



BILLET D'ÉTAT

**XVIII
2001**

WEDNESDAY, 26th SEPTEMBER, 2001

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2. The Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2001, p. 1213.
3. Projet de Loi entitled "The Rue Marguerite (Closure) (Guernsey) Law, 2001", p.1213.
4. Projet de Loi entitled "The Taxes Duties and Impôts (Domestically-produced Goods) (Guernsey) Law, 2001", p.1213.
5. The Markets (Miscellaneous Provisions) (Repeal) Ordinance, 2001, p. 1214.
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B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY, the 26th SEPTEMBER, 2001, at 10.00 a.m.**

PROJET DE LOI

ENTITLED

THE INCOME TAX (PENSION AMENDMENTS) (GUERNSEY) LAW, 2001

The States are asked:—

I. – Whether they are of opinion:—

1. To approve the Projet de Loi entitled “The Income Tax (Pension Amendments) (Guernsey) Law, 2001”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.
2. Considering it expedient in the public interest so to do, to declare, pursuant to section 1 of the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992, that the said Projet de Loi shall have effect immediately as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

THE INCOME TAX (EXEMPTION OF BENEFITS) (AMENDMENT) ORDINANCE, 2001

The States are asked to decide:—

II.—Whether they are of opinion to approve the draft Ordinance entitled “The Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.

PROJET DE LOI

ENTITLED

THE RUE MARGUERITE (CLOSURE) (GUERNSEY) LAW, 2001

The States are asked to decide:—

III.—Whether they are of opinion to approve the Projet de Loi entitled “The Rue Marguerite (Closure) (Guernsey) Law, 2001”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

ENTITLED

THE TAXES, DUTIES AND IMPÔTS (DOMESTICALLY-PRODUCED GOODS) (GUERNSEY) LAW, 2001

The States are asked to decide:—

IV.—Whether they are of opinion to approve the Projet de Loi entitled “The Taxes, Duties and Impôts (Domestically-produced Goods) (Guernsey) Law, 2001”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

THE MARKETS (MISCELLANEOUS PROVISIONS) (REPEAL) ORDINANCE, 2001

The States are asked to decide:—

V.—Whether they are of opinion to approve the draft Ordinance entitled “The Markets (Miscellaneous Provisions) (Repeal) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.

THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION) (AMENDMENT) ORDINANCE, 2001

The States are asked to decide:—

VI.—Whether they are of opinion to approve the draft Ordinance entitled “The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.

THE BOVINE SEMEN, ARTIFICIAL INSEMINATION AND EMBRYO TRANSPLANTATION (AMENDMENT) ORDINANCE 2001

The States are asked to decide:—

VII.—Whether they are of opinion to approve the draft Ordinance entitled “The Bovine Semen, Artificial Insemination and Embryo Transplantation (Amendment) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.

THE AGRICULTURAL CENSUS (AMENDMENT) ORDINANCE, 2001

The States are asked to decide:—

VIII.—Whether they are of opinion to approve the draft Ordinance entitled “The Agricultural Census (Amendment) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.

THE STATES AGRICULTURAL AND MILK MARKETING BOARD (TRANSFER OF FUNCTIONS) ORDINANCE, 2001

The States are asked to decide:—

IX.—Whether they are of opinion to approve the draft Ordinance entitled “The States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.

PROJET DE LOI

ENTITLED

**THE STATES COMMITTEE FOR AGRICULTURE AND STATES DAIRY COMMITTEE
(TRANSFER OF FUNCTIONS) (REPEAL) (GUERNSEY) LAW, 2001**

The States are asked to decide:—

X.—Whether they are of opinion to approve the Projet de Loi entitled “The States Committee for Agriculture and States Dairy Committee (Transfer of Functions) (Repeal) (Guernsey) Law, 2001”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

THE PUBLIC TRANSPORT (AMENDMENT) (No. 2) ORDINANCE, 2001

The States are asked to decide:—

XI.—Whether they are of opinion to approve the draft Ordinance entitled “The Public Transport (Amendment) (No. 2) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.

STATES ADVISORY AND FINANCE COMMITTEE

THE FUTURE PROVISION OF TELECOMS AND POSTAL SERVICES

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

24th August, 2001.

Dear Sir,

The Future Provision of Telecoms and Postal Services

Introduction:

1. Following consideration of proposals contained in Billet II of 2000, Billet VIII of 2000 and Billet VI of 2001, the States agreed that:
 - the provision of telecoms, postal and electricity services shall be subject to independent statutory regulation;
 - postal and electricity services shall in future be provided by limited liability companies wholly owned by the States to be called States Trading Companies(STCs);
 - telecoms services shall in future be provided by a new company, a controlling interest in which would be taken by a Strategic Equity partner;
 - the interests of staff transferred into the new companies referred to above shall be protected by legislation.
2. Subsequently, the States have approved a number of pieces of primary legislation to facilitate the implementation of the above approach. These have now received Royal Assent and been registered at the Greffe:
 - the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001
 - the Telecoms (Bailiwick of Guernsey) Law, 2001
 - the Post Office (Bailiwick of Guernsey) Law, 2001
 - the Electricity (Guernsey) Law, 2001
 - the States Trading Companies (Bailiwick of Guernsey) Law, 2001
 - the Transfer of States Undertakings (Protection of Employment) (Guernsey) Law, 2001 (commonly referred to as “TUPE”).

3. At the July 2001 Policy and Resource Planning debate, the Advisory and Finance Committee announced its intention to recommend transforming Guernsey Telecoms (GT) into an STC at the same time as post and electricity. It had always been recognised that at some stage during the Equity Partner process, GT would need to be turned into a States Trading Company if only for an instant. As was commented upon in the March 2001 policy letter, this is necessary to enable the STC Law to provide the legal framework within which the GT undertaking can be transferred from the States into a limited liability company.
4. The Committee initially considered that this could be done at the end of the Equity Partner process. Having looked at the practicalities of the process and the need to give time to resolve any unforeseen issues arising from the transfer, the Committee considers that GT must be turned into an STC sooner rather than later. Those practical considerations will become apparent from the complexity of the steps that need to be gone through to create and activate an STC as set out in this policy letter.
5. The Committee's Corporate Finance Advisors, CIBC World Markets PLC, have also stressed that potential Equity Partners will show much greater interest in a company which has been created than in a company which is going to be created. It will also give an opportunity to rectify any unforeseen issues with the transfer prior to an Equity Partner becoming involved.
6. Turning GT into an STC is an interim stage in the Equity Partner process and some of the proposals in this policy letter are therefore specific to that undertaking. The Committee remains convinced that a beneficial agreement will be reached with an Equity Partner to secure world-class telecoms services. It is anticipated that such agreement will be reached around the first quarter of 2002.
7. The steps which need to be gone through to create and activate STCs are:
 - the formation of limited liability companies under Guernsey Company Law for each of the undertakings;
 - the enactment of an Ordinance under the STC law to enable those companies to be designated as STCs, to set out the detailed corporate governance arrangements and to provide a legal framework for the transfer of contracts, liabilities etc;
 - the appointment of non-executive directors to the Boards of the new STCs;
 - the transfer of the undertakings, including assets, from the States (acting through the Trading Boards) to the new STCs;
 - the transfer of staff from the employment of the States (acting through the Trading Boards) to the employment of the new STCs under the protection of the TUPE legislation;
 - the approval of States Guidance to the Advisory and Finance Committee in exercising the role, on behalf of the States, of shareholder of the STCs;
 - the commencement of the Regulatory Law and appointment of the statutory Regulator;
 - the commencement of the new telecoms, post and electricity Laws which enable the provision of those services by non-States entities under the Regulatory Law;

- the approval of States Directions to the Regulator on high level policies in regard to electricity and post (the States have already approved directions on telecoms);
 - the granting to the new STCs under the Regulatory Law of the initial licences to provide services;
 - the dissolution of the Trading Boards and the amendment of the mandate of the States Board of Industry to reflect its responsibilities in relation to those regulated utilities.
8. I am grateful to you Sir for agreeing that the propositions to approve the various items of legislation necessary to implement this process can be included with the other propositions arising from this policy letter and that of the Board of Industry.
 9. The Committee had hoped to be able to address the final aspects regarding the future provision of Telecoms, Postal and Electricity Services in one policy letter to the States, although this has never been essential.
 10. It had been the intention of the Committee for this policy letter to cover the Future Provision of Telecoms, Postal and Electricity Services. The Committee is pleased that the future of both Postal and Telecoms services are included in this approach to the States. Regrettably, some last minute complications in relation to Electricity services have meant that all aspects of this commercialisation cannot be included in this policy letter.
 11. The Committee wishes to emphasise that it remains very firmly committed to the commercialisation of Electricity services, and it is understood that this view is shared by the States Electricity Board and the current members of the Shadow Electricity Board. The Committee will be addressing the outstanding issues as a matter of priority, so that it can bring a policy letter to the States to finalise the arrangements for the future provision of Electricity services in the near future.
 12. States Members will see that all issues concerning the future provision of Telecoms and Postal services have been fully resolved, and letters of support for the proposals contained in this policy letter from the States Post Office Board and States Telecommunications Board are appended to this letter. Indeed there is considerable urgency in proceeding with the commercialisation of both utilities.

The Formation of Limited Liability Companies

13. By the time this policy letter is considered, three companies, Guernsey Telecoms Limited, Guernsey Post Limited and Guernsey Electricity Limited will have been incorporated and registered at the Greffe. If the States approve the provisions of this policy letter Guernsey Post Limited and Guernsey Telecoms Limited will be operating companies on 1st October 2001. Guernsey Electricity Limited will become operational only after the States approve the proposals specific to the future provision of Electricity services.
14. The Memorandum and Articles of Association of these companies reflect that they are to become STCs and integrate with the provisions of the STC Ordinance. The Articles of Association for GT Limited contain some additional clauses to facilitate the Equity Partner process. The stated objects of each company reflect the appropriate clauses of the States Guidance to the Advisory and Finance Committee referred to later in this policy letter.

15. The authorised share capital of each company is of the same order of magnitude but exceeds its net asset value. Two shares in each company have been issued and are held in trust for the States by the President and Vice President of the Advisory and Finance Committee who have also been appointed as the companies' first (interim) directors.

The STC Ordinances

16. The States Trading Companies (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance 2001 and The States Trading Companies (Bailiwick of Guernsey) Ordinance 2001 appear in the brochure published with this Billet.
17. The first Ordinance brings into force the primary STC Law and the second Ordinance enables the States to designate as STCs, companies which have been formed under Guernsey company law. Schedule 1 of the Ordinance applies this designation to Guernsey Telecoms Limited, Guernsey Post Limited and Guernsey Electricity Limited. While the governance provisions will come into force for all the STCs, the transfer of undertaking provisions for Guernsey Electricity Limited will not come into force on 1st October, and my Vice President and I have accordingly put an amendment of the Ordinance to the States which effects this modification. The Committee's policy letter on the Future Provision of Electricity Services will address the commencement date for these provisions.
18. The Ordinance sets out the corporate governance arrangements for STCs that were presented in the March 2000 policy letter and approved by the States and also includes some additional consequential provisions.
19. The Ordinance makes provision for the transfer of undertakings from the States to an STC. The detailed vesting arrangements are set out in Schedule 2 of the Ordinance, which refers to a further schedule, lodged at the Greffe, that sets out financial information and details of the assets transferred.
20. Copies of the Schedules of assets in relation to Guernsey Post Limited and Guernsey Telecoms Limited lodged at the Greffe (excluding the detailed asset registers) are attached as Annexes 1 and 2 to this policy letter. The Schedules provide financial statements representing the undertakings which are to be transferred to each of the new STCs. The Schedules show the position as at 30 June 2001 and are put forward for approval subject to adjustment to reflect normal trading up to 30 September 2001.
21. A full audit of the two Trading Boards as at 30 September will be carried out so as to close the books of those Boards and any significant or unforeseen variations from the information shown in the Schedules will be referred back to the States for endorsement.
22. A review of the asset registers of the two Trading Boards has been undertaken to ensure that they provide a complete and accurate presentation of the assets which they hold in trust for the States and that appropriate and consistent policies have been applied to valuations. Where applicable, properties and buildings are shown in the asset registers at current market values following a re-valuation exercise; other assets are shown at net book value.
23. The Schedule therefore gives sufficient information for the States to approve the transfer of the undertakings and the subsequent audit will give the precise starting points of the two STCs for legal, tax and other purposes.

24. The Advisory and Finance Committee has considered a preliminary Strategic Plan from the shadow Post Board and discussed with the Shadow Board drafts of the proposed States Guidance to the Committee in fulfilling its role as shareholder on behalf of the States. This has allowed the Advisory and Finance Committee to determine what assets need to be transferred to Guernsey Post Limited to enable it to achieve its objectives and what assets the States should retain.
25. Because of its role in leading the Equity Partner approach and taking advice from the corporate finance advisors, the Committee has been able to determine the most appropriate terms under which assets should be transferred into GT Limited. The Telecoms Board has raised no objections to the terms proposed.
26. In addition to the approach to the valuation of properties and buildings referred to above, the information in the Schedule varies from the current undertakings of the Trading Boards as set out below.

