the JCC is caught between a rock and a hard place on this issue – if it had said nothing then the value of the Council may have been questioned but having made a statement on so political a topic it was bound to be open to criticism from politicians. The problem appears to lie in the failure of the JCC to influence the development of the GST before the decision was taken by the States and its failure to convince all members of Council that its approach was an appropriate form of action. There is no doubt that the Council achieved a huge amount of publicity and impact from its campaign. One question which remains is whether the JCC was able to engage with a sufficiently broad spread of politicians at the most appropriate stages in the legislative process to have an influence on the outcome.
- 5.44 It is notable that very little, if any, of the legislation which the JCC has actively sought in recent years has been adopted to date, and the Council's lobbying and representational activity was criticised by observers from trade associations, government departments and regulators as being of limited effectiveness. This is not surprising given the imbalance in resources between the different types of bodies, but may also imply that the Council is

not able to put sufficient resource, both human and financial, into its stakeholder relations and lobbying activity to build a coherent case for consumers which is persuasive and supported.

Telephone and postal enquiries

5.45 A recognisable and tangible feature of the JCC's activity is the on-going advice given to consumers by the administrator. This provides a useful contact with the public enabling the Council to keep up-to-date with the issues individual consumers are facing. However, this is not formally part of the JCC's remit and may be seen to duplicate the role of other bodies such as Trading Standards, the JFSC, and the Citizen's Advice Bureau, albeit that it is apparent weaknesses in consumer protection legislation and the existing advice network that result in the Council's involvement.

5.46 Two very specific issues exist however:

- The JCC is not covered by Professional Indemnity Insurance. This means that the Council, its members and staff, could be open to legal action should a client receive inaccurate advice.
- Secondly, the JCC does not record the enquiries that it receives so relevant actions may not be systematically pursued and completed and there is no statistical record to show how many queries were received on which subjects to inform the Council's work programme.

5.47 Both these could easily be resolved.

5.48 Experience in other jurisdictions in relation to this varies, however. In the main, government appointed consumer bodies do not deal with individual consumers, but in larger administrations there are usually consumer membership organisations which provide advice and operate with a more extensive network of consumer protection legislation than exists currently in Jersey. In the absence of alternative options for consumers, it is likely that they will call the JCC but it is a matter of policy whether the Council wishes to engage in this type of activity, given its limited resources. If it does wish to deal with public enquiries, it should ensure that it has secure Professional Indemnity insurance and that it records the number and types of enquiries that it receives. These should be reported to the Council and could then inform press releases or new initiatives. Where enquiries can be more appropriately addressed by another agency, the JCC should redirect the enquirer to avoid duplication.

R20 We recommend that the JCC reassess its role in relation to personal enquiries and decide whether it has the resources to undertake this time consuming work.

Sub-groups

5.49 The Council meets monthly which imposes a significant administrative burden on the small Secretariat. Members are rarely involved in any activities between meetings, and do not generally have any contact with the Secretariat other than at meetings. They have individual personal interests, but do not take any responsibility for any of the Council's work. One improvement to the

organisation which the JCC has suggested would be create sub-groups with a remit to investigate certain sectors of the economy or issues in depth as discussed in section 5.1.

Communications

- 5.50 While the JCC generates media coverage, criticisms have been made that it does not do so as effectively as it should and that overall it has a low profile. It has tended to eschew high-profile campaigns, with the exception of the GST demonstration. It needs a communication strategy involving a range of communication tools to achieve its objectives, including collaborative working with the States and all of its stakeholders. However for a body to represent the public – all the public are consumers – it must maintain a high profile in the media.
- 5.51 The Council's Newsletter, which is published quarterly and distributed to 37,500 residential addresses on the island is the main way in which the JCC informs the general public of its activities and topical consumer issues. It is a significant publication and an essential communication tool which is valued by all members of the Council. The doubling of the size and increase in the content of the Newsletter makes its production a major output from the Council's work. However some of the information, particularly in relation to prices, is rather out of date by the time the Newsletter is circulated. Some reports are of general interest only, for example concerning matters in the UK, and may be of limited relevance to the Island's population. The Newsletter is less a provider of news but rather a detailed general information sheet. One person suggested that the people who need it most are those with limited incomes, some of whom may have literacy problems and find the text too dense. The JCC's branding at the top of the newsletter is not sufficiently prominent and it would benefit from a clearer corporate heading and branding.
- 5.52 The production and distribution cost of the Newsletter has increased significantly while the JCC has faced difficulty in issuing it every quarter. Nevertheless it appears to be well-known amongst islanders and is seen by many as beneficial. However, the Newsletter's impact upon purchasing patterns by readers is uncertain.

R21 Research should be commissioned to investigate the interest that consumers have in the newsletter, how they use it, and the preferred content.

- 5.53 A judgement could then be made as to whether it should be continued in its present form and whether the high distribution cost is justified by the value placed upon it. If consumers value it, with the resources currently available, it would need to be seen as the core activity of the JCC and the limited scope for the Council to undertake other work would need to be recognised by its sponsoring body. Amongst the possible options for change would be to circulate the document electronically, including for example a short version as an insert in the JEP or to retain a more substantial document distributed via community centres, surgeries, libraries and other public places.
- 5.54 Press Releases are issued from time to time mainly when the JCC wishes to consult or to involve the public in a particular issue such as GST. Better

resourced organisations were cited as more effective in getting their message across because they had a more consistent news strategy and liaised regularly with journalists at the JEP. Some specifically produced news releases in advance of a parliamentary debate. For the JCC this is a matter of priorities and limited resources to undertake such work.

- 5.55 Finally, although not accessible to all, electronic communications are accessible by a high proportion of the island's population, 55% use the internet every day and another third use it several times a week⁴. The JCC website, www.jerseyconsumercouncil.org.je should be viewed as an increasingly important communication tool and updated on a regular basis. It could also be developed to consult individual consumers on important issues provided appropriate controls are in place so that the consumers responding can be classified into population groups. Alternatively, e-panels (electronic panels) of consumers could be established and be consulted on specific issues in a cost-effective way.

R22 Resources should be earmarked for maintaining and updating the JCC website.

⁴ Jersey Annual Social Survey

6. CONCLUSIONS AND RECOMMENDATIONS

6.1 It is generally accepted that the JCC needs to change if it is to respond to the challenges of an increasingly complex market and the diverse needs of the consuming population. Government is affecting the lives of individual consumers in a wide variety of ways and the Council is being asked to respond to an increasing range of formal consultations for which, as currently constituted, it does not have the resources or expertise. There is an opportunity at the present time to refresh the Council's membership and introduce new methods of working which are more inclusive and focussed on key issues for the Island's consumers. This opportunity should be taken in any case. However, to achieve a Consumer Voice on the Island which is authoritative and respected by key stakeholders in the island's economy would require the Council to be put on a statutory footing and provided with the resources to consult consumers and inform its policy recommendations.