Post

27. The Post Office Board has built up considerable cash reserves to fund the development of a new headquarters. These cash reserves are being transferred in full but the existing headquarters building and land (with the exception of the staff car park situated adjacent to the new Postal HQ site) are being retained in States ownership for future use for the benefit of the community. A simple lease at a nominal rent will apply whilst the existing headquarters is still in use for postal purposes. The Heads of Agreement for that Lease are shown in Annex 3A.
28. The new STC will hold the freehold of the new headquarters (and any other property transferred) but with a covenant requiring that if the STC wishes to dispose of property it has first to be offered to the States at market value.

Telecoms

29. The review of telecoms assets has been undertaken as part of the Equity Partner process.
30. Assets currently held by the Telecoms Board will be transferred to the new telecoms STC under the States Trading Companies (Bailiwick of Guernsey) Ordinance 2001. In accordance with the comments in the March 2001 report, however, most buildings and property will **not** be transferred under the Ordinance. The Advisory and Finance Committee intends to use its powers to make an Order under Schedule 2 of the Ordinance (paragraph (g) of the proviso to column 2) to direct that all land and real property currently held by the Telecoms Board shall be deemed **not** to have been transferred to and vested in GT Ltd. (The order will also include the retained existing Postal HQ site at Guelles Road referred to on paragraph 27 above.)
31. Instead, those properties which are listed in the Heads of Agreement shown at Annex 3B will be leased for a 99 year period, and there will be a re-balancing between the freehold value of the properties taken out of GT's books and the capital value of the 99 year lease at a nominal rent. (There are further properties currently held by the Telecoms Board which will not be leased to the new company but which will be passed to the Board of Administration). This arrangement is not taking place under the Ordinance, and is separate from the transfer arrangements under the Ordinance. The final form of the leases will be subject to the

approvals of the Advisory and Finance Committee and the Law Officers of the Crown. As indicated in the Heads of Agreement, conditions will be included in the leases which will give the States the opportunity to take back the leasehold interest in the properties in circumstances when they cease to be used for telecoms purposes.

32. The operation of the Telephone Museum which currently runs at a loss of the order of £20,000 per annum will be transferred to the new STC which will be requested to consider if it wishes to float it off to a newly created Trust, offer the Museum to the Heritage Committee or to have it remaining with GT and subject to whatever policy is adopted by the Equity Partner.
33. Guernsey Post Limited and Guernsey Telecoms Limited will commence trading on 1 October 2001 (Impact Day) and additional shares will be issued to a value equal to the net value of the assets transferred from the States into each company once this has been confirmed by Audit, and the shares will be held in trust for the States half each by the President and Vice President of the Advisory and Finance Committee.
34. **The Advisory and Finance Committee therefore recommends the States:**
 - (a) **to approve the States Trading Companies (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001;**
 - (b) **to approve the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001;**
 - (c) **in respect of those properties which are to be transferred to the States Trading Companies on a leasehold basis, to approve the granting of the leases on the terms set out in the Heads of Agreement shown in Annex 3(A) and (B) to this report provided that the Leases shall be completed in terms approved by the Board of Administration, the Advisory and Finance Committee and the Law Officers;**
 - (d) **otherwise to approve the transfer of assets into the States Trading Companies as set out in this report.**
35. The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 prohibits the transfer, encumbrance or other disposition of the shares in an STC unless expressly authorised by the States. Section 17 does, however, allow for the States, by resolution, to delegate to the Advisory and Finance Committee authorisation to trade in shares.
36. The Advisory and Finance Committee recommends that, in order to implement the resolutions of March 2001 in relation to securing an Equity Partner to take a controlling interest in GT Limited, under the provisions of section 17 of the States Trading Company (Bailiwick of Guernsey) Ordinance, 2001 the States delegate to the Committee authority to transfer or otherwise dispose of shares in Guernsey Telecoms Limited.

Appointment of Non-Executive Directors to the STCs

37. At its meeting on 28 June 2000 (Billet XIV of 2000) the States approved the following nominations for non-executive directors to sit on the Shadow Board for post:

Post

Adv R A Perrot
 Mr D T Roberts
 Mr E Smith
 Mr C P Spencer
 Mr D Warr

38. The Committee is grateful to these individuals for the immense work put in during the shadow period which for various reasons was far more extensive than had previously been expected.
39. All of the Postal Shadow Board members have indicated that they are prepared to be nominated for formal appointment to the Board of Guernsey Post Limited and the Committee is pleased to do so.
40. **The Advisory and Finance Committee is therefore recommending the States to appoint the following persons as non-executive directors of the Boards of the Guernsey Post Limited as follows:**

Post

Adv R A Perrot
 Mr D T Roberts
 Mr E Smith
 Mr C P Spencer
 Mr D Warr

41. The Committee has also considered nominations for non-executive directors of the Board of the Telecoms STC. It is anticipated that these positions will be held, initially at least, for the short period until an Equity Partner takes a controlling interest. Future arrangements for States representation on the Board of GT have yet to be determined and the Equity Partner itself may choose to retain or appoint some new local non-executive directors.
42. As was done with the setting up of the Shadow Board for Post, the Committee has sought to provide some continuity with the current GT Board. The Committee also considers that, because of its interim nature, the number of Board members can be kept to a minimum.
43. **The Advisory and Finance Committee is recommending the States to appoint the following persons as non-executive directors of the Board of Guernsey Telecoms Limited:**

Mr P J Bachmann
Adv M G Ferbrache
Mr D R Jehan
Mr R G Knight

A brief CV of each nominee is included in Annex 4 to this policy letter.

The Transfer of Staff

44. On the basis that the postal and electricity STCs will remain wholly owned by the States, the States in June of 2001 (Billet XIII of 2001) approved revisions to the rules of the Public Servants Pension Scheme (PSPS) which allow employees of these STCs to be members of the Scheme.
45. A condition for their membership of the Scheme is that a binding Admission Agreement be entered into between States parties and the STCs. The Admission Agreement covers various requirements to provide information necessary for administration purposes and commitments on payment of contributions as well as security against default on those commitments.

46. **Admission Agreements will have been entered into with the STCs by the time this report is considered and the Advisory and Finance Committee is now recommending that the States agree that the States of Guernsey (Public Servants) (Pension and Other Benefits) (Amendment) Rules, 2001 come into force on 1st October 2001.**
47. The amendments to the PSPS rules approved by the States relate specifically to the STCs formed to provide postal and electricity services and stipulate that if those companies cease to be wholly owned by the States, employees cease to be eligible for membership of the Scheme.
48. It had always been anticipated that GT employees would ultimately not be employed by a company wholly owned by the States and therefore could not remain members of the PSPS. Following the States decision of January 2000, GT began development of a successor pension scheme which complied with TUPE requirements and, initially at least, mirrored the PSPS. Work on that was halted when questions arose as to whether or not the January 2000 approach to telecoms would be taken to completion.
49. Turning GT into an STC is an interim step towards securing an Equity Partner and the question therefore arises as to whether or not, as another interim measure, the PSPS rules should be further amended to allow employees of the telecoms STC to be members of the scheme with the same status as that employed by the post and electricity STCs.
50. If the employees were going to remain in the Scheme permanently it would be a relatively simple matter to extend the PSPS rule changes agreed in June 2001 to cover employees of GT Limited. Further, more complex changes would however be necessary to cover the transfer of monies from the Superannuation Fund into the fund underwriting the successor scheme and these could not be prepared in time for implementation on 1 October.
51. In considering this matter however, it is important to bear in mind that when an Equity Partner takes a controlling interest, GT Limited will cease to be an STC and employees will no longer be able to remain in the PSPS. However, there will be no change in employer. GT employees who transfer on 1st October will continue to be employed by GT Limited throughout the process.
52. TUPE is a Law which only covers employees collectively when they transfer out of employment with the States to a new employer, in this case GT Limited. Under Section 5 of TUPE the new employer (GT Limited) would be under an obligation to secure broadly comparable pension arrangements after the date of transfer. TUPE also confers rights to compensation upon the employees should the new employer fail to meet this obligation. However, as it is envisaged that a controlling interest in GT Limited will pass to an equity partner, a successor scheme will be required to meet the employees' pension requirements because they will have no entitlement to remain within the PSPS. TUPE could not bite to secure broadly comparable pension arrangements at the time that that interest is acquired by the equity partner.
53. The Committee was concerned that the mechanism for moving the telecoms undertaking into an equity partnership should not operate to preclude the employees at telecoms from enjoying the protection that TUPE affords them.
54. For the reasons identified above, it would be impossible to get a successor scheme up and running and transfer arrangements agreed with staff in time for 1st October. Employees have also made the point that, whilst the Committee may be confident of success, if they

transferred to a successor scheme and an Equity Partner was not found, they would feel less favourably treated than their colleagues in the electricity and post STCs who were allowed to remain in the PSPS.

55. The situation may be summarised as follows:

- Turning GT into an STC as soon as possible is an important interim step in the Equity Partner process;
- When an Equity Partner takes a controlling interest in GT Limited its employees will no longer be entitled to remain within the PSPS;
- The TUPE Law has been drafted to protect employees employment and pension interests and will bite upon transfer of the telecoms undertaking from the States to GT Limited;
- There is insufficient time before the 1st October to develop and promote to the employees a successor pension scheme that complies with TUPE nor is there time to address any long term concerns on pensions they may have;
- Amongst general concerns held by employees about transferring into a successor scheme is that if they leave the PSPS and an Equity Partner is not found, they will have been treated less favourably than employees in the post and electricity STCs who were allowed to remain in the Scheme;
- There is insufficient time before the 1st October to develop amendments to the PSPS which not only allow for GT Limited employees to remain in the PSPS in the interim whilst it remains an STC but also cover subsequent transfers of past service benefits into a successor scheme;
- TUPE provides protection to employees on transfer from employment by the States to employment by GT Limited but would not cover the situation where GT Limited's employees could no longer remain as members of the PSPS because GT Limited ceased to be an STC.

56. Accordingly, two options were available. The first option would involve delaying the start date for the telecoms transfer to STC status. The second was to explore whether there were any available legal mechanisms that could safeguard the interests of the employees in the short term pending resolution of these pensions issues notwithstanding a transfer of the undertaking. In respect of the latter, the objective was to secure Section 5 TUPE protection for the employees notwithstanding the fact that GT Limited would cease to be a STC upon acquisition of an equity partner.

57. For the reasons explained in the introduction to this report, delaying the start date for the telecoms transfer to STC status would prejudice the Equity Partner process and the Committee wishes to avoid this if at all possible.

58. Following consultations with the GT employees, the Civil Service Board and the Actuary the Committee is proposing an approach that meets the requirements of all parties. The Transfer of States Undertakings (Protection of Employment) (Amendment) Ordinance, 2001 appears in the brochure published with this Billet. I am grateful to you, Sir, for agreeing that this Ordinance can be submitted for approval along with this policy letter.

59. The Ordinance operates to defer the obligation upon GT Limited under Section 5 of TUPE to secure broadly comparable pension arrangements and defers the rights of the employees under Section 5 until a fixed period (12 months) has expired or until GT Limited enters into an Equity Partnership should that be sooner. The Ordinance provides that when either of these events occurs the rights and obligations conferred upon employees and employer under Section 5 will come into effect in a similar manner to which they would have on transfer of the undertaking from the States to GT Limited but for the deeming provisions.
60. The Committee considers that by about the end of June 2002 it will be in a position to advise the States of the agreement reached with an Equity Partner. If the process has been unsuccessful (and the Committee stresses again that it does not believe that this will be the case) it would bring forward proposals to keep GT Limited as an STC in the long term and ask the Civil Service Board to bring forward revisions to the rules of the PSPS to give its employees the same long term status in the Scheme as post and electricity employees.
61. This approach requires no initial changes to the rules of the PSPS but work will continue to develop a successor scheme into which GT Limited's employees can transfer when a controlling interest is passed to an Equity Partner and the employees cease to have an entitlement to remain within the PSPS.
62. All of the parties involved will need to be satisfied the successor scheme can be validated as being "broadly comparable" with existing arrangements so as to comply with TUPE and this has been taken to mean that it will be no less favourable. Each individual employee will also have explained to him/her the effects on their own specific entitlements and be given advice on whether past service benefits should be frozen in the PSPS or transferred to the successor scheme.
63. Work will also need to be done on subsequent changes to the PSPS rules to enable the transfer of funds underwriting past service benefits from the Superannuation Fund into the fund underwriting the successor scheme. To assist in calculating the level of employer's contribution required from GT and to calculate the amount of fund transfer eventually required, the Actuary will apply similar principles to the funding for GT employees' benefits to those used for the "actuarial accounts" which the States agreed in June 2001 should be applied to post and electricity employees.
64. The provisions of the Ordinance will meet the requirements of the parties involved but it will not exactly replicate the process of moving straight into long-term pension arrangements under TUPE.
65. To ensure that adequate information is provided to calculate and ensure employer liabilities for payments into the Superannuation Fund are met and for the administration of the scheme, the GT STC will be required to enter into a binding "Pensions Agreement" with provisions similar to that of the Admission Agreements for the post and electricity STCs. **That agreement will have been entered into by the time this policy report is debated but is conditional on the States approving the amendment to the amended TUPE provisions.**
66. In order to protect the interests of other members of the PSPS, the States will need to give an unlimited guarantee that it will cover any unforeseen detrimental effects on the Superannuation Fund arising from this interim arrangement. **The Advisory and Finance Committee recommends the States to agree to provide this guarantee.**

67. The Committee wishes to stress that the approach set out above does not compromise the principle recognised as early as the January 2000 proposals that employees of a commercialised entity that is not wholly owned by the States should not be members of the PSPS. The Committee acknowledges that some GT employees may have concerns about moving out of the PSPS and those employees will need to be convinced that their concerns are unfounded.
68. The introduction of TUPE Law and the approach taken in bringing forward this Ordinance demonstrates the commitment to protecting their interests in the transfer to GT Limited. The Committee has also agreed to continue discussions with representatives of GT employees to see how any long-term concerns they may have about pension rights might be addressed.
69. GT Limited will be a far more sustainable entity with an Equity Partner offering world-class telecoms services, and therefore offer more secure employment opportunities, than if it remains as a solely local entity subject to competition. The Committee is committed to resolving pensions issues so as not to prejudice the Equity Partner process.
70. The Committee's corporate finance advisors are fully aware of the approach being taken on pension arrangements for employees of GT Limited and fully endorse it.
71. **The Advisory and Finance Committee is therefore recommending the States to approve The Transfer of States Undertakings (Protection of Employment) (Amendment) Ordinance, 2001.** The Civil Service Board raises no objection to the Committee bringing forward this amendment to legislation which the Board originally sponsored.

States Guidance to the Advisory and Finance Committee

72. As agreed by the States in March 2000, the STC Ordinance makes provision for the Advisory and Finance Committee to undertake, on behalf of the States, the role of shareholder of STCs.
73. The Ordinance also makes provision for the States to give guidance to the Committee on the policies it wishes to be pursued in fulfilling this role. That guidance is to be incorporated into the Strategic and Corporate Plan.
74. The proposed guidance in relation to post and telecoms is shown in Annex 5 to this policy letter.

Post

75. The first clause is a summary of the extent of activities of the company as set out in the Company's Memorandum of Association. It refers to the provision of postal and related services and to acting as carriers of goods.
76. The second clause refers to the setting of financial targets. The primary objective of commercialisation is not to introduce a new source of taxation through shareholder dividends on the provision of essential monopoly services. Some form of financial pressure from the shareholders is necessary however to drive, along with regulation, improved efficiency in the delivery of services.
77. Clause 2 a) therefore seeks to reflect this balance against any adverse effect on tariffs.

78. Clause 2 b) seeks to achieve commercial returns on non-monopoly services to provide a level playing field for other companies providing competing services .
79. STCs will however also be liable for the payment of income tax in the same way as other companies. To enable this the Income Tax (States Trading Companies and Public Servants Pension Scheme) (Guernsey) Law, 2001 (Commencement) Ordinance 2001 will need to be enacted. This legislation will also enable the Public Servants Pension Scheme to become an approved scheme for the purposes of the Income Tax Law.
80. Informal arrangements have been agreed with the Post Office Shadow Board to continue to identify net profits from Philatelic activities in order to be able to continue to share these with Alderney and Sark. Payments to Alderney and Sark will in future be made from General Revenue out of shareholder returns rather than direct from the Post Office accounts as at present.
81. The remaining clauses seek to protect the States' interests in property and buildings transferred to the STC, to require that the Island's strategic interests are taken into account by the STC and to require that best practice on corporate governance is maintained.
82. The Committee has agreed with the Shadow Board a set of provisional financial targets for the initial years of trading which reflect the need for a period of transition from a public sector culture to a commercial culture and which are subject to review as the company builds up its trading position.

Telecoms

83. Because of the temporary nature of the Telecoms STC and the pursuit of the Equity Partner approach, the guidance to the Advisory and Finance Committee differs from that for post.
84. The first clause is a summary of the extent of activities of the company as set out in the Company's Memorandum of Association. It refers simply to the provision of telecoms, data processing and other associated services. The Memorandum and Articles of Association for Guernsey Telecoms Limited reflect those of the other STCs but include additional clauses to facilitate the Equity Partner process.
85. The second clause does not require a financial return to the States during the pursuit of the Equity Partner approach but allows for this to be reviewed if there is an unforeseen delay in the process.
86. The remaining clauses are common to those for post.
87. **The Advisory and Finance Committee recommends the States to approve for inclusion in the Strategic and Corporate Plan the States Guidance to the Committee on exercising, on behalf of the States, the role of shareholder of Guernsey Telecoms Limited and Guernsey Post Limited as set out in Annex 5.**

The Enactment of the Regulatory and Operational Laws, Appointment of Regulator and Granting of Licences

88. In a separate policy letter the Board of Industry is recommending the enactment of the necessary legislation, granting of licences and other associated measures to complete the commercialisation process.

89. The States have already agreed that the provision of telecoms, postal and electricity services shall be subject to independent statutory regulation. Notwithstanding the fact that this policy letter only covers full details for the future provision of Telecoms and Postal services, the Committee strongly believes that it is entirely appropriate for the Board of Industry's policy letter to cover the regulatory arrangements for all three utilities. If the States endorse the Board of Industry's proposals then it will simply require the commencement dates for some of the specific legislation to be deferred in regard to electricity services.
90. **The Committee recommends the States to approve the proposals from the Board of Industry.**

The dissolution of the Trading Boards and amendment of the mandate of the Board of Industry

91. The creation of the two STCs removes the need to retain States Committees dedicated to the provision of telecoms and postal services. There remains a need, however, for a States Committee to hold residual responsibilities for these important utilities to ensure that strategic requirements are met and to provide a channel of communication to the States for the amendment of operational legislation as and when necessary.
92. The Board of Industry has been responsible for sponsoring the new operational legislation for the utilities. The Committee believes that it is appropriate for the Board to take on these residual responsibilities for telecoms and postal services that will complement its responsibilities for independent statutory regulation.
93. **The Advisory and Finance Committee therefore recommends the States to:**
- **as of 23.59 hours on 30th September 2001 to dissolve the States Telecommunications Board and the States Post Office Board.**
 - **add to clause a. of the mandate of the States Board of Industry, which sets out the matters on which the Board is required to advise the States, the words:**

“the provision of regulated telecommunications, postal and electricity services.”

Conclusions and Recommendations

94. In May 1998 (Billet X of 1998), the Advisory and Finance Committee submitted a report on the Review of the Status of the Trading Boards. The conclusions to that report stated:
- “... the Advisory and Finance Committee and the Post Office Board are unanimous, and a majority of the Telecommunications Board and Electricity Board are convinced that the current status of the utility Boards as committees of the States is inhibiting them from operating in the most efficient, economic and effective manner given the current economic and commercial environment. The revised arrangements described in broad terms in this report retains States ownership of the utilities but will provide a framework which enables them to seize the opportunities for improved performance whilst providing the checks and balances necessary to ensure that the consumer and community as a whole continue to have access to essential services at a price and standard which reflects the benefits of that improved performance.”**

95. Following consideration of that report, the States agreed in principle to the commercialisation of electricity, post and telecoms services. Over the past three years the arrangements described in broad terms in that report have been refined and developed into a series of detailed proposals the culmination of which are the proposals set out in this report and that of the Board of Industry.
96. In regard to the provision of telecoms services, the States have agreed to pass on a controlling interest in GT to an Equity Partner and commercialisation is therefore an interim step in that process. The principle of ensuring that consumer interests are protected through a statutory, independent regulation regime will however remain a common factor in the future provision of telecoms, as well as post and electricity services.
97. The Committee remains as convinced now as it was in 1998 that the community as a whole will benefit from the commercialisation of these services.
98. The Alderney and Sark authorities were provided with a draft of this policy letter and the STC Ordinance and have advised that they have no comments to make on their contents.
99. The Post Office and Telecoms Boards have seen drafts of this policy letter and copies of their letters of support are attached as Annex 6 (A and B).
100. As stated earlier in this report, the Committee hopes to be in a position shortly to bring another policy letter to the States addressing the outstanding detailed aspects of the future provision of electricity services.
101. The Advisory and Finance Committee therefore recommends the States to:
 - (i) approve the States Trading Companies (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001;
 - (ii) approve the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 and
 - (a) the inclusion in Schedule 1 of the Ordinance of the designation as STCs:
 - a) Guernsey Post Limited;
 - b) Guernsey Telecoms Limited; and
 - c) Guernsey Electricity Limited;
 - (b) the inclusion in Schedule 2 of the Ordinance of the transfer of undertakings into
 - a) Guernsey Post Limited;
 - b) Guernsey Telecoms Limited; and
 - c) Guernsey Electricity Limited (but the transfer of undertaking to GEL shall not take effect until the States so resolve);
 - (iii) agree that in respect of those properties which are to be transferred to the States Trading Companies on a leasehold basis, leases be granted on the terms set out in the Heads of Agreement shown in Annex 3(A and B) to this report provided that the leases shall be completed in terms approved by the Board of Administration, the Advisory and Finance Committee and the Law Officers;
 - (iv) approve the transfer of assets, as set out in this report into:
 - a) Guernsey Post Limited; and
 - b) Guernsey Telecoms Limited;

- (v) agree that, under the provisions of section 17 of the States Trading Company (Bailiwick of Guernsey) Ordinance, 2001 the Advisory and Finance Committee be delegated with authority to transfer or otherwise dispose of shares in Guernsey Telecoms Limited;
- (vi) appoint the following persons as non-executive directors of the Boards of:
 - a) Guernsey Post Limited
 - Adv R A Perrot
 - Mr D T Roberts
 - Mr E Smith
 - Mr C P Spencer
 - Mr D Warr;
 - b) Guernsey Telecoms Limited
 - Mr P J Bachmann
 - Adv M G Ferbrache
 - Mr D R Jehan
 - Mr R G Knight;
- (vii) approve the Transfer of States Undertakings (Protection of Employment) (Guernsey) Law, 2001 (Commencement) Ordinance, 2001;
- (viii) approve the Transfer of States Undertakings (Protection of Employment) (Post Office Board) Ordinance, 2001;
- (ix) approve the Transfer of States Undertakings (Protection of Employment) (Electricity Board) Ordinance, 2001;
- (x) agree that the States of Guernsey (Public Servants) (Pension and Other Benefits) (Amendment) Rules, 2001 come into force on the 1 October 2001 in respect of Guernsey Post Limited;
- (xi) agree to provide an unlimited guarantee to underwrite any unforeseen detrimental effects on the Superannuation Fund of implementing the pension arrangements in respect of employees of GT Limited as described in this report;
- (xii) approve the Transfer of States Undertakings (Protection of Employment) (Amendment) Ordinance, 2001;
- (xiii) to defer the obligations of Guernsey Telecoms Limited arising under, and the rights of any person exercisable by virtue of, section 5 of the Transfer of States Undertakings (Protection of Employment) (Guernsey) Law, 2001 until 1 October 2002;
- (xiv) approve the Income Tax (States Trading Companies and Public Servants Pension Scheme) (Guernsey) Law, 2001 (Commencement) Ordinance, 2001.
- (xv) approve for inclusion in the Strategic and Corporate Plan the States Guidance to the Advisory and Finance Committee on exercising, on behalf of the States, the role of shareholder as set out in Annex 5 to this report in respect of:
 - a) Guernsey Post Limited; and
 - b) Guernsey Telecoms Limited;

(xvi) With effect from 23.59 hours on 30th September 2001 to dissolve:

- a) the States Post Office Board; and
- b) the States Telecoms Board;

(xvii) add to clause a. of the mandate of the States Board of Industry the words:

“the provision of regulated postal, telecommunications and electricity services”.

Yours faithfully

L. C. MORGAN

President
States Advisory and Finance Committee

Annex 1**The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001****SCHEDULE 2 Part of Undertaking transferred to and vested in Guernsey Post Limited.**

Schedule of Assets to be transferred with effect from 1 October 2001 based on position as at 30 June 2001 (Un-audited) to be adjusted for normal trading up to 30 September 2001 and subject to Audit on that date.

	£	£
TANGIBLE FIXED ASSETS		4,668,460
(as detailed in Asset Register lodged at Greffe with this Schedule)		
CURRENT ASSETS		
Stocks	137,942	
Debtors and Prepayments	1,320,200	
Agency Services Balances	103,761	
Balances with Treasury	18,353,061	
Bank Balances	309,426	
Cash In Hand and in Transit	250,489	
	20,474,879	
CREDITORS DUE WITHIN ONE YEAR	(2,261,145)	
NET CURRENT ASSETS		18,213,734
TOTAL NET ASSETS		£22,882,194

Intangible and Miscellaneous Assets included within the undertaking of the States Post Office Board and falling to be transferred to Guernsey Post Limited.

1. The books and records relating to the undertaking, including (without limitation) all recorded information and written materials relating to undertaking, in whatsoever form and on whatsoever medium stored;
2. All *choses in action* relating to the undertaking, including all rights and claims subsisting on the appointed day;
3. The goodwill relating to the undertaking together with the right to carry on the undertaking as the lawful successor thereto;
4. All the registered and unregistered intellectual property, together with all know-how, used in or by the undertaking including (without limitation) all copyright, moral rights, design rights, trade marks, logos, get-ups, drawings, designs and all other intellectual property rights relating to the undertaking, all applications for and rights to apply for registration of any of them and all rights against third parties in respect of any of the foregoing;
5. All the miscellaneous tangible assets used in the undertaking but having no balance sheet entry or separate listing on the register of assets.