6.2 The recommendations from section 5 are listed below:

R1 The Council should be put on a statutory footing and its remit revised as follows:

- to identify and represent the interests of consumers to the States, Ministers and regulatory bodies,
- to provide advice to Ministers where specifically requested,
- to provide consumers on the island with information about their rights and responsibilities,
- to consult with consumers and respond to consultation documents issued by government, JCRA, JFSC and other public bodies and work with these organisations to strengthen consumer protection and understanding,
- to promote fair trading practices and the provision of effective redress mechanisms for consumers who are disadvantaged by unfair business practice,
- to act as a user group for utilities, transport services and such other services provided in the public interest as the Council shall decide, and
- to ensure disadvantaged and vulnerable consumers get a fair deal.

R2 To consider whether a formal memorandum of understanding should be established with the JFSC and JCRA to encourage collaborative working and strengthen non legislative means of consumer protection.

R3 That the Council must be appointed in a way which secures its independence from government and limits the potential for political interference in its decision-making and operations so as to retain credibility with consumers and their representative bodies on the island.

R4 The JCC is a public body and its Chairperson has a high profile role which requires the person to be clearly independent of government and with significant public credibility. Future appointments should be subject to States approval, but should involve the JAC and be based on open competition against clear criteria and specified skills for the role.

R5 The Chairperson should be appointed on the basis of 1 or 2 days a week, the amount depending on the level of staff support. We would favour the lower level with the Chair's role being:

- to ensure that the Council meets its statutory objectives
- to pursue the strategy and policy of the organisation as agreed by the Council
- to appoint and monitor the performance of staff
- to ensure effective liaison with major stakeholders and regulatory bodies
- to be the main point of contact for parliamentary matters and
- to be the public face and voice of the Council

R6 The Chairperson should be appropriately remunerated for the role to avoid conflict of interest with commercial or political interests.

R7 In accordance with the JAC Codes of Practice, the term of office for the Chairperson should not exceed the maximum recommended time of 10 years. The appointment should be for 3 years, renewable once following satisfactory performance appraisal, in line with common practice in other jurisdictions such as the UK. A second reappointment should only take place following open competition, but the ultimate limit should be 3 terms.

R8 That the Council should be restructured to reflect better the interests of consumers and population groups highlighted above. It should comprise 12 members (including the Chairperson) representatives from Citizens Advice, the Standing Conference of Women's Organisations, a representative of the elderly or pensioner groups, disability Groups, low income households and a representative of younger people such as a Youth Worker who can liaise with and involve young people outside formal meetings, 4 members of the public to reflect a geographic spread across the island and 3 appointed individuals with business or professional expertise but who are no longer practising and have no conflict of interest.

R9 All new appointments should be subject to the guidance and scrutiny of the JAC. This should apply not only to the public representatives and appointed members but also to those from stakeholder bodies. Appointments should be advertised, for a fixed term of three years, renewable once only. Stakeholder organisations must be reminded before the end of a member's term of appointment that a renewal must be sought or a new candidate proposed. No current members of the JCC should have their membership renewed if they have already been on the Council for 6 years.

R10 Appointments should be staggered so that there is provision for rotation of members and regular turnover.

R11 In view of the time commitment, and in line with good practise, it is recommended that members of the Council receive an appropriate level of remuneration at least to cover expenses, loss of earnings and any child care or similar costs.

R12 The States should provide a three-year rolling grant to fund the day-to-day operations of the organisation and enable more effective planning to take place. This should cover employment of staff, remuneration of members, accommodation and research costs. Other specific activities should be funded through time-limited project grants with clear objectives and deliverable outcomes.

R13 The output measures should be streamlined and be more precise so that the activity can be clearly identified and the burden of the quarterly reporting arrangements is reduced.

R14 A suitably qualified Director able to commission and carry out research on consumer issues, develop policy proposals for consideration by the Council, maintain an effective public and stakeholder communication strategy, make recommendations, administer the organisation and account for expenditure in line with public funding rules should be appointed to support the Chairperson.

R15 If the JCC is put on a statutory basis, a full-time researcher should be appointed to complement the role of Director and enhance the capabilities of the organisation.

R16 Accessible offices with meeting facilities should be funded through the JCC grant.

R17 The JCC should **be required to** produce a concise annual report for the States describing its activities and plans for the future.

R18 We recommend that research is commissioned to understand how consumers use the Price Watch survey data in their purchasing behaviour, what trend analysis could be usefully developed and whether the survey should be retained or developed in a different way across a number of markets to provide a snapshot of the issues facing consumers in different markets.

R19 Depending on the outcome of the above research, we suggest that consideration be given to releasing resources from the Price Watch activity to fund a statutory consumer council, and that Ministers consider whether the JFSC and JCRA should be required to provide additional resources to the Council to fund consumer research and develop policy of relevance to their activities and consultations.

R20 We recommend that the JCC reassess its role in relation to personal enquiries and decide whether it has the resources to undertake this time consuming work.

R21 Research should be commissioned to investigate the interest that consumers have in the newsletter, how they use it, and the preferred content.

R22 Resources should be earmarked for maintaining and updating the JCC website.

A1. APPENDIX A: METHODOLOGY

A1.1 The following issues were highlighted within the scope of the review:

- The role and function of members of the council, its representativeness, the appointments process and mechanisms for refreshing membership over time;
- The current scope of the Council and its constitution, and the extent to which it reflects the current needs of its stakeholders and the Jersey market place;
- The effectiveness of the organisation in delivering its objectives and plans and meeting the expectations of its funding body;
- The budgetary and business planning/ monitoring/ reporting arrangements (in relation to the requirements of the Economic Development Department, as the provider of funds) to the Public Accounts Committee and Ministers; and
- The obligations placed upon the Consumer Council, including general duties in areas such as consultation, transparency, and equalities.

A1.2 Part 1 of the review involved desk research to establish the current arrangements governing the Council and to identify relevant aspects of the role of suitable comparators in other jurisdictions. The work included the recent changes in the scope, role and structure of the UK National Consumer Council and their counterparts in Scotland and Wales. It also considered other models in the EU, namely Cyprus, and Malta to help clarify the standards of good practice relevant to the situation in Jersey.

A1.3 Part 2 of the review covered:

- A visit to the client to clarify the outputs it requires, and to the Jersey Consumer Council to investigate its methods of operation, current policies and practice;
- Attendance at a Council Meeting (on the 26 June 2008) to evaluate the effectiveness of its decision-making processes and accountability including budgetary and other financial controls;
- Business planning and performance management; and
- Interviews with members of the Council and major stakeholders to ascertain strengths, weaknesses, and areas where change is desirable.

A1.4 Part 3 of the review involved preparation of the report and recommendations.

Part 1

Task 1: Review background material

A1.5 Part 1 of the review comprised desk research. The desk research involved becoming fully apprised with the legislative position of the Council, the role and function of members of the Council, its representativeness, the appointments process and mechanisms for refreshing membership over time.