L. C. MORGAN

President

States Advisory and Finance Committee

Dated 24th August, 2001

Annex 2**The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001****SCHEDULE 2 Part of Undertaking transferred to and vested in Guernsey Telecoms Limited.**

Schedule of Assets to be transferred with effect from 1 October 2001 based on position as at 30 June 2001 (Un-audited) to be adjusted for normal trading up to 30 September 2001 and subject to Audit on that date.

	£	£
TANGIBLE FIXED ASSETS (as detailed in Asset Register lodged at Greffe with this Schedule)		35,967,541
CURRENT ASSETS		
Stocks	1,033,952	
Debtors	7,507,581	
Balances with Treasury	9,385,112	
Cash at Bank and in Hand	1,092,643	
	19,019,288	
CREDITORS DUE WITHIN ONE YEAR	(5,676,369)	
NET CURRENT ASSETS		13,342,919
TOTAL NET ASSETS		£49,310,460

Intangible and Miscellaneous Assets included within the undertaking of the States Telecommunications Board and falling to be transferred to Guernsey Telecoms Limited.

1. The books and records relating to the undertaking, including (without limitation) all recorded information and written materials relating to undertaking, in whatsoever form and on whatsoever medium stored;
2. All *choses in action* relating to the undertaking, including all rights and claims subsisting on the appointed day;
3. The goodwill relating to the undertaking together with the right to carry on the undertaking as the lawful successor thereto;
4. All the registered and unregistered intellectual property, together with all know-how, used in or by the undertaking including (without limitation) all copyright, moral rights, design rights, trade marks, logos, get-ups, drawings, designs and all other intellectual property rights relating to the undertaking, all applications for and rights to apply for registration of any of them and all rights against third parties in respect of any of the foregoing;
5. All the miscellaneous tangible assets used in the undertaking but having no balance sheet entry or separate listing on the register of assets.

L. C. MORGAN

President

States Advisory and Finance Committee

Dated 24th August, 2001

ANNEX 3A – POST PROPERTIES**HEADS OF AGREEMENT****ANTICIPATED CORE TERMS
SUBJECT TO NEGOTIATION**

The same terms are to be incorporated in the Lease of the existing Postal Headquarters site at Guelles Road to Guernsey Post Ltd as those detailed in Annex 3B except for the following:

Lessee: Guernsey Post Ltd

Prospective Demised Premises:

The existing Postal Headquarters site at Guelles Road, St Peter Port, comprising offices, customer services department and car parking.

Term: 1 year, to be renewed quarterly thereafter.

Use of premises:

The Lessee shall use the premises only for the purpose for which the premises are used at the time of the commencement of the Leases.

Limitations on Assignment and Sub-Letting

The Lessee shall not sell, dispose of, assign, sub-let, encumber, charge or otherwise part with possession of, its leasehold interest in the demised premises.

ANNEX 3B - TELECOMS PROPERTIES

HEADS OF AGREEMENT

ANTICIPATED CORE TERMS SUBJECT TO NEGOTIATION

The precise extent of the premises to be demised, including boundaries, will be subject to the approvals of the Advisory and Finance Committee and the Law Officers of the Crown. The following list, however, is an indication of the premises which will be leased.

- Offices and shop at Upland Road, St Peter Port, including Central Exchange centre, with car parking.
- Centenary House at La Vrangue, St Peter Port, comprising further offices, storage, showroom, shop and car parking. The Lessee will also be granted an appropriate right of way over the entrance roadway from La Vrangue. (A similar right of way will be granted to Guernsey Post Limited to come and go to the new postal headquarters at the Flamanville Site).
- Exchange Centres (mainly housed in small purpose built brick buildings). St. Peter's Exchange (Route de Longfrie, St. Peter's) St. Martin's Exchange (Grande Rue, St. Martin's) St. Sampson's Exchange (New Road, St. Sampson's) Castel Exchange (La Route de Cobo, Castel) Alderney Exchange (Longis Road, Alderney) Sark Exchange (Rue Lucas, Sark)
- Telephone Repeater Station, Doyle Road, St. Peter Port – a two storey building.
- Fort George Radio Station, Fort George, St. Peter Port – a one storey building with large surrounding area of land.
- The Telephone Museum, La Route de Cobo, Castel

The undermentioned terms, or substantially similar terms, are to be incorporated in each of the Leases for the above Telecoms properties.

Lessors: The States of Guernsey ("The States") acting by and through the States Advisory and Finance Committee.

Lessee: Guernsey Telecoms Ltd

Term: 99 years.

Rent: £1 per annum.

Rates and taxes:

The Lessee will be responsible for all rates and taxes including reimbursement of the Tax on Rateable Value, payment of Occupiers' Rate and Refuse Rate.

Services: The Lessee will be responsible for all services supplied to the demised premises (i.e. water rates, electricity, gas and telephone charges).

Repair obligations:

The demised premises will be leased to the Lessee on a full repairing basis. The Lessee will be obliged to maintain the premises in their existing condition at the commencement of the lease.

It is envisaged that the Lessors will impose the following specific covenants in relation to any buildings or structures on the demised premises:

- (a) To carry out exterior decoration not less than once every three years or such longer period as the Lessors may from time to time approve in writing;
- (b) To carry out works to the structure and finishes as and when reasonably necessary to maintain the same in good order;
- (c) To maintain and decorate the interior of the demised premises not less than once every five years or such longer period as the Lessors may from time to time approve in writing.

Alterations and additions

The Lessee shall not carry out structural alterations or additions to the demised premises without the prior written consent of the Lessors, which shall not be unreasonably withheld or delayed.

Limitations on Assignment, Sub-Letting and Change of Use of Premises

- (a) The Lessee shall not sell, dispose of, assign, sub-let, encumber, charge or otherwise part with possession of, its leasehold interest in the demised premises without the written permission of the Lessors (as recorded by an instrument under the hand of the President of the Advisory and Finance Committee), which permission shall not unreasonably be withheld or delayed.

Further, the Lessee shall use the premises only for either the purpose for which the premises are used at the time of the commencement of the Lease or any alternative purpose which is consistent with the good provision of telecommunication services in the Island. The Lessor's permission in writing (as recorded by an instrument under the hand of the President of the Advisory and Finance Committee), which permission shall not unreasonably be withheld or delayed, shall be required for the Lessor to use the premises for any other purpose.

- (b) Except in the case of the scenario envisaged in paragraph (c) below, the Lessors shall be permitted reasonably to withhold their consent in respect of a proposed assignee or subtenant, or any proposed change of use arrangements, if the Lessors are not satisfied:
 - (i) that the proposed arrangements are consistent with the good provision of telecommunication services in the Island, or
 - (ii) that the proposed arrangements comply with the original terms of the lease;

and any permission issued by the Lessors shall remain in force only for so long as the proposed arrangements are consistent with the good provision of telecommunication services in the Island and comply with the original terms of lease.

Further, if it appears to the Lessors that the Lessee is using the premises for a purpose which is not consistent with the good provision of telecommunication services in the Island, it will be permissible for the Lessors to require the Lessee forthwith to cease using the premises for such purpose.

- (c) The written consent of the Lessors shall not, however, be refused at any time if the leasehold interest (i.e. in the premises in respect of which assignment or subtenancy or change of use arrangements or other arrangements are proposed) has, within the period of six months preceding that time, been offered for sale to the Lessors at the open market value thereof as between a willing purchaser and a willing vendor and the Lessors have not, within the period of four months following receipt of that offer, agreed to purchase the leasehold interest at that value. (In the absence of an agreement between the Lessors and the Lessee as to the open market value, the open market value of the interest shall be determined for the purposes of the foregoing sentence by a single arbitrator).
- (d) The Lessors will reserve the right, to be exercised in the event that the premises become vacant or unused for a period exceeding twelve months, to purchase the leasehold interest at open market value in the same manner as envisaged in paragraph (c) above.

Insurance: The Lessors will be required to insure the demised premises against fire, explosion, flood and all other risks normally insured against, demolition costs and architects fees and to use monies paid under such insurance policy for rebuilding, reinstatement or repair. The Lessee will be required to reimburse the Lessors in respect of costs of insuring.

The Lessee will insure its own fixtures and fittings and equipment.

The Lessee will maintain public liability insurance cover in a sum of not less than £5 million in respect of any one occurrence or such other sums from time to time as the Lessors may reasonably stipulate during the term of the Leases.

Observance of Laws

The Lessee will observe all applicable laws including inter alia those governing public health and safety.

Rights to be retained by Lessors

The Lessors will retain appropriate rights of way over the Exchange Centres in order to access residential properties which adjoin the Exchange Centres and which will be retained by the Lessors.

Proper Law: The Lease shall be governed by the relevant Bailiwick law.

Transitional arrangements:

The parties will endeavour to procure that full and proper lease documentation will be drafted as soon as practicable after "Impact Day". In the meantime and until such documentation is executed, the publication of these Heads of Agreement within the Billet d'État dated 7 September 2001 will take effect as evidence of the terms and conditions of a licence under which the Lessee will occupy the demised premises for what will constitute a transitional period in advance of the execution of such documentation.

Annex 4**Nominees to serve as non-executive directors on Guernsey Telecoms Limited**

(Brief CVs for those nominees not previously appointed in a shadow capacity by the States.)

Mr P J Bachmann

Chairman, Chief Executive and founder of The Bachmann Group Limited, the largest privately owned trust company in Guernsey employing approximately 150 staff.

From 1995 to this year was a non-States member of the Education Council and Chaired the Information Communications and Technology Sub-Committee.

Until recently was a Governor of the Ladies College and a Governor of the College of Further Education.

Advocate Mark G Ferbrache, BA(Hons), MA(Cantab), M.Phil(Cantab).

An Equity Partner in the local advocates practice of Collas Day specialising in commercial matters. Also acts as a Notary Public.

Member of Guernsey Round Table.

Mr Dudley R Jehan

Chief Executive of the Norman Piette Group and a non-executive director of two other leading local companies, none of which would result in a conflict of interest with the activities of Guernsey Telecoms Limited.

Has served as a non-States member of the Board of Industry (and its predecessors) for over 13 years and since February 2000 has been one of that Board's nominees on the Telecoms Board. If appointed to the Board of Guernsey Telecoms Limited, would resign from the Board of Industry to avoid any conflict of interests on regulatory matters.

Has been involved in Parish matters for almost 30 years serving as Procureur of the Poor, Constable and Douzenier. Currently a Director of the Training Agency and served on the Juvenile Court Panel for 10 years.

Mr Ronald G Knight, BSc(Eng), C Eng, FIEE, MIMgt, MInstD

Began career with Standard Telephone & Cables and led design teams for various major telephone exchange projects. Seconded in 1965 to parent company, ITTE, in Brussels as "Directeur Technique" with responsibilities for the commercial justification of projects, oversight of development programmes and the introduction of new products throughout Europe.

Moved into consultancy in 1981 working with STC/ICL on the convergence of communications and computing and later with NATO on the development of its Strategic Communications Network.

Has served as an Overseer of the Poor, as a member of various working parties including the IT in Society Working Group and has been a non-States member of the Telecoms Board since 1993.

Annex 5a**STATES GUIDANCE TO THE ADVISORY AND FINANCE COMMITTEE IN
EXERCISING ON BEHALF OF THE STATES THE ROLE OF SHAREHOLDER
OF GUERNSEY POST LIMITED**

1. The extent of the activities of Guernsey Post Limited shall generally be:
 - a) To carry on business as a provider of postal services together with any other services which are ancillary related to or may be conveniently combined with the operation of postal services in the Bailiwick of Guernsey and elsewhere.
 - b) To act as distributors freight and forwarding agents and carriers and suppliers of all related services and to enter into arrangements with contractors or sub-contractors for the provision of such services in the Bailiwick of Guernsey and elsewhere.
2. Financial performance targets for Guernsey Post Limited shall be set so as to:
 - c) deliver improved efficiency in fulfilling the requirements of the Universal Service Obligation imposed under the regulatory regime by drawing a balance between seeking a commercial return on the resources employed and the resultant effect on the community of any increase in charges which may result; and
 - d) achieve as soon as is practicable an appropriate commercial return on the resources employed in the provision of other services.
3. Without an express resolution of the States no property or buildings that are essential to fulfilling the Universal Service Obligation imposed under the regulatory regime shall be disposed of except by acquisition by the States under appropriate terms.
4. Policies for the provision of services and other activities of Guernsey Post Limited shall have regard to the Economic, Social and Environmental policies adopted by the States and set out in the relevant Policy and Resource Planning Report and/or the relevant Strategic and Corporate Plan.
5. Guernsey Post Limited shall be required to comply with best practice on corporate governance, financial management and controls.