A1.6 This review involved establishing the current arrangements governing the Council and to identify relevant aspects of the role of suitable comparators in other jurisdictions. The work reviewed the recent changes in the scope, role and structure of the UK National Consumer Council and their Scottish and Welsh counterparts. We also considered other models in the EU, such as Cyprus, and Malta and clarify the standards of good practice relevant to the situation in Jersey. Telephone contacts and Internet sources provided the basis for this. The review enabled us to identify the key areas for analysis and questioning during the interviews.

Task 2: Map stakeholders and prepare interview template

A1.7 Task 2 involved identifying all relevant stakeholders and preparing an interview template that will be used in face-to-face meetings. A pro forma was developed to ensure that all appropriate questions were addressed to all interviewees using a common format. Nevertheless the interviews enabled key issues to be pursued in depth and allowed flexibility in the line of questioning so as to pursue relevant lines of inquiry.

Task 3: Planning interviews

A1.8 The interviews were undertaken over a three day period in the first two weeks of July. Interviews with the following were held:

- Economic Development Trading Standards Service
- Consumer Council Chairman
- Vice – Chairman
- 2 Ministers
- CAB member
- Other Council members as available
- Consumer Council Officer
- Jersey Chamber of Commerce
- Jersey Competition and Regulatory Authority
- Jersey Financial Services Commission

- Representatives of women's, elderly, disability and youth organisations

A1.9 All interviews were undertaken under Chatham House rules, thereby allowing interviewees to feel free to express and elaborate on their ideas within a framework of confidentiality.

Part 2

Task 4: Attend Consumer Council 26 June

A1.10 Barbara Saunders attended the Consumer Council on 26 June 2008 to observe the functioning of the Council, meet with members, and take notes to enable us to make recommendations.

Task 5: Interviews

A1.11 Interviews were all undertaken in Jersey and covered a range of questions, including:

- The obligations placed upon the Consumer Council , including general duties in areas such as consultation, transparency, and equalities;
- Decision-making processes that are employed;
- How consumer issues and user perspectives are included in decision-making;
- The effectiveness of the organisation in delivering its objectives and plans and meeting the expectations of its funding body;
- How accountability, including budgetary and other financial controls, is achieved;
- Methods of business planning and performance management;
- Monitoring and reporting arrangements;
- How the Council relates to key members in other relevant organisations and regulatory bodies; and
- Suggested areas for improvement.

Task 6: Follow-up telephone calls

A1.12 We undertook telephone interviews with those stakeholders we were unable to speak to face to face but in the event this did not prove to be necessary.

Part 3**Task 7: Analyse responses and draft report**

A1.13 The draft report was submitted to the client at the end of July.

Task 8: Finalise report

A1.14 Following receipt of comments from the client the report will be finalised by mid-August.

A2. APPENDIX B : INTERVIEW TEMPLATE: JERSEY CONSUMER COUNCIL

Questions to all interviewees

Basic data:

- Name
- Title
- Organisation
- Address
- Tel no
- Fax no
- Email address

Questions to Council members

Role & responsibilities

- What is the interest of your organisation in the Council's remit?
- What is your role within the organisation?

Effectiveness of the Council

- Do you think that the obligations placed upon the Council, including general duties in areas such as consultation, transparency, and equalities, are the appropriate ones? How effectively are consumer issues and user perspectives included in decision-making by the Council?
- Are the decision-making processes employed by the Council effective?
- How effective is the Council in delivering its objectives and plans and meeting the expectations of its funding body?
- What methods of business planning and performance management are used by the Council and how effective are they?
- How is accountability, including budgetary and other financial controls, achieved by the Council?
- What monitoring and reporting arrangements are applied?
- How does the Council relate to key members in other relevant organisations and regulatory bodies?
- What problems, if any, does the Council face?
- What should be the future role of the Council?
- What could make the Council more effective?

Role within the Council

- What do you see your role in the Council as being?
- What are the impediments to your role being successful in the Council?
- What could be done to make your contributions more effective?
- How do you see your role changing in the future?

Support

- How do you gather views on Council issues from your organisation?
- What research do you undertake to gather views from colleagues/ members etc?
- On what policy guidance do you base your interpretation of the views of the organisation you represent?

Issues raised with others:

- Composition of Council
- Selection processes
- Nature of Role
- Differences in role as perceived by different members
- Range of expertise available
- Training
- How far does the membership reflect the interests and needs of stakeholders
- Level of Staffing and support
- Adequacy of resources
- Sources of information available
- Evidence basis for decision-making
- Consultation and dissemination mechanisms
- Communications
- How effective and cost-effective is it?
- Appropriateness of scope
- Constitution and recommendations for improvement
- Outputs required

A3. APPENDIX C : LIST OF INTERVIEWEES - JERSEY CONSUMER COUNCIL ENQUIRY

Deputy Alan Breckon, Chairman

Mrs Rozanne Thomas, Vice-Chairman

Mrs Mandy Gagnerie, Member of the public

Mrs Christine Mather, Member of the public

Mrs Jacqueline Flath, Jersey Hospitality Association,

Mrs Enid Quenault, Standing Conference of Women's Organisations,

Advocate Anita Regal, representative of Jersey Law Society

Mrs Suzette Hase, Consumer Council Officer

Ms Alison de Bourcier, Deputy Chief Trading Standards Officer

Ms Shirley Costigan, Youth Service, Department of Education, Sport and Culture

Mr Francis Le Gresley, Director, Jersey Citizens Advice Bureau

Mr Jim Hopley, CEO Channel Islands Co-op, Member Retail Committee Jersey Chamber of Commerce

Senator Philip F C Ozouf, Economic Development Minister

Mr Colin Powell CBE, Chair Financial Services Commission

Mr Trevor Le Roux, Director Trading Standards

Mr Ray Shead, Chairman, Retail Committee Jersey Chamber of Commerce

Senator Terry Le Sueur, Treasury Minister

Mrs A Le Sueur, Chairman, Standing Conference of Women's Organisations of Jersey

Mr Carl Walker, Deputy Editor Jersey Evening Post

Mr Charles (Chuck) Webb, Executive Director, Jersey Competition Regulatory Authority

A4. APPENDIX D : CURRENT MEMBERSHIP

- Deputy Alan Breckon - Chairman
- Mrs Rozanne Thomas - Vice Chairman and Representative of the Citizens Advice Bureau
- Mrs Enid Quenault - Representative of the Standing Conference of Women's Organisations of Jersey
- Advocate Anita Regal - Representative of the Legal Profession
- Mrs Jacqueline Flath - Representative of the Jersey Hospitality Association
- Mr Michael Le Feuvre - Representative of the Jersey Chamber of Commerce
- Mrs Dolores Davy - Representative of the Transport and General Workers Union
- Mrs Christine Mather - Member of the Public
- Mrs Mandy Gagnerie - Member of the Public
- Vacancies exist for two Members of the Public

**A5. APPENDIX E UN GENERAL ASSEMBLY A/RES/39/248 16 APRIL 1985
GUIDELINES FOR CONSUMER PROTECTION**

I. Objectives

1. Taking into account the interests and needs of consumers in all countries, particularly those in developing countries; recognizing that consumers often face imbalances in economic terms, educational levels, and bargaining power; and bearing in mind that consumers should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development, these guidelines for consumer protection have the following objectives:

- (a) To assist countries in achieving or maintaining adequate protection for their population as consumers;
- (b) To facilitate production and distribution patterns responsive to the needs and desires of consumers;
- (c) To encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers;
- (d) To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers;
- (e) To facilitate the development of independent consumer groups;
- (f) To further international co-operation in the field of consumer protection;
- (g) To encourage the development of market conditions which provide consumers with greater choice at lower prices.