Annex 5b**STATES GUIDANCE TO THE ADVISORY AND FINANCE COMMITTEE IN
EXERCISING ON BEHALF OF THE STATES THE ROLE OF SHAREHOLDER
OF GUERNSEY TELECOMS LIMITED**

1. The extent of the activities of Guernsey Telecoms Limited shall be to carry on business as a provider of telecoms and other associated services in the Bailiwick of Guernsey and elsewhere.
2. The ultimate objective of the States is to secure world-class telecoms services through an Equity Partner taking a controlling interest in Guernsey Telecoms Limited and policies shall be pursued which will enhance the company's attraction to potential partners.
3. Until an Equity Partner takes a controlling interest in the company the States does not require a financial return on its investment in the company, this position to be reviewed if such a partner is not secured by 30 June 2002.
4. Without an express resolution of the States, no property or buildings which are essential to providing telecoms services shall be disposed of except by acquisition by the States under appropriate terms.
5. Policies for the provision of services and other activities of Guernsey Telecoms Limited shall have regard to the Economic, Social and Environmental policies adopted by the States and set out in the relevant Policy and Resource Planning Report and/or the relevant Strategic and Corporate Plan.
6. Guernsey Telecoms Limited shall be required to comply with best practice on corporate governance, financial management and controls.

Annex 6a

The President
Advisory & Finance Committee
PO Box 43
Sir Charles Frossard House
La Charroterie
St Peter Port
GUERNSEY
GY1 1FH

14 August 2001

Dear Laurie

Policy Letter on the Future Provision of Telecoms, Postal & Electricity Services

The Post Office Board has considered the draft of the policy letter dealing with the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, and other matters concerning the transfer of the undertaking of the States of Guernsey Post Office Board to Guernsey Post Limited which will lead to the future independent regulation of Postal Services.

As you know the Post Office Board has been fully committed to this “commercialisation” process for a number of years, and has indeed been disappointed that that the process has taken longer than it would have hoped.

The Post Office Board wishes to express its continuing strong support for this process, as it remains convinced that this commercialisation of its activities will be greatly for the benefit of the community.

The Board is aware that some concern is been expressed through the local media in connection with the expected cost of regulation in Guernsey.

Notwithstanding this, the Board believes that the formation of Guernsey Post Limited and the appointment of an independent regulator will promote a drive for competition and efficiency within its industry which will overall be greatly to the benefit of all users of the Postal Services in the Guernsey Bailiwick.

Yours sincerely

H. J. DOREY

Vice-President
States Post Office Board

Annex 6(b)

The President
Advisory and Finance Committee
Sir Charles Frossard House
PO Box 43
La Charroterie
St Peter Port
GY1 1FH

21 August 2001

Dear Deputy Morgan,

The Telecoms Board was circulated with a draft of your committee's policy letter on commercialisation.

The Board remains committed to the Equity Partner process and sees commercialisation as an essential interim stage in that process. The Board was particularly pleased to see that the immediate concerns of GT employees over pension issues had been addressed and that a commitment has been given to hold discussions on resolving any long-term concerns.

The Telecoms Board is therefore pleased to support the Advisory and Finance Committees proposals.

Yours sincerely

M E BURBRIDGE

President
Telecoms Board

The States are asked to decide:—

XII.—Whether, after consideration of the Report dated the 24th August, 2001, of the States Advisory and Finance Committee, they are of opinion:—

1. To approve the draft Ordinance entitled “The States Trading Companies (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
2. To approve the draft Ordinance entitled “The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001”, and

(a) the inclusion in Schedule 1 of that Ordinance of the designation as STCs:

- (i) Guernsey Post Limited;
- (ii) Guernsey Telecoms Limited; and
- (iii) Guernsey Electricity Limited;

(b) the inclusion in Schedule 2 of that Ordinance of the transfer of undertakings into

- (i) Guernsey Post Limited;
- (ii) Guernsey Telecoms Limited; and
- (iii) Guernsey Electricity Limited (but the transfer of undertaking to GEL shall not take effect until the States so resolve);

and to direct that the same shall have effect as an Ordinance of the States.

3. That in respect of those properties which are to be transferred to the States Trading Companies on a leasehold basis, leases shall be granted on the terms set out in the Heads of Agreement shown in Annex 3(A and B) to that Report provided that the leases shall be completed in terms approved by the States Board of Administration, the States Advisory and Finance Committee and the Law Officers.
4. To approve the transfer of assets, as set out in that Report into:
 - (a) Guernsey Post Limited; and
 - (b) Guernsey Telecoms Limited.
5. That, under the provisions of section 17 of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, the States Advisory and Finance Committee shall be delegated with authority to transfer or otherwise dispose of shares in Guernsey Telecoms Limited.
6. To appoint the following persons as non-executive directors of the Boards of:
 - (a) Guernsey Post Limited
 - Advocate R. A. Perrot
 - Mr. D. T. Roberts
 - Mr. E. Smith
 - Mr. C. P. Spencer
 - Mr. D. Warr;

(b) Guernsey Telecoms Limited

Mr. P. J. Bachmann
 Advocate M. G. Ferbrache
 Mr. D. R. Jehan
 Mr. R. G. Knight.

7. To approve the draft Ordinance entitled “The Transfer of States Undertakings (Protection of Employment) (Guernsey) Law, 2001 (Commencement) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
8. To approve the draft Ordinance entitled “The Transfer of States Undertakings (Protection of Employment) (Post Office Board) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
9. To approve the draft Ordinance entitled “The Transfer of States Undertakings (Protection of Employment) (Electricity Board) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
10. That the States of Guernsey (Public Servants) (Pension and Other Benefits) (Amendment) Rules 2001 shall come into force on the 1st October, 2001, in respect of Guernsey Post Limited.
11. To provide an unlimited guarantee to underwrite any unforeseen detrimental effects on the Superannuation Fund of implementing the pension arrangements in respect of employees of GT Limited as described in that Report.
12. To approve the draft Ordinance entitled “The Transfer of States Undertakings (Protection of Employment) (Amendment) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
13. To defer the obligations of Guernsey Telecoms Limited arising under, and the rights of any person exercisable by virtue of, section 5 of the Transfer of States Undertakings (Protection of Employment) (Guernsey) Law, 2001 until the 1st October, 2002.
14. To approve the draft Ordinance entitled “The Income Tax (States Trading Companies and Public Servants Pension Scheme) (Guernsey) Law, 2001 (Commencement) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
15. To approve for inclusion in the Strategic and Corporate Plan the States Guidance to the States Advisory and Finance Committee on exercising, on behalf of the States, the role of shareholder as set out in Annex 5 to that Report in respect of:
 - (a) Guernsey Post Limited; and
 - (b) Guernsey Telecoms Limited.
16. That, with effect from 23.59 hours on the 30th September, 2001, to dissolve:
 - (a) the States Post Office Board; and
 - (b) the States Telecommunications Board.
17. To add to clause a. of the mandate of the States Board of Industry the words:

“the provision of regulated postal, telecommunications and electricity services”.

STATES BOARD OF INDUSTRY

REGULATORY FRAMEWORK FOR UTILITY SERVICES IN GUERNSEY

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

24th August, 2001.

Dear Sir,

1. REGULATORY FRAMEWORK FOR UTILITY SERVICES IN GUERNSEY

- 1.1 On 26th January 2000 (Billet d'État No. II, 2000), the States of Guernsey resolved to direct the Board of Industry to prepare a new regulatory framework for the public utility sectors. Since then all of the relevant primary legislation has been approved by the States, received Royal Assent on 18th July 2001, and was lodged at the Royal Court on 8th August 2001. Other legislation related to the incorporation of the states trading companies has also been approved and lodged in the Royal Court and this is addressed by the Advisory and Finance Committee in a separate policy letter.
- 1.2 Now that the Laws have been approved, the Board of Industry is bringing to the States:
 - a number of pieces of secondary legislation and related resolutions to give effect to the approved laws; and
 - a number of recommendations as to policy directions to the Regulator to complete the regulatory framework.
- 1.3 The body of this policy letter sets out these matters in more detail. All of these decisions are building on the firm foundation the States has already put in place with the approval of legislation in this field to date, enabling the development of a regulatory environment in parallel with the commercialisation of the three utilities of post, electricity and telecommunications.

2. SECONDARY LEGISLATION AND RESOLUTIONS

- 2.1 The primary legislation that has now been approved includes:
 - The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (Billet d'État No I, 2001) ("the Regulation Law");
 - The Telecommunications (Bailiwick of Guernsey) Law, 2001 (Billet d'État No. VI, 2001) ("the Telecoms Law");
 - the Post Office (Bailiwick of Guernsey) Law, 2001 (Billet d'État No. VI, 2001) ("the Post Office Law"); and
 - the Electricity (Guernsey) Law, 2001 (Billet d'État No. XII, 2001) ("the Electricity Law").

- 2.2 In the Brochure accompanying this Billet, there are a number of pieces of secondary legislation which the States is invited to approve in order to commence the primary legislation and give effect to the new regulatory regime. Before describing the purposes of the various pieces of legislation, it is necessary to comment on a last minute development affecting the timetable for the commercialisation of Guernsey Electricity.

Commercialisation of Guernsey Electricity

- 2.3 This report has been prepared in accordance with a timetable which provided for the commercialisation of the three utilities on 1st October 2001. Having finalised its report, the Board was advised by the Advisory and Finance Committee that as a result of developments at Guernsey Electricity, it would not now be possible to commercialise that Board until after 1st October. Accordingly, the proposed commencement Ordinance in respect of the Electricity Guernsey Law, 2001 has been withdrawn for the time being. The reasons for the change of timetable in respect of Electricity are set out in the letter from the Advisory and Finance Committee which appears in this Billet.

Notwithstanding the deferral of commercialisation at Electricity, the Board believes that it is appropriate for the States to debate the following proposals in relation to Electricity.

- The identity of the first USO electricity licensee (Section 4) and
- States directions to the Regulator for the Electricity sector (Section 5).

The Board believes that the States can approve the recommended directions to the Regulator although they cannot be implemented until a commencement Ordinance, which will result in the creation of Guernsey Electricity Limited, has been approved by the States at some point in future.

Commencement Ordinances

- 2.4 There are three commencement Ordinances in the Brochure and each one appoints 1st October as the date on which the Laws will come into effect. The first Ordinance brings the provisions of the Regulation Law into effect, meaning that the Office of the Director General of Utility Regulation will be established as a statutory entity and will be empowered to carry out the functions that the States has already resolved to assign to that Office.

The States are asked to decide whether they are of the opinion to approve the draft Ordinance of the States entitled “The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (Commencement Ordinance), 2001” and to direct that the same shall have effect as an Ordinance of the States.

- 2.5 The following two Ordinances provide for the commencement of the Telecoms and Post Office Laws. On the commencement date the existing laws in each sector will be repealed, removing the exclusive privilege that the States Trading Boards have enjoyed to date in each of the sectors and the Regulator will be empowered to issue licences in each sector. In order to provide that each of the companies has an entitlement to carry out its activities, these licences will be issued on the same date, that is 1st October 2001.

The States are asked to decide whether they are of the opinion to approve the draft Ordinance of the States entitled “The Telecommunications (Bailiwick of Guernsey) Law, 2001 (Commencement Ordinance), 2001 “ and to direct that the same shall have effect as an Ordinance of the States.

The States are asked to decide whether they are of the opinion to approve the draft Ordinance of the States entitled “The Post Office (Bailiwick of Guernsey) Law, 2001 (Commencement Ordinance), 2001 “ and to direct that the same shall have effect as an Ordinance of the States.

Limitation of Liability Ordinance

- 2.6 In accordance with section 21 of the Regulation Law, the States may make an Ordinance limiting the liability of the States and the Office of the Director General of Utility Regulation. This is a standard measure and the Ordinance in this Billet is also designed to come into effect on the same date as the commencement Ordinances, that is 1st October 2001.

The States are asked to decide whether they are of the opinion to approve the draft Ordinance of the States entitled “The Regulation of Utilities (Exclusion of Liability) Ordinance, 2001 “ and to direct that the same shall have effect as an Ordinance of the States.

Appeals Ordinance

- 2.7 Under section 14(6) of the Regulation Law the States may make an Ordinance setting out the procedures that will be followed by the Utility Appeals Tribunal, which is to be established to hear appeals against decisions of the Regulator.
- 2.8 The Ordinance will deal with the constitution of the Tribunal and will enable rules of procedure to be made by the Board of Industry addressing such matters as the ability to call witnesses and hear evidence, the requirement to publish decisions, and the costs of hearing. The appeals procedure will safeguard the rights and entitlements of interested and affected parties and is an important element in the regulatory framework. Approval of the Ordinance will allow the Board of Industry to proceed with nominating appropriately qualified individuals to the Utility Appeals Panel for the formation of an Appeals Tribunal whenever necessary.
- 2.9 The Ordinance comes into effect on 1st October 2001, the same date as the commencement and limitation of liability Ordinances. The Board of Industry has consulted with the Policy and Finance Committee of Alderney and the General Purposes and Finance Committee of Sark who have no comments on the Ordinance.

The States are asked to decide whether they are of the opinion to approve the draft Ordinance of the States entitled “The Regulation of Utilities (Utility Appeals Tribunal) Ordinance, 2001 “ and to direct that the same shall have effect as an Ordinance of the States.

Post Office Amendment Ordinance

- 2.10 The Post Office Law contains provisions in relation to the Post Office's liability in relation to packages and letters carried by the company as the universal postal service provider. These provisions are similar to those in the UK. However, the Law Officers of the Crown have advised that a minor amendment would be appropriate to provide clarity as to the intention of the condition because there is no case law to provide precedent on this matter in Guernsey, whereas there is in the UK. This amendment does not change the intended meaning of the Law. The authorities in Alderney and Sark have been made aware of this amendment.