II. General principles

2. Governments should develop, strengthen or maintain a strong consumer protection policy, taking into account the guidelines set out below. In so doing, each Government must set its own priorities for the protection of consumers in accordance with the economic and social circumstances of the country, and the needs of its population, and bearing in mind the costs and benefits of proposed measures.

3. The legitimate needs which the guidelines are intended to meet are the following:

- (a) The protection of consumers from hazards to their health and safety;
- (b) The promotion and protection of the economic interests of consumers;
- (c) Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs;
- (d) Consumer education;
- (e) Availability of effective consumer redress;
- (f) Freedom to form consumer and other relevant groups or organizations and the opportunity of such organizations to present their views in decision-making processes affecting them.

4. Governments should provide or maintain adequate infrastructure to develop, implement and monitor consumer protection policies. Special care should be taken to ensure that measures for consumer protection are implemented for the benefit of all sectors of the population, particularly the rural population.

5. All enterprises should obey the relevant laws and regulations of the countries in which they do business. They should also conform to the appropriate provisions of international standards for consumer protection to which the competent authorities of the country in question have agreed. (Hereinafter references to international standards in the guidelines should be viewed in the context of this paragraph.)

6. The potential positive role of universities and public and private enterprises in research should be considered when developing consumer protection policies.

III. Guidelines 7

The following guidelines should apply both to home-produced goods and services and to imports.

8. In applying any procedures or regulations for consumer protection, due regard should be given to ensuring that they do not become barriers to international trade and that they are consistent with international trade obligations.

A. Physical safety

9. Governments should adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, national or international standards, voluntary standards and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use.

10. Appropriate policies should ensure that goods produced by manufacturers are safe for either intended or normally foreseeable use. Those responsible for bringing goods to the market, in particular suppliers, exporters, importers, retailers and the like (hereinafter referred to as "distributors"), should ensure that while in their care these goods are not rendered unsafe through improper handling or storage and that while in their care they do not become hazardous through improper handling or storage. Consumers should be instructed in the proper use of goods and should be informed of the risks involved in intended or normally foreseeable use. Vital safety information should be conveyed to consumers by internationally understandable symbols wherever possible.

11. Appropriate policies should ensure that if manufacturers or distributors become aware of unforeseen hazards after products are placed on the market, they should notify the relevant authorities and, as appropriate, the public without delay. Governments should also consider ways of ensuring that consumers are properly informed of such hazards.

12. Governments should, where appropriate, adopt policies under which, if a product is found to be seriously defective and/or to constitute a substantial and severe hazard even when properly used, manufacturers and/or distributors should recall it and replace or modify it, or substitute another product for it; if it is not possible to do this within a reasonable period of time, the consumer should be adequately compensated.

B. Promotion and protection of consumers' economic interests

13. Government policies should seek to enable consumers to obtain optimum benefit from their economic resources. They should also seek to achieve the goals of satisfactory production and performance standards, adequate distribution methods, fair business practices, informative marketing and effective protection against practices which could adversely affect the economic interests of consumers and the exercise of choice in the market-place.

14. Governments should intensify their efforts to prevent practices which are damaging to the economic interests of consumers through ensuring that manufacturers, distributors and others involved in the provision of goods and services adhere to established laws and mandatory standards. Consumer organizations should be encouraged to monitor adverse practices, such as the adulteration of foods, false or misleading claims in marketing and service frauds.

15. Governments should develop, strengthen or maintain, as the case may be, measures relating to the control of restrictive and other abusive business practices which may be harmful to consumers, including means for the enforcement of such measures. In this connection, Governments should be guided by their commitment to the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices adopted by the General Assembly in resolution 35/63 of 5 December 1980.

16. Governments should adopt or maintain policies that make clear the responsibility of the producer to ensure that goods meet reasonable demands of durability, utility and reliability, and are suited to the purpose for which they are intended, and that the seller should see that these requirements are met. Similar policies should apply to the provision of services.

17. Governments should encourage fair and effective competition in order to provide consumers with the greatest range of choice among products and services at the lowest cost.

18. Governments should, where appropriate, see to it that manufacturers and/or retailers ensure adequate availability of reliable after-sales service and spare parts.

19. Consumers should be protected from such contractual abuses as one-sided standard contracts, exclusion of essential rights in contracts, and unconscionable conditions of credit by sellers.

20. Promotional marketing and sales practices should be guided by the principle of fair treatment of consumers and should meet legal requirements. This requires the provision of the information necessary to enable consumers to take informed and independent decisions, as well as measures to ensure that the information provided is accurate.

21. Governments should encourage all concerned to participate in the free flow of accurate information on all aspects of consumer products.

22. Governments should, within their own national context, encourage the formulation and implementation by business, in co-operation with consumer organizations, of codes of marketing and other business practices to ensure adequate consumer protection. Voluntary agreements may also be established jointly by business, consumer organizations and other interested parties. These codes should receive adequate publicity.

23. Governments should regularly review legislation pertaining to weights and measures and assess the adequacy of the machinery for its enforcement.

C. Standards for the safety and quality of consumer goods and services

24. Governments should, as appropriate, formulate or promote the elaboration and implementation of standards, voluntary and other, at the national and international levels for the safety and quality of goods and services and give them appropriate publicity. National standards and regulations for product safety and quality should be reviewed from time to time, in order to ensure that they conform, where possible, to generally accepted international standards.

25. Where a standard lower than the generally accepted international standard is being applied because of local economic conditions, every effort should be made to raise that standard as soon as possible.

26. Governments should encourage and ensure the availability of facilities to test and certify the safety, quality and performance of essential consumer goods and services.

D. Distribution facilities for essential consumer goods and services

27. Governments should, where appropriate, consider:

(a) Adopting or maintaining policies to ensure the efficient distribution of goods and services to consumers; where appropriate, specific policies should be considered to ensure the distribution of essential goods and services where this distribution is endangered, as could be the case particularly in rural areas. Such policies could include assistance for the creation of adequate storage and retail facilities in rural centres, incentives for consumer self-help and better control of the conditions under which essential goods and services are provided in rural areas;

(b) Encouraging the establishment of consumer co-operatives and related trading activities, as well as information about them, especially in rural areas.

E. Measures enabling consumers to obtain redress

28. Governments should establish or maintain legal and/or administrative measures to enable consumers or, as appropriate, relevant organizations to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Such procedures should take particular account of the needs of low-income consumers.

29. Governments should encourage all enterprises to resolve consumer disputes in a fair, expeditious and informal manner, and to establish voluntary mechanisms, including advisory services and informal complaints procedures, which can provide assistance to consumers.

30. Information on available redress and other dispute-resolving procedures should be made available to consumers.

F. Education and information programmes

31. Governments should develop or encourage the development of general consumer education and information programmes, bearing in mind the cultural traditions of the people concerned. The aim of such programmes should be to enable people to act as discriminating consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities. In developing such

programmes, special attention should be given to the needs of disadvantaged consumers, in both rural and urban areas, including low-income consumers and those with low or non-existent literacy levels.

32. Consumer education should, where appropriate, become an integral part of the basic curriculum of the educational system, preferably as a component of existing subjects.

33. Consumer education and information programmes should cover such important aspects of consumer protection as the following:

(a) Health, nutrition, prevention of food-borne diseases and food adulteration;

(b) Product hazards;

(c) Product labelling;

(d) Relevant legislation, how to obtain redress, and agencies and organizations for consumer protection;

(e) Information on weights and measures, prices, quality, credit conditions and availability of basic necessities; and

(f) As appropriate, pollution and environment.

34. Governments should encourage consumer organizations and other interested groups, including the media, to undertake education and information programmes, particularly for the benefit of low-income consumer groups in rural and urban areas.

35. Business should, where appropriate, undertake or participate in factual and relevant consumer education and information programmes.

36. Bearing in mind the need to reach rural consumers and illiterate consumers, Governments should, as appropriate, develop or encourage the development of consumer information programmes in the mass media.

37. Governments should organize or encourage training programmes for educators, mass media professionals and consumer advisers, to enable them to participate in carrying out consumer information and education programmes.

G. Measures relating to specific areas

38. In advancing consumer interests, particularly in developing countries, Governments should, where appropriate, give priority to areas of essential concern for the health of the consumer, such as food, water and pharmaceuticals. Policies should be adopted or maintained for product quality control, adequate and secure distribution facilities, standardized international labelling and information, as well as education and research programmes in these areas. Government guidelines in regard to specific areas should be developed in the context of the provisions of this document.

39. Food. When formulating national policies and plans with regard to food, Governments should take into account the need of all consumers for food security and should support and, as far as possible, adopt standards from the Food and Agriculture Organization of the United Nations and the World Health Organization Codex Alimentarius or, in their absence, other generally accepted international food standards. Governments should maintain, develop or improve food safety measures,

including, inter alia, safety criteria, food standards and dietary requirements and effective monitoring, inspection and evaluation mechanisms.

40. Water. Governments should, within the goals and targets set for the International Drinking Water Supply and Sanitation Decade, formulate, maintain or strengthen national policies to improve the supply, distribution and quality of water for drinking. Due regard should be paid to the choice of appropriate levels of service, quality and technology, the need for education programmes and the importance of community participation.

41. Pharmaceuticals. Governments should develop or maintain adequate standards, provisions and appropriate regulatory systems for ensuring the quality and appropriate use of pharmaceuticals through integrated national drug policies which could address, inter alia, procurement, distribution, production, licensing arrangements, registration systems and the availability of reliable information on pharmaceuticals. In so doing, Governments should take special account of the work and recommendations of the World Health Organization on pharmaceuticals. For relevant products, the use of that organization's Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce and other international information systems on pharmaceuticals should be encouraged. Measures should also be taken, as appropriate, to promote the use of international non-proprietary names (INNs) for drugs, drawing on the work done by the World Health Organization.

42. In addition to the priority areas indicated above, Governments should adopt appropriate measures in other areas, such as pesticides and chemicals in regard, where relevant, to their use, production and storage, taking into account such relevant health and environmental information as Governments may require producers to provide and include in the labelling of products.

IV. International co-operation

43. Governments should, especially in a regional or sub regional context:

(a) Develop, review, maintain or strengthen, as appropriate, mechanisms for the exchange of information on national policies and measures in the field of consumer protection;

(b) Co-operate or encourage co-operation in the implementation of consumer protection policies to achieve greater results within existing resources. Examples of such co-operation could be collaboration in the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programmes, joint training programmes and joint elaboration of regulations;

(c) Co-operate to improve the conditions under which essential goods are offered to consumers, giving due regard to both price and quality. Such co-operation could include joint procurement of essential goods, exchange of information on different procurement possibilities and agreements on regional product specifications.

44. Governments should develop or strengthen information links regarding products which have been banned, withdrawn or severely restricted in order to enable other importing countries to protect themselves adequately against the harmful effects of such products.

45. Governments should work to ensure that the quality of products, and information relating to such products, does not vary from country to country in a way that would have detrimental effects on consumers.

46. Governments should work to ensure that policies and measures for consumer protection are implemented with due regard to their not becoming barriers to international trade, and that they are consistent with international trade obligations.

Source: UNITED NATIONS - Division for Sustainable Development,
<http://www.un.org/esa/sustdev/sdissues/consumption/cppgoph3.htm>

A6. APPENDIX F : CONSUMER BODIES IN OTHER JURISDICTIONS

United Kingdom New National Consumer Council

A6.1 The UK is a large economy and consumer interests cover a wide range of activities. As a result it has developed a tradition of consumer representation but the current arrangements are about to change.

A6.2 A New National Consumer Council (new NCC) in the UK is being formed from three existing consumer organisations: energywatch, Postwatch and the National Consumer Council. These are joining together in October 2008 to generate a new and more powerful organisation, probably to be called Consumer Focus. Its draft proposals are to:

- Promote forms of competition in British energy markets that work for all consumers and particularly for those who are in fuel poverty.
- Promote responsible consumer behaviour and sustainable choices with a focus on energy use in the context of climate change.
- Turn around poor service and remove confusing deals in markets such as mobile phones.
- Challenge public services to make a reality of their promise to provide greater choice and improve delivery by looking at areas such as health and housing.
- Rate government regulators according to how well they perform for the consumers that, ultimately, they are supposed to serve.
- Promote value for money by exposing rip-offs wherever our research uncovers them. These include, for example, online contracts and digital rights.
- Help shape proposals for the future of consumer law and explore the potential for legislation at UK and EU level based on better regulation, effective enforcement and a better deal for consumers.
- Champion the public interest around post offices so they can become part of the essential local service that people want.
- Challenge companies and public services to improve customer service all round.

A6.3 The aim is to develop a stronger, more coherent advocacy body, able to address consumer issues across different industries and undertake cross-sector work in a cost-effective way. The new organisation aims to have a clear commitment to people who are vulnerable, reflecting the particular needs of the deprived and vulnerable at a time of food and fuel price rises, economic uncertainty and social change. It will also have a duty to work on issues of sustainable development. This reflects the role that the shift to more sustainable lifestyles is likely to play in a future, low-carbon economy. The new NCC believes that it will have the opportunity to contribute to this agenda

both from a consumer focus perspective and by offering solutions that work for vulnerable consumers.