The States are asked to decide whether they are of the opinion to approve the draft Ordinance of the States entitled "The Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2001" and to direct that the same shall have effect as an Ordinance of the States.

Appointment of the Director General of Utility Regulation

- 2.11 Section 1(2) of the Regulation Law provides that the States shall, on the recommendation of the Board of Industry, appoint the Director General. The States was advised in Billet VI of 2001 of the appointment of Ms Regina Finn as Shadow Director General of Utility Regulation. Ms Finn is an experienced regulator with several years' background in regulating telecommunications in Ireland and she has played a significant role in developing the regulatory regime in Guernsey to date. Ms Finn's resume is attached at Appendix 1 for information.

The Board recommends that the States appoint Ms Regina Finn as the Director General of Utility Regulation in accordance with section 1 (2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

- 2.12 It may be helpful at this point to remind States Members of the reasons for establishing the Office of Utility Regulation and the complex task it must undertake if the States objectives are to be fulfilled.
- i. The Office of Utility Regulation is charged with the regulation of the three utility sectors of Post, Electricity and Telecoms.
 - ii. The Laws set out the objectives and principles designed to achieve a world-class regulatory regime, comparable to those in neighbouring jurisdictions (i.e. Europe) and other comparable economies.
 - iii. Timely and successful implementation of this regime is fundamental to Guernsey being regarded as an economy with communications and power infrastructure capable of supporting the inward investment that comes with new e-business opportunities. In the absence of a well regulated global telecoms operator and appropriate competition, Guernsey's e-business strategy will not be realised.
 - iv. The steps the new Office of Utility Regulation will need to undertake to bring Guernsey up to the same level as our near neighbours, are set out in detail for each utility in Appendix 2 under the headings of:

- Licensing framework
- Cost and prices
- Quality of service
- Scarce resources and market measurement
- Interconnection and access
- Universal service obligation

3. BOARD OF INDUSTRY BUDGET FOR REGULATION AND COMPETITION

- 3.1 In keeping with other territories, the regulatory regime approved by the States and enshrined in the legislation, provides for independent funding of the Office of Utility Regulation through licence fees. The Regulator has discussed the key work items in the regulatory regime with the Board and has prepared appropriate budgets and forecasts for the normal running costs of the Office of Utility Regulation. The Regulator is in the process of contacting each of the Companies to inform them of the level and mechanism of licence fees.
- 3.2 In discussions between the Shadow Regulator, the Board and the Advisory and Finance Committee, it has been recognized that over and above the normal running costs of the office, there will arise during the first years of operation specific costs for special projects, which might be more appropriately met from General Revenue. These costs are divided into the following categories.

Specialist Consultancy Projects

- 3.3 These encompass projects that are associated with knowledge-gathering and the development of the internal systems and processes of the regulated companies. This is necessary to bring them to a level where they have appropriate information and cost management systems to provide both reliable information to the Regulator and for their own commercial planning purposes. The development of such systems and processes arise because the companies are going through a considerable transformation from state run committees to commercial entities and the projects will achieve far more than simply dealing with the Regulator's concerns and will be of wider benefit to the companies and indeed the shareholders (the States). Once the transformation has taken place and the systems set up these costs will not recur.

Advice and assistance to the States of Guernsey

- 3.4 The Board has indicated to the Regulator that from time to time it may seek her advice and those of specialists engaged by her to investigate options for extending regulation into other areas. One possibility is that at some point in the future, the Board may on behalf of the States wish to explore extending Regulation to cover other utilities or sectors such as gas and oil.
- 3.5 Furthermore the Board increasingly recognizes that there is a lack of competition policy for the Bailiwick and there is considerable scope for integrating such a policy with Regulation – again with appropriate advice.

- 3.6 It is difficult to estimate with any certainty the likely cost of such work over the next year. Where specialist consultancy projects are undertaken, this cost will depend largely on the tenders that are received for various projects as and when they arise. As far as advice and assistance to the States in developing regulation and competition policy is concerned, this will also depend on whether resources can be freed from the Office of Utility Regulation to provide this advice and the availability of staff within the Board to jointly develop and progress these matters. Nevertheless, the Board believes that it is prudent to make provision for this purpose and recommends the States to increase its budget for 2001 and its cash limits for 2002 to meet these costs.

The Board recommends that the States approve an increase in the Board of Industry budget for the year 2001 by £10,000 and to increase the cash limits for the year 2002 by £250,000 to meet the costs of this work.

4. STATES DIRECTIONS TO THE REGULATOR

- 4.1 In previous policy letters it was pointed out that the Regulator, as an independent statutory official, does not act in isolation. The States has a role in setting out the environment in which the Regulator operates, taking certain key decisions on policy issues and setting those decisions out in the form of States Directions. This mechanism is designed to ensure that the States decides on certain major matters, which have implications for the wider economic and social environment of the islands.

Scope and Nature of States Directions

- 4.2 The matters on which the States may issue Directions to the Regulator are set out in the Regulation Law and apply equally to each of the three sectors of post, electricity and telecommunications. The four key areas for States Directions are:
- the scope of universal service obligations
 - the extent and duration of any exclusive privilege that might be granted to any one operator;
 - the identity of the first licensee who will be obliged to meet the universal service obligation in each sector; and
 - any matters that arise because of international obligations
- 4.3 In issuing Directions the States must have regard to the overarching duties and obligations set out in the Regulation Law, which include the following:
- Protecting the interests of users in terms of price, quality and availability of services;
 - Ensuring that services are provided to meet the reasonable demands of the islands;
 - Ensuring that the utility sectors underpin the general social and economic prosperity of the islands;
 - Facilitating the introduction of effective and sustainable competition into the utility sectors;
 - Ensuring that services improve continuously and that new and innovative services can be introduced and
 - Taking account of environmental impact issues.

States Directions in the Telecommunications Sector

- 4.4 At its meeting on 28th March 2001 (Billet VI, 2001) the States approved States Directions to the Regulator in relation to telecommunications in the areas of universal service and the extent of competition. At that time the Board noted that there was no requirement for any States Direction in relation to international obligations in the telecoms sector and this situation has not changed.

Identity of First Licensee in the Utility Sectors

- 4.5 A further area where the States is empowered to issue States Direction is in relation to the identity of the first licensee in each of the three sectors to hold a licence containing a Universal Service Obligation.

Telecommunications

- 4.6 In the case of telecommunications, the States' telecoms policy is focused on making the States Telecommunications Board ("Guernsey Telecoms") a dynamic enterprise holding its own in the competitive environment in its home market and elsewhere, delivering world class services to the Island. At the same time it is a key policy decision to require a universal service to be delivered to everyone in the Bailiwick and this was the subject of a previous policy letter to the States in March of this year.
- 4.7 As Guernsey Telecoms is currently the monopoly provider of services in the Islands and is also the only operator to own a telecommunications network capable of delivering the Universal Service Obligation that the States has already debated and specified in a States Direction to the Regulator, the Board of Industry considers that it would be consistent with States Policy and with the principles set out in section 2 of the Regulation Law, to direct the Regulator to issue the first licence with a universal service obligation to Guernsey Telecoms.
- 4.8 Members will see that the policy letter submitted by the Advisory and Finance Committee in this Billet recommends the transformation of Guernsey Telecoms into a States Trading Company called Guernsey Telecoms Limited from 1st October 2001. Furthermore, the commencement Ordinances in this Billet commence the various regulatory laws on 1st October 2001, giving the Regulator the power to issue licences from that date. Therefore the Board recommends that the States direct the Regulator to issue the first licence in the telecommunications sector containing a Universal Service Obligation, to Guernsey Telecoms Limited.

The Board, after consultation with the Shadow Regulator, recommends the States to pass a Resolution giving the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

"Identity of the First USO Telecommunications Licensee

The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet."

Electricity

- 4.9 As with telecommunications, the States is empowered to issue a States Direction in relation to the identity of the first licensee in the electricity sector to hold a licence containing a Universal Service Obligation. Section 4 of this policy letter goes on to describe the existence of a Public Electricity Supply Licence, which includes a universal service obligation in electricity.
- 4.10 Because the States Electricity Board (“Guernsey Electricity”) has the Public Supply Obligation in the Public Electricity Supply Licence, and because the Board of Industry considers it is implied States policy that Guernsey Electricity remains a key player in the Guernsey electricity sector, the Board recommends that the States direct the Regulator to issue the first Public Electricity Supply Licence to Guernsey Electricity. The Board considers this is compatible with the principles set out in Section 2 of the Regulation Law.
- 4.11 While the date on which Guernsey Electricity will be transformed into a States Trading Company is uncertain, nevertheless once that company has been formed it is recommended that the States Direction to the Regulator is as set out below.

The Board, after consultation with the Shadow Regulator, recommends the States to pass a Resolution giving the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Electricity Licensee

The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.

Post

- 4.12 Finally a very similar case exists in relation to postal services and the States Post Office Board (“Guernsey Post”), and for the same reasons, the Board recommends that the States direct the Regulator to issue the first licence with a postal universal service obligation to Guernsey Post Limited, the States Trading Company being established to take over the functions of the States Post Office Board.

The Board, after consultation with the Shadow Regulator, recommends the States to pass a Resolution giving the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Postal Licensee

The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited., the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet. “

5. STATES DIRECTIONS FOR THE ELECTRICITY SECTOR

- 5.1 The Electricity Law sets out to modernise the legislative framework governing electricity activities in Guernsey. That Law recognises the need to ensure security, continuity and reliability of supply as well as ensuring that consumers receive electricity supplies that are of the highest possible standards at the best possible prices. At the same time the States has resolved to commercialise Guernsey Electricity and this has been addressed in various previous policy letters from the Advisory and Finance Committee. All of these changes are happening against a backdrop of a changing global environment for energy provision.

Universal Service Obligation

- 5.2 A policy letter to the States meeting in March 2001 (Billet VI, 2001) described in some detail the meaning of “universal service obligation” in the telecommunications market where the phrase refers to the requirement to ensure that anyone living in the jurisdiction is entitled to receive a certain level and quality of telecommunications services. In electricity markets the parallel concept is the entitlement to receive a connection to the electricity network and a supply of electricity. The term commonly used to describe this in the electricity sector is “Public Supply Obligation”.
- 5.3 In the case of electricity, the primary legislation approved by the States provides for a specific licence type called a “Public Electricity Supply Licence”. The Law goes on to impose a series of entitlements and obligations on any Public Electricity Supply Licensee which are designed to meet the objective of ensuring that there is a universal capability for connection to and supply from the electricity network. These include:
- the obligation on all public supply licensees to supply electricity on request except in limited circumstances, for example where an alternative supplier is servicing the premises or where there is a danger to health or safety;
 - provision for the prices that public supply licensees charge to be approved by the Regulator; and
 - a requirement that the licensee is non-discriminatory in the charges it levies and the services it supplies.
- 5.4 The Board of Industry believes that these provisions provide adequate clarity as to the States’ intentions in relation to the entitlement of all people in Guernsey to a uniform electricity supply and the States should not at this time make any further States Directions in relation to the Public Supply Obligation. If this position changes in the future then the Board will bring a further policy letter to the States with a recommendation.

The Board makes no recommendation to the States to pass a Resolution giving a direction to the Director General in relation to Public Supply Obligation in the electricity sector for the time being.

6. THE EXTENT OF COMPETITION IN THE ELECTRICITY SECTOR

- 6.1 The second area where the States may issue Directions to the Regulator is in relation to the extent and nature of competition in the electricity market in Guernsey. This can be done by directing what, if any, exclusive privilege should be granted in the market and for how long.

6.2 The framework adopted to date as set out in the Electricity Law approved by the States describes the following three distinct activities and provides for licensing of each of those activities separately:

- **Generation**, which includes the construction and operation of generating stations;
- **Conveyance**, which includes the operation of the high voltage electricity network and the transmission of electricity from the generating station or other source of supply across an electricity network to the equipment of the supply licensee; and
- **Supply**, which includes the operation of the low voltage network, connection to the high voltage network, the provision of meters and final supply of electricity to users.

6.3 This structure reflects the way in which electricity markets have developed in neighbouring jurisdictions, particularly in the UK and the rest of Europe. The law does not go as far as the latest developments in these markets, where definitions have been amended further in the context of introducing more competition.

The Board believes this incremental and proven approach is the most appropriate given the small size of the Guernsey electricity market, the strategic importance of a reliable, secure supply of power, and the lack of clarity as to the impact on the electricity market of full competition. Within this framework, the Board has considered each of the segments of the market and sets out below its recommendations in relation to exclusivity in each of those segments.

Competition in Conveyance

6.4 The conveyance business includes the establishment, maintenance and running of the high voltage electricity network and represents the core function of traditional electricity undertakings. This has traditionally been run as a monopoly business and, given the high cost of investment required to build and run a network, it is considered likely to remain a monopoly, even where the potential for competition is introduced¹. Therefore other jurisdictions are concentrating on opening up the generation and supply markets while maintaining the monopoly on conveyance activities. There is currently no reason to believe that the network business in Guernsey has characteristics any different from those of other jurisdictions.