A6.4 It will have a particular focus on the interests of consumers in markets that are 'designated' by Government as requiring additional, proactive consumer advocacy. Currently these include energy and postal service consumers but may in the future include water and other services. The new NCC will also identify other consumers, for example users of public services, where there is a need for a fundamental transformation in the quality of customer service.

A6.5 The New Consumer Council has set out a vision and a mission in a High-Level Strategic Framework for its work from 2008 to 2011. These are:

Vision – more power to the people

A6.6 The new NCC believes that people are the best judges of their own needs and that Britain will be more successful if consumers, particularly those who are currently more vulnerable, have more of a voice in relation to the goods and services they receive. It believes that it is not just the economy but society that benefits if consumers have robust rights. If given the right chance, consumers will play their part in response to the claims of fairness and sustainability.

Mission – fair deals and fair chances

A6.7 The new NCC will aim to make a difference to people's lives as consumers, particularly the more vulnerable, by championing policy changes through advocacy that can help make people as powerful as the institutions that serve them. It aims to engage, inform and support consumers to act. Where they cannot act for themselves, the new NCC plans to act for them.

A6.8 It has also set four strategic goals for its work over the period up to 2011. These are:

1. Value. Help people receive better value by raising the influence they have over the goods and services they receive.
2. Service. Improve customer service and remove unnecessary problems that generate complaints from consumers.
3. Access. Create an economy in which everyone can access the essential services they need and where the poor no longer pay more or get less for their money.
4. Sustainability. Harness the appetite of consumers to move to more sustainable lifestyles.

A6.9 There are things that the new NCC will not do, that fall out of these strategic objectives. It will not set up as an advice service for the public at large nor engage in business services to consumers nor duplicate work that is better done elsewhere.

A6.10 The new NCC sees itself as a critical friend of business and public service providers, not an opponent. It wants providers to innovate, to compete and to

flourish where they serve consumers well. The Council will work in partnership within an appropriate ethical framework, where it believes this is the right way to go to reach the strategic goals.

A6.11 The new NNC will be funded by industry and the Government's Department for Business, Enterprise and Regulatory Reform (BERR).

A6.12 In addition to the chairman and Chief Executive Officer the new NNC will have eleven appointed board members. In addition representatives from the Scottish and Welsh Consumers' Councils will be members and a representative from Northern Ireland will also join the board.

Cyprus Consumers' Association

A6.13 The Cyprus Consumers Association (CCA) is a non-political, independent, non-governmental consumers' organization. Since its inception in 1973, the Association has supported Cypriot consumers and ensured that the consumer voice is heard at all levels of the system.

A6.14 Its mission, inter alia, is to safeguard consumers' rights and educate and represent the Cyprus consumers in all local and international relevant bodies dealing with consumer matters.

A6.15 Toward this end it is:

- Monitoring the effective implementation of the legislation and regulations regarding consumer protection and consumer rights
- Providing information on Cyprus law regarding consumer protection in accordance with the European Union 'acquis communautaire'
- Providing information on consumers' rights and responsibilities
- Promote consumer education through its Adult Consumers Education Programme
- Handling complaints by consumers on faulty, damaged or unsatisfactory quality of products and services
- Providing a reading library on consumer publications such as WHICH (UK), Consumer Reports (USA), Consumer Choice (Ireland)
- Issuing publications, such as "O Katanalotis", the association's quarterly magazine, which is sent to its members free of charge, and other informative brochures
- Providing Consumer-related services, lectures etc.
- Conducting comparative market surveys aimed at providing vital information and insight to the consumers

A6.16 While, the CCA campaigns on all consumer issues in Cyprus the main priorities at both local and European Union level are consistent with of the European Commissions new strategy for consumer policy (2002-06), which emphasizes the need to:

- ensure a high common level of consumer protection;
- guarantee effective enforcement of consumer protection rules; and
- involve consumer organizations in EU policies and its potential impacts in both communities of the island.

- A6.17 These objectives are being pursued through a range of measures and are intended to make it easier to integrate consumer concerns into all other EU policies, to maximize the benefits of the single market for consumers and to prepare for enlargement.
- A6.18 The CCA is promoting public awareness, active citizenship by consumers, consumer education and sensitivity on a diverse variety issues pertaining to:
- Food Safety;
 - Product Safety;
 - Food Hygiene;
 - Health Care;
 - Genetically Modified Organisms;
 - Family issues;
 - Services to Consumers;
 - Consumer Rights;
 - Legislation; and
 - Information and Communication Technologies.
- A6.19 Since its inception in 1973, and notwithstanding its financial restraints, the Association also regularly undertakes market surveys regarding prices of goods, display of goods, cleanliness, ease of shopping, waiting time at cashiers, parking facilities etc, aimed at achieving a high level of consumer protection for all consumers in Cyprus.
- A6.20 The Association runs a complaints and advice service at all its offices. Consumers can either phone or visit the office premises to file a complaint for the usual range of problems ranging from faulty goods to exchanges, bad workmanship, contracts, misleading adverts etc. The staff deals with the complaints directly or, if need arises, in conjunction with governmental departments, such as the Agricultural Dept., the Veterinary Services, the Pharmaceutical Services of the Ministry of Health etc.
- A6.21 The Board of Directors has a President, Vice-President, Secretary-General, Treasurer and 14 other members. The Board is elected every two years during a General Assembly. The Council meets twelve times a year and there is an Annual General Meeting each year. The Association employs three full-time officers in Nicosia, and two part-time officers. The CCA's funding comes from governmental subsidies, membership subscriptions, contributions / donations and fundraising activities.

Danish Consumers' Council

- A6.22 The Danish Consumers' Council (DCC) operates as an effective, professional, consumer organization as to articulate the consumer views and promote consumer rights. It provides the views of consumers to public authorities and to businesses. Forbrugerradet has more than 85,000 subscribers to its magazine 'Tænk' ("Think") which was founded in 1974.
- A6.23 First created in 1947, the DCC represents consumers - in councils, on boards and committees and to the Government and the Parliament. It represents the

interests of consumers on more than 200 committees, boards and councils and is highly respected.

- A6.24 The DCC has an extensive dialogue with the business community. Its contact with the business community has led to the establishment of 17 private complaint bodies covering sectors as diverse as insurance, banking and investments, travel and the building industry.
- A6.25 The DCC is involved in a wide range of issues: food quality, environmental protection, health services, financial and legal services and issues connected with the media, telecommunications, etc.
- A6.26 Internationally, the DCC is represented in the European Consumer Organization, BEUC, lobbying decision-makers within the European Union to take into account the interests of the consumers. Through the international consumer organization, Consumers International, the DCC works to further consumer interests at the global level in the UN, WHO and WTO.
- A6.27 The type of work in which it is engaged includes campaigning and/or lobbying, consumer advice, dispute resolution, networking, product testing, publishing, research and policy analysis.
- A6.28 Its current campaigns include: Competition, Consumer Education, Corporate Social Responsibility, Environment, Financial Services/Credit and Debt, Food Safety/Obesity, Health/Drug Promotion, Intellectual Property Rights, Legislation/Consumer Protection, Public Utilities, Standards, and Sustainable Consumption.
- A6.29 The council's highest decision-making body is the assembly, which determines the overall consumer policy guidelines. The Council consists of representatives from 27 national organisations, such as environmental, household and women's organisations, organisations representing young people and the elderly, trade unions and educational organisations. Local consumer groups are also represented on the council.
- A6.30 The daily work is performed by a secretariat of about 50 staff members. The Consumer Council's main sources of income are the consumer magazine Tænk ("Think") and an annual subsidy under the Finance Act.

Guernsey Consumer Group

- A6.31 Unlike Jersey, the island of Guernsey does not have a consumer council: the Guernsey Consumer Group (GCG) represents consumers. The GCG is a membership organisation which conducts limited campaigning on behalf of consumers. It was formed because of concern about a general lack of consultation and consideration for the consumer in the States and business.
- A6.32 It has produced reports on Dental Care, Health Insurance, Sunday Trading, Convenience Stores and Sea fares, and established the Condor Ferries User Group.

A6.33 There are three members of the GCG Executive Committee: chairman, secretary and treasurer. There are two other committee members. Sub-committees address specific issues: supermarkets, telecoms and postal services. It wants to see all utility departments introduce user groups.

Guernsey Post Consumer Council

A6.34 The Guernsey Post Consumer Council was established in October 2001, in compliance with a condition of the Postal Licence issued that month to Guernsey Post, which required Guernsey Post to set up a User Council for the specific purpose of obtaining and representing the views of consumers. The Council is independent of Guernsey Post. Its remit is to act in the best interests of all users of the services offered by Guernsey Post by acting as a watchdog over those services. In June 2004, the Council merged with the previously separate Post Office User Committee and changed its name to Postwatch Guernsey.

A6.35 There are ten members of Postwatch Guernsey: two from Guernsey Chambers of Commerce, one from Alderney Chamber of Commerce, a representative of the Guernsey Public Employees Consultative Committee, a representative of the Confederation of Guernsey Industry, the Guernsey Police Crime Prevention Officer and four others.

Irish National Consumer Agency

A6.36 The Irish National Consumer Agency (NCA) incorporates the Office of the Director of Consumer Affairs but with specific additional powers and functions in areas of consumer advocacy, research, education and awareness, information and enforcement. The NCA has the right to advise Government and Ministers on consumer protection matters and also to keep existing consumer protection laws under review and to submit proposals in relation to those laws as it sees fit. It can enter into formal co-operation agreements with the various sectoral regulators, including the energy and telecoms regulators and also has enforcement powers in respect of various activities.

A6.37 The NCA:

- Represents the voice of the consumer;
- Enforces consumer legislation; and
- Defends consumer interests at the highest levels of national and local decision-making.

A6.38 It has three objectives:

- To make consumers more conscious of their rights;
- To ensure the fullest possible enforcement of, and compliance with, consumer protection legislation and to contribute to the development of new legislation; and
- To make business more aware of their obligations to consumers so that they comply with those obligations.

A6.39 The NCA's work is divided into five main functions:

- Research;
- Information;
- Enforcement;
- Advocacy; and
- Education and awareness.

A6.40 The 13 member board of the NCA covers a wide range of expertise including economists, business people, legal experts, consultants and consumer representatives. The members of the board include: the chairman, chief executive, Director of the National Adult Literacy Agency and the Chairperson of the Competition Authority.

Isle of Man Office of Fair Trading

A6.41 The Isle of Man Office of Fair Trading (OFT) is a Statutory Board that provides the appropriate legislation, advice, and compliance services to benefit and protect our Island's consumers and businesses from unfair trading practices but is not independent of the government

A6.42 The OFT is a Statutory Board of Tynwald which means that it cannot act independently of Tynwald and must operate within the laws (statutes) that Tynwald introduces.

A6.43 Its core operational services are:

Operations (Incorporating the Advice Service, the Financial Services Ombudsman Scheme and the Trading Standards Service):

- Advice Service:
 - provides advice to consumers experiencing problems with purchases of goods or services
 - provides a debt counselling service
- Financial Services Ombudsman Scheme:
 - provides an alternative dispute resolution service for consumers with complaints about financial services provided in or from the Island
 - promotes good complaint handling by the Island's finance industry so that its reputation is bolstered in the market place
- Trading Standards Service:
 - enforces trading standards law within the Island, co-operating with other enforcement agencies where appropriate
 - provides specialist advice on trading standards matters
 - develops new legislation in the area of trading standards
 - maintains the Manx Standards of weights and measures as part of the specially-equipped metrology laboratory, which also provides a measurement and calibration service traceable to UK national standards

Central Services (Incorporating Education, Office Support Services and Research & Development):

- Education:
 - initiates and develops education and information campaigns to assist consumers to avoid or resolve problems
 - promotes the core customer services of the Office
- Office Support Services:
 - provides financial and administrative services to support the delivery of the Office's core services
 - manages and monitors the day-to-day operation of the building and office technology
- Research & Development:
 - develops policy and provides advice to the Board
 - monitors legislative developments in other jurisdictions to ensure that our legislation continues to meet international standards
 - monitors commercial activity on the Island and undertakes any competition or pricing investigations, where applicable
 - compiles and reviews statistical data on the work undertaken by the Office, identifying trends accordingly

A6.44 The OFT believes that its biggest challenge is its ability to progress modern consumer protection legislation that is equivalent to that found in neighbouring jurisdictions within a reasonable timeframe. This requires detailed development work that will reduce the number of officers available to directly assist consumers. The legislation will need to cover the following areas:

- general product safety requirements
- cold-calling and home improvements
- updating of consumer credit legislation

A6.45 The Office provides a comprehensive range of services and in doing so will assist Government achieve a number of its key aims. Certain of those key Government aims have been identified as being of particular importance to the OFT:

- Good Government: To provide democratic Government which is effective and accountable
- Social Well-being: To progress the social well-being of the people of the Island
- Positive National Identity: To protect and develop the Island's national identity and ensure that its interests are vigorously promoted, recognised and defended internationally
- Quality Environment: To protect and improve the quality of the environment