6.5 The Board considers that there is no compelling reason to open the Guernsey conveyance market to competition at this time, particularly given the tendency for this activity to remain a monopoly one in other nearby jurisdictions. Therefore the Board considers that there is a good case for maintaining a single conveyance licensee in the medium term.

The Board, after consultation with the Shadow Regulator, recommends the States to pass a Resolution giving a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.

¹ “In this context, access to the network is a key issue, in particular taking into account that it is likely to remain a natural monopoly. In fact, it will in most cases not be economic to duplicate the existing networks that, therefore, constitute essential infrastructure.” – **Completing the Internal Energy Market; Communication from the Commission to the Council and the European Parliament. Comm(2001) 125 Final.**

- 6.6 The Board of Industry will revert to the States with another policy letter in relation to the conveyance of electricity when the 10-year period of exclusivity is drawing to a close. However, the Board also recommends that the States' direction should allow the Director General to request the Board to revert to the States if she considers that international or local market changes have taken place that warrant an amendment of the Direction and the States may consider issuing a new Direction if necessary.

Competition in Generation

- 6.7 Generation, import and export of electricity are the first areas of electricity markets to be opened up to competition internationally as there are no significant barriers to the establishment and operation of generation facilities. The benefits of this in other jurisdictions have included cheaper prices, more efficient production and diversity of sources of electricity. It is clear that as electricity networks become more comprehensively interconnected, generating companies will be able to produce electricity at any interconnected location and sell on to suppliers or customers over those electricity networks. When location is irrelevant, all suppliers who have access to the interconnected networks can benefit from competition between generating companies and purchase electricity at the most efficient and economic price, with these benefits being passed on ultimately to consumers. Similarly, generation companies benefit by being able to sell the power they produce on the wider market.
- 6.8 While this fully competitive model has not been achieved, Guernsey already has access to alternative sources of electricity at potentially competitive prices via the cable to France. It is clearly an advantage to Guernsey to have diversity of supply and the potential for competitively priced energy sources, particularly as power needs increase over time and e-business moves to the Island and new data parks come on stream.
- 6.9 Another possible source of electricity could be other generation facilities such as CHP (combined heat and power) plant on the Island, waste-to-energy production and solar, wind, wave or other renewable sources. Whilst the impact of such sources cannot be immediately quantified, the Board believes that this market should be opened up to allow such alternative sources to be developed. The Board also believes that these sources will be complementary to the existing generation facility on the Island.
- 6.10 The Board of Administration has written to the Board of Industry in the following terms:

“Waste to energy presents the possibility of another on-Island generation facility the size of which can already be approximated. In June 1998 (Billet d'État XII) the States agreed in principle to the installation of a waste to energy plant and to direct the Board of Administration to pursue the feasibility of its installation...”

“Under current European Directives and United Kingdom regulations, new waste incinerators cannot be constructed unless they generate energy as either electricity or heat (typically used for district heating systems). All current indications suggest that there is no economically viable route for the use of heat, and therefore, unless energy is to be discarded as waste heat, electricity generation should be included as an essential element of the proposed waste to energy plant. This is, in any case, in accordance with the States Resolution of June 1998”.

“Current predictions indicate that the waste to energy plant could generate some 35gWh/annum of power which is in excess of 10% of the Island’s needs. The Board of Administration has examined the capital and revenue costs associated with this electricity generation and believes that a break even price for the sale of electricity would be in the order of 1.3p/kWh over a 20-year plant life. This compares very favourably with the typical UK pool prices of 2.3-2.8p/kWh and the Electricity Board’s quoted cost of importing electricity at 2.44p/kWh”.

- 6.11 The Board is also aware of the importance of maintaining the strategic self-sufficiency of the Island by retaining the capability to generate sufficient electricity to meet the Island’s needs, in particular where there may be any question over the reliability of supply from other sources. The Board considers that the reliability and security of energy is an important matter that the States should keep under review, particularly in the light of the development of both demand and supply patterns in Guernsey. The Board does not have any reason to believe that the opening up of the generation market is likely to impinge on this policy at this time.
- 6.12 The Law provides for the regulator to consider applications for generation licences on a case-by-case basis having regard to the principles of the legislation which include the issue of reliability and sustainability of electricity supplies and to environmental implications including any possible benefits of “brown energy”. The Director General will therefore be in a position to grant such licences in accordance with the principles of the legislation where to do so would be of benefit to Guernsey.

The Board makes no recommendation to the States to pass a Resolution giving a direction to the Director General in relation to the period of exclusivity of any generation licence to be granted under the Electricity (Guernsey) Law, 2001.

Competition in Supply

- 6.13 As already stated the Electricity Law provides for the issuing of Public Supply Licenses, which place an obligation on the licensee to connect and supply any premises on Guernsey on request. Given that Guernsey Electricity already has plant and a network in place, it should be in a position to meet current and immediate future demand (where this is not a significant increased load requirement) at a marginal cost.
- 6.14 If another party wished to apply for a public supply licence, it would have to put in place a significant amount of equipment and plant to provide such supply and it would be subject to the same obligation to provide supply on request to all parties. This is clearly a significant capital commitment and it seems unlikely that anyone would seek to do so. However, if an applicant could provide supply more economically and cheaper than Guernsey Electricity, the Regulator should consider applications on a case by case basis.
- 6.15 On the other hand certain parties may be interested in building supply facilities and supplying electricity to specific premises, particularly industrial premises. In this they would compete directly with the public supply licensee. This is an area of the market which has the potential to be opened up to competition. Throughout Europe the markets for supply have been opened up gradually with larger customers being the first to be able to purchase electricity directly from alternative suppliers. The approach has been to set targets for the

opening of the market and the most recent proposals from the European Commission propose the opening up of the electricity market for commercial customers by 2003 and the opening up of the domestic market by 2005.

- 6.16 These proposals place considerable emphasis on the need to develop regulation of the market so as to ensure that sustainability and reliability of supply of electricity is maintained.
- 6.17 The Board notes the benefits that this type of competition has been shown to bring to other markets. It also notes the need to ensure the sustainability and strategic reliability of supply to the European market in general and the Guernsey market in particular.

The Board, after consultation with the Shadow Regulator, recommends the States to pass a Resolution giving a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year. The Board also recommends the States to request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the Board of Industry on the introduction of such competition.

- 6.18 The Board will then revert to the States with a recommended policy direction on the removal of the exclusive privilege in this sector of the market.

7. STATES DIRECTIONS FOR THE POSTAL SECTOR

States Directions for the Postal Sector

- 7.1 Postal services continue to be of significant importance to the people of Guernsey notwithstanding the development of alternative means of communication such as fax and email. The Postal (Bailiwick of Guernsey) Law, 2001 sets out to provide an updated modern framework within which a vibrant and competitive postal sector can develop in Guernsey to deliver efficient, high quality and good value services to customers. The Law is being introduced at a time when there are many changes happening throughout the international postal sector, and in particular in the UK and the rest of Europe, our most significant neighbours.

Universal Postal Service Obligation

- 7.2 As with the other utility sectors, a central objective in the new regime is the desire to ensure that all consumers in the Bailiwick continue to receive a minimum level of services of a defined quality, independent of geographical location, at an affordable price – the “universal service”. A means of ensuring that this service will be delivered is to require at least one licensee to deliver it throughout the Bailiwick. The Law provides for this approach.

- 7.3 The Laws also provide that the States may issue directions to the Regulator specifying the scope of universal service in each sector and this section sets out the Board of Industry's recommendation as to what that should be as regards post. In developing its recommendation the Board has sought to take into account:
- the needs of the residents (domestic and commercial) of the Bailiwick,
 - the desire to foster a strong and sustainable postal sector in the Bailiwick,
 - the advice of the Shadow Regulator, international practice, particularly in Europe, and the principles set out in the Regulation Law.
- 7.4 As with its recommendations in relation to telecommunications, the Board believes that the residents of the Bailiwick should receive at least as good a service as residents in other western developed societies. This implies that at a minimum, the universal service that a licensee should be obliged to provide should meet the current European definition (see appendix 3 for a copy of the relevant extract from the EU directive), which is reflected in the comparable UK legislation. In summary this includes:
- One collection from "access points" (post boxes etc) each working day (with a minimum of five days per week);
 - One delivery of mail to all residences on each working day (with a minimum of five days per week);
 - Deliveries and collections to cover all items up to a weight of 10Kg, with the option for countries to extend this to 20Kg; and
 - Services for registered and insured mail.
- 7.5 The number of access points, including post offices, sub post offices, post boxes, etc, required to meet this obligation are left to be defined in detail by the regulators within each country.
- 7.6 However, this level of service is indeed a "minimum" and in some European countries it is exceeded². The current informal level of universal service in the Bailiwick also exceeds this minimum requirement. In particular, deliveries and collections take place on Saturdays in the Bailiwick whereas the European definition only provides for delivery and collection on five working days each week. The States has the option of imposing a universal service that includes or excludes Saturday deliveries and collections. It should be noted that the failure to include the extra obligation in the USO does not necessarily mean that service will be ceased by Guernsey Post.
- 7.7 Given the expectations of customers in the Bailiwick and the current practice of deliveries and collections six days per week, the Board recommends that the universal service be set in the first instance at a six day per week delivery and collection of letters and parcels up to 20 kg.

² "A major difference between Member States concerns Saturday delivery. Saturday delivery of all mail forms part of the USO in France, Germany, Italy, the Netherlands, and the UK, while Saturday delivery of letters (but not parcels) forms part of the USO in Denmark. In Austria, Belgium and Luxembourg, the postal administration is required to deliver newspapers but not other mail, on Saturdays. There are no Saturday deliveries in Finland, Greece, Ireland, Portugal, Spain and Sweden." **Costing and Financing of Universal Service Obligations in the Postal Sector in the European Union, Final Report for ECDGXIII, Prepared by NERA, November 1998**

The Board, after consultation with the Shadow Regulator, therefore recommends the States to pass a Resolution giving the following direction to the Director General in accordance with section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

Universal Service in Post

The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:

- *One collection from access points on six days each week;*
- *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;*
- *Collections shall be for all postal items up to a weight of 20Kg;*
- *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;*
- *Services for registered and insured mail.*

In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.

“access point “ shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.

- 7.8 The reference to ‘circumstances or geographical conditions’ is a standard phrase used in Postal Universal Service definitions throughout Europe. In the Bailiwick context it is being included to allow for circumstances that occur from time to time when daily deliveries to all of the Islands may be disrupted by adverse weather, e.g. sea conditions which close the ports, or fog, which closes airports, or exceptionally snow, which may mean on-island deliveries are cancelled. In these circumstances the failure would not represent a breach of the USO. Furthermore, the reference to ‘circumstances or geographical conditions’ allows the Regulator to recognize the impact of such limitations as the fact that during certain times over the winter scheduled boat services to Sark do not run every day.

Extent of Competition in the Postal Sector

- 7.9 Having set out a minimum universal service, there is then a question of how the cost of that service should be funded. The international debate on this matter has been similar to that in the telecommunications market and the two principal options are:

- A universal service fund which may be made up of contributions from all operators competing in the relevant market and is then paid to the universal service provider, or
- The creation of a “reserve” area of the market in which the universal service provider has an exclusive right to provide services so that the revenues from this monopoly can fund the cost of universal service.

- 7.10 Most jurisdictions have opted for the latter option as it is simpler to put in place, particularly in a short time scale and given the difficulties of costing the universal postal service. The Board of Industry recommends that the States of Guernsey also take this approach. This is provided for in the Postal Law and the licensing regime.
- 7.11 The key decision for the States in deciding on a Direction to the Regulator is how large or small the monopoly should be and for how long it should last. In order to maximize the benefits to users and introduce competition wherever feasible, the monopoly should be set only at the level that is needed to fund the universal service obligation.
- 7.12 There are a number of matters that need to be considered before a final decision can be made on the size of the reserve sector, in particular:
- Information on volumes of postal traffic, prices, revenues and costs;
 - Guernsey Post's relationship with the UK postal services and any changes to that relationship that might take place given the recent changes in the UK postal sector, and
 - Developments in Jersey as to postal services and regulation.
- 7.13 The Board is concerned to balance the need to ensure the maintenance of the universal service with the potential benefits to the Island of competitive provision of services. It is also important that Guernsey keeps abreast of developments elsewhere and is not seen to be restrictive or unnecessarily slow in developing the postal sector, as this would not enhance the image of Guernsey as a vibrant place to do business. Therefore the Board recommends that the States issue a Direction to the Regulator at this time to set the reserve sector at a level that is sufficient to ensure that the universal postal service is met and to review the reserve area from time to time and make amendments to bring about the gradual opening of the postal market consistent with that aim.

The Board, after consultation with the Shadow Regulator, recommends the States

- (a) to pass a Resolution giving a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure the maintenance of the universal postal service specified by States' directions under section 3(1)(c) of that Law; and***
- (b) to request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.***

8. RECOMMENDATIONS

8.1 The Board therefore recommends the States to:

- (a) approve the secondary legislation described in section 2 of this letter.
- (b) appoint Ms Regina Finn as the Director General of Utility Regulation in accordance with section 1(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.
- (c) give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Telecommunications Licensee

The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.”

- (d) give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Electricity Licensee

The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.

- (e) give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Postal Licensee

The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited., the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.”