- Economic Progress: To pursue manageable and sustainable growth based on a diversified economy
- A6.46 The OFT provides legislative, advisory and compliance services to benefit society and protect our Island's consumers and businesses from unfair trading practices. It provides consumer protection services that aim to support a safe, fair and competitive marketplace. It is the OFT's aim to provide consumers with comprehensive and consistent advice and information to assist them in avoiding or resolving consumer disputes. It ensures that traders providing goods and services have access to advice on compliance with the law and on fair trading practice so that they are able to treat their customers fairly and comply with trading standards legislation. The OFT aims to ensure that all consumers are aware of their rights and that all businesses are aware of their obligations.
- A6.47 The OFT monitors trading practices in the Island and proposed consumer protection measures in the European Union and other jurisdictions to ensure that existing legislation meets the needs of the community and international standards. The OFT develops legislation to enable a safe, fair and progressive trading environment for consumers and businesses.
- A6.48 It operates a Financial Services Ombudsman Scheme, which provides mediation and conciliation services and a final determination process through a panel of adjudicators. The OFT's Advice Service also incorporates a debt counselling facility which operates to assist members of the public who encounter debt problems.
- A6.49 The Board was created under the Consumer Affairs Act 1981 as the Board of Consumer Affairs and was renamed the Office of Fair Trading In November 1998. It also has certain powers under the Statutory Boards Act 1987.
- A6.50 The OFT exists to protect the Island's residents from unfair trading practices. The function of the Board is to protect, inform, advise, support and represent generally the interests of consumers. The OFT's Service Delivery Plan aims to promote fair trading by protecting the Island's consumers and so contribute to Government's core purpose - to maintain and build upon the high quality of life enjoyed by the Island's community.
- A6.51 The plan details those activities that the OFT have decided to focus upon and sets clear targets against which it can monitor performance and against which our effectiveness can be judged. It has moved away from setting targets for such matters as quality of advice and professionalism.
- A6.52 The constitution of the Board was changed in January 2007, and is now statutorily constituted as follows:
- Chairman, who is a member of Tynwald
 - Vice-Chairman, who is a member of Tynwald
 - Three persons, not being members of Tynwald, capable of representing consumers in relation to the functions of the Board

Malta Consumer Affairs Council

A6.53 The Malta Consumer Affairs Council (CAC) was set up in January 1996 when the Consumer Affairs Act came into force. It is made up of a Chairman, a Vice-Chairman, and five Members.

A6.54 The Functions of the Consumer Affairs Council are:

- To advise the Minister on the formulation of policy to be followed by the Director of Consumer Affairs;
- To advise and assist the Minister on measures for the promotion of consumer interests;
- To monitor and keep under review trading and business practices related to the supply of goods and services to consumers;
- To undertake or commission research that may be necessary to promote consumer protection;
- To monitoring the working and enforcement of laws which affect consumers;
- To draw up and review consumer protection directives and minimum service standards for submission to the Minister;
- To monitor the development of Consumer Associations in Malta;
- To draw up and review rules of practice for registered Consumer Associations for submission to the Minister;
- To examine and determine whether a consumer association has the requirements to be a registered Consumer Association in accordance with the law;
- To perform any other function assigned to it by the Minister or that may be assigned to the Council in accordance with the law.

A6.55 Other functions and activities of the Consumer Affairs Council:

- The Council meets at least once every month and serves as a link between Government, consumer representatives, and the business community. In this context, when the latest amendments to the Consumer Affairs Act were being drafted, Council was actively involved in the consultation process with all interested bodies and organisations. These included the General Retailers and Traders Union, the Chamber of Commerce, the Federation of Industries, the Consumers Association, and others.
- The Council maintains a liaison with public authorities, such as the Public Transport Authority, the Malta Resources Authority or the Malta Communications Authority, on consumer related issues.
- The Council and the Consumer and Competition Division organise various information campaigns including seminars, workshops, and annual young consumers' competition. Council also participates in the annual weeklong celebrations linked with World Consumer Rights day.
- The Council participates on committees of various entities whose activities are of interest to consumers (such as the Malta Standards Authority);
- The Council also conducts research on different aspects of concern to consumers (e.g. estate agents, distance selling etc.)

- The Council gives its input with regard to regulations issued, as the Minister is required by law to consult the Council in making regulations.
- Prior to issuing any public warning statements, the Director of Consumer Affairs is required to concur with the Council.
- The Council is also the competent entity responsible for the recognition and registration of consumer associations.

A6.56 The Chairman and Members are appointed by the Minister responsible for Consumer Protection for a term of not more than three years, which may be renewed for a further three years. The Chairman and three members are appointed from among persons who, because of their experience, qualifications or activities, the Minister considers as being able to contribute towards the promotion of consumer interests.

A6.57 The Director General of the Consumer and Competition Division is appointed Vice Chairman. One Member is appointed by the Minister in consultation with registered Consumer Associations. One member is appointed by the Minister in consultation with those constituted bodies which the Minister considers to represent the traders' interests namely the Chamber of Commerce and the General Retailers and Traders Union.

Maltese Consumers' Association

A6.58 The Maltese Consumers' Association (MCA) was set up in 1982. It is the only consumers' association on the Island. It is recognised under the Consumers' Affairs Act of 1994.

A6.59 It is a voluntary organisation and all officials are elected annually. It is financed solely on membership fees. The membership fee is nominal as it aims to involve those with low education, pensioners and those with special needs. It does not receive any assistance from the government.

A6.60 The Consumers' Union has 4 main principal areas of activity:

- It acts as a representative for local consumers. The MCA represents local consumers on several national Boards amongst them the Consumers' Affairs Council. It also represents consumers on other boards. Mainly the Users' Boards of Public Utilities. The MCA also represents local consumers in international fora.
- The second area of activity is in educating consumers. This is one of the main activities for the MCA. It believes that it is better to educate consumers as only educated consumers can make good choices and be aware of their rights. The MCA was instrumental in making the concept of consumer understood. It has also succeeded in making business owners accept that consumers have rights.
- The MCA has a weekly page in a local newspaper, and has used radio programmes to educate consumers.
- The third activity that the MCA is engaged in is client services. The basic aim is to get redress for aggrieved consumers. The bulk of its resources are allocated to this activity. It believes that this is a very important aspect of its work as it assures:

- redress to the aggrieved consumer;
 - that it is close to its members; and
 - that it is aware of what is going on in the market.
- The last area of activity is as a pressure group. The association has been instrumental in bringing about new legislation. However, it has also contributed towards pushing forward the consumers' agenda with all government departments. The MCA comments on new legislation. Periodically, it also issue press releases to the local media.

A6.61 The main objective of the Association is to safeguard the interests of the consumers through the following:

- a) Legislation beneficial to the consumers. The Association shall act as a pressure group and see that legislation is implemented in an active and effective way;
- b) Empowering consumers to have access to the necessary information to enable them to make a fair choice;
- c) Protection of consumers from dangerous products, services and methods of production which may be supplied both by the public and the private sector;
- d) Representing consumers in the preparation, formulation and execution of economic policies which affect their interests;
- e) Ensuring that consumers are given adequate redress and compensation for injury and damages suffered as a result of defective products and services;
- f) Ensuring that consumers are offered quality services, that their environment is protected to safeguard a better society that products are safe and adequate standards are adopted;
- g) Seeing that decisions and criteria used by the respective authorities to protect consumers should be made public;
- h) Ensuring that the consumers are represented through registered consumer associations;
- i) Consumers should have free legal aid;
- j) Ensuring that unjust and deceitful market practices which create artificial demand are curbed;
- k) Seeing that standards which regulate advertising are established; and
- l) Work for the establishment of co-operatives.

A6.62 The Council of the MCA is made up of the President, the Secretary General, the Financial Secretary and eight other members.