- (f) give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.
- (g) give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year.
- (h) request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the Board of Industry on the introduction of such competition.

- (i) give the following direction to the Director General in accordance with section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

Universal Service in Post

The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional.

- *One collection from access points on six days each week;*
- *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;*
- *Collections shall be for all postal items up to a weight of 20Kg;*
- *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg,*
- *Services for registered and insured mail.*

In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.

“access point” shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.

- (j) give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure the maintenance of the universal postal service specified by States’ directions under section 3(1)(c) of that Law;
- (k) request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.
- (1) Approve an increase in the Board of Industry budget for the year 2001 by £10,000 and to increase the cash limits for the year 2002 by £250,000 to meet the cost of specialist consultancy projects and advice and assistance to the States as described in Section 3 of this report.

I would be grateful if you would be good enough to lay this matter before the States with appropriate propositions.

Yours faithfully

JOHN ROPER

President

States Board of Industry

Ms Regina Finn: Resume

Ms Regina Finn has been working as Shadow Director General of Utility Regulation in Guernsey since November 2000 to establish a legal framework for regulation and an independent regulatory regime for the three sectors of telecoms, post and electricity.

Prior to this, Ms Finn spent four years with the Office of the Director of Telecommunications Regulation (ODTR) in Ireland, where she was Deputy Director and Head of Market Operations. The ODTR is the Irish Regulatory Agency for Telecommunications and Post. During that time she was responsible for all aspects of telecommunications regulation from licensing to interconnection and access (including local loop unbundling), from dispute resolution to price capping and cost orientation. In particular she saw through the rapid liberalisation of the Irish market including the development of new licensing regimes and frameworks and was vice-chair of the team that awarded Ireland's second mobile licence.

Before that she spent two years with the Department of Public Enterprise developing the initial legislative framework for the new, independent ODTR and preparing for the establishment of the Office, having already spent two years working on broadcasting and radio regulation. She started her career in the Irish civil service where she worked in various positions including information systems and health promotion.

REGULATORY REGIME DEVELOPMENT PROGRAMME

Telecommunications

Given the proposals to seek a strategic partner for Guernsey Telecom, there is particular time pressure on the development of the regulatory regime for telecommunications and so it must be given the highest priority of the three sectors having regard to limited resources. The following provides a high level indication of the range of issues that have been addressed in other jurisdictions and which must be considered swiftly and effectively in Guernsey.

Licensing Framework

- Incumbent Operator
 - Develop licence conditions for the incumbent telecommunications operator
- New Entrants
 - Develop licensing principles and procedures for new entrants into the market including application processes, guidelines, and assessment procedures
 - Develop licence conditions for each category of new entrant into the market.
 - Assess applications and issue licences.
- New Technologies
 - Develop processes and procedures for licensing alternative technology telecommunications operations, e.g. Fixed Wireless Access (FWA) (also known as Wireless in the Local Loop or WLL), third generation mobile telephony (3G), competing second generation mobile telephony operators, Mobile Virtual Network Operators (MVNO's), satellite operations (VSATs), trunked radio systems (TETRA), etc.
 - Consider the benefits to Guernsey of more advanced new technologies (e.g. Bluetooth, High Altitude Platforms (HAPs), etc) and if appropriate develop licensing and authorisation regimes.
 - Run application processes for alternative and new technology licences, assess applications and issue licences.
- Develop secondary legislation for the sector including exemption orders so as to reduce the requirement for licensing and regulation where appropriate;

Costs and Prices

- Carry out a full cost-accounting review of all GT costs to inform decisions on pricing matters ranging from interconnection, access to local loops, retail pricing, USO, etc.;
- Develop appropriate costing conventions and methodologies to provide a basis for decision making on costs going forward, including a consideration of various costing methodologies, e.g. Fully Allocated Costing (FAC), Current Cost Accounting (CCA), Long Run Incremental Costing (LRIC) and Forward Looking Long Run Incremental Costing (FL-LRIC);
- Develop a retail price control mechanism, including consideration of alternative methods, e.g. Rate of Return (RoR), Consumer Price Index (CPI-X), profit sharing etc.

Quality of Service

- Develop customer-focussed licence conditions, reviewing compliance, reviewing service levels and commitments to customers including Service Level Agreements (SLAs) with operators and customers;
- Develop a measurement programme to protect consumers' interest and consumer complaints framework;

Put in place an industry complaints process;

Scarce Resources and Market Measurement

- Economic measurement of competition in the market to determine where regulatory intervention can be withdrawn due to the existence of effective competition.
- Carry out a spectrum review to develop spectrum policy (in co-operation with the Radiocommunications Agency), channel plan and allocation mechanisms including co-ordination with UK, France and Jersey so as to maximise the benefits to the Bailiwick of the availability of spectrum;
- Review the existing use of telephony numbering in the light of the introduction of competition into the market and put in place an appropriate numbering plan, allocation procedures, application process etc.

Interconnection and Access

Develop an interconnection and access regime including reviewing and consulting on a Reference Offer from the incumbent operator. This includes consideration of technical and operational issues such as circuit provisioning, customer sited and in-span interconnect (CSI/ISI), technical interface, co-location of equipment and circuits, call origination and call termination services and charges, unbundling of services, procedures for the introduction of new services etc., as well as the costing of all relevant services.

Universal Service Obligation ("USO")

Ensure the USO is delivered to all people in the Bailiwick including reviewing the cost and funding of USO, keeping the scope of USO under review and advising the States of any changes that might be needed.

Electricity

While the same time pressures do not exist for electricity, it is still important to ensure that the electricity market develops in line with telecoms so that the power requirements underpinning the telecoms activities of the island are met. This is in addition to the need to ensure fair play in the market and the best services possible for consumers and safeguard the viability and sustainability of Guernsey's electricity sector.

Licensing

- Develop licence conditions for the incumbent operator for
 - Generation
 - Conveyance
 - Supply
- Develop licensing principles and procedures for new entrants into the market including application processes, guidelines, and assessment procedures;
- Develop licence conditions for each category of new entrant into the market.
- Assess applications and issue licences;
- Develop secondary legislation for the sector including exemption orders so as to reduce the requirement for licensing and regulation where appropriate;

Costs and Prices

- Carry out a full cost-accounting review of all Guernsey Electricity costs to inform decisions on pricing matters ranging from costs of public service obligation, costs for interconnection with/use of the network, retail prices, etc.;
- Ensure separation of GE accounts for three business activities (generation, conveyance and supply);
- Develop appropriate costing conventions and methodologies to provide a basis for decision making on costs going forward, including a consideration of various costing methodologies.
- Develop a retail price control mechanism, including consideration of alternative methods, e.g. Rate of Return (RoR), Consumer Price Index (CPI-X), profit sharing etc.

Quality of Service

- Develop customer-focussed licence conditions, reviewing compliance, reviewing service levels and commitments to customers including Service Level Agreements (SLAs) with operators and customers; development of a measurement programme to protect consumers' interest and consumer complaints framework;
- Put in place an industry complaints process;
- Develop technical codes to ensure quality of service

Scarce Resources and Market Measurement

- Economic measurement of competition in the market to determine where regulatory intervention can be withdrawn due to the existence of effective competition.
- Consider States environmental policy and review of regulatory framework and develop of recommendations

Interconnection with, and Access, to the Network

- Develop a regime for technical and commercial terms of connection to the conveyance grid including a Grid Code, technical codes and standards for connection, etc.

Develop trading terms and conditions including a merit order system, commercial terms etc.

Postal**Licensing**

- Develop licence conditions for the incumbent operator
- Develop secondary legislation for the sector including exemption orders so as to reduce the requirement for licensing and regulation where appropriate;

Quality of Service

Develop customer-focussed licence conditions, reviewing compliance, reviewing service levels and commitments to customers including Service Level Agreements (SLAs) with operators and customers; development of a measurement programme to protect consumers' interest and consumer complaints framework;

Costs and Prices

- Carry out a full cost-accounting review of Guernsey Post to inform decisions on pricing matters ranging from costs of universal service obligation, costs for access to/use of the network, retail prices, etc.;
- Ensure separation of accounts for the reserved (monopoly) area and the non-reserved area;
- Develop appropriate costing conventions and methodologies to provide a basis for decision making on costs going forward, including a consideration of various costing methodologies.
- Develop a retail price control mechanism.

Universal Service Obligation and Reserve Area

Determine the size of the reserve area needed to meet the Universal Postal service and keep under review.

Appendix 3

Extract from Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service
Official Journal L 015, 21/01/1998 p. 0014 – 0025

CHAPTER 2**Universal service****Article 3**

1. Member States shall ensure that users enjoy the right to a universal service involving the permanent provision of a postal service of specified quality at all points in their territory at affordable prices for all users.

2. To this end, Member States shall take steps to ensure that the density of the points of contact and of the access points takes account of the needs of users.

3. They shall take steps to ensure that the universal service provider(s) guarantee(s) every working day and not less than five days a week, save in circumstances or geographical conditions deemed exceptional by the national regulatory authorities, as a minimum:

- one clearance,
- one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations.

Any exception or derogation granted by a national regulatory authority in accordance with this paragraph must be communicated to the Commission and to all national regulatory authorities.

4. Each Member State shall adopt the measures necessary to ensure that the universal service includes the following minimum facilities:

- the clearance, sorting, transport and distribution of postal items up to two kilograms,
- the clearance, sorting, transport and distribution of postal packages up to 10 kilograms,
- services for registered items and insured items.

5. The national regulatory authorities may increase the weight limit of universal service coverage for postal packages to any weight not exceeding 20 kilograms and may lay down special arrangements for the door-to-door delivery of such packages.

Notwithstanding the weight limit of universal service coverage for postal packages established by a given Member State, Member States shall ensure that postal packages received from other Member States and weighing up to 20 kilograms are delivered within their territories.

6. The minimum and maximum dimensions for the postal items in question shall be those laid down in the Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union.

7. The universal service as defined in this Article shall cover both national and cross-border services.

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

30th August, 2001.

Dear Sir,

I refer to the Policy Letter dated 24 August 2001 addressed to you by the President of the Board of Industry on the subject of the Regulatory Framework for Utility Services in Guernsey.

The Advisory and Finance Committee supports the proposals from the Board of Industry for the detailed implementation of the regulatory regime. The Committee considers that effective regulation is essential to drive the undoubted efficiencies achievable from commercialisation and to ensure that the finances and activities of the States Trading Companies are transparent.

The Committee and the Board also consider that regulation must not only be effective but also deliver value for money and both bodies will carefully monitor those costs to ensure that this is the case. The accounts of the Office of Utility Regulation will be independently audited and published and be open to scrutiny by any interested party.

It is to be expected that during the setting up and initial years of the regulatory regime, costs will be higher than the ongoing costs in the medium to long term. The States agreed that the Advisory and Finance Committee should fund the shadow regulation period when considerable research has had to be undertaken. The proposals from the Board of Industry make some allowance for further support from general revenue during the initial period of regulation.

Based on information provided by the Board, the direct costs of regulation recovered from licence fees in the initial year of regulation represents less than 1% of the current turnover of the Trading Boards. If not immediately, then within a relatively short time the efficiencies gained from commercialisation should more than cover these fees. Any additional costs related to producing detailed and transparent financial information should not be considered as being a cost of regulation but as being an essential pre-requisite to the efficient management of the commercialised undertakings the core activities of which will be the provision of monopoly services.

The Committee does not believe that the costs of regulation should result in significant increases in charges to customers. In fact the Committee firmly believes that effective regulation within the commercialisation framework will drive efficiencies that will result in lower charges to customers than would be the case with no, or with ineffective, regulation.

The Advisory and Finance Committee recommends the States to approve the proposals.

Yours faithfully,

R C BERRY

Member
Advisory and Finance Committee

The States are asked to decide:—

XIII.— Whether, after consideration of the Report dated the 24th August, 2001, of the States Board of Industry, they are of opinion:—

1. To approve the draft Ordinance entitled “The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
2. To approve the draft Ordinance entitled “The Telecommunications (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
3. To approve the draft Ordinance entitled “The Post Office (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
4. To approve the draft Ordinance entitled “The Regulation of Utilities (Exclusion of Liability) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
5. To approve the draft Ordinance entitled “The Regulation of Utilities (Utility Appeals Tribunal) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
6. To approve the draft Ordinance entitled “The Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2001”, and to direct that the same shall have effect as an Ordinance of the States.
7. To appoint Ms Regina Finn as the Director General of Utility Regulation in accordance with section 1(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.
8. To give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Telecommunications Licensee

The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.”.

9. To give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Electricity Licensee

The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.”.

10. To give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Identity of the First USO Postal Licensee

The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited, the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.”.

11. To give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.
12. To give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year.
13. To request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the States Board of Industry on the introduction of such competition.
14. To give the following direction to the Director General in accordance with section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

“Universal Service in Post

The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:

- * *One collection from access points on six days each week;*
- * *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;*
- * *Collections shall be for all postal items up to a weight of 20Kg;*
- * *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;*
- * *Services for registered and insured mail.*

In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.

“access point” shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.”

15. To give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post

Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure maintenance of the universal postal service specified by States' directions under section 3(1)(c) of that Law.

16. To request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.
17. To approve an increase in the States Board of Industry budget for the year 2001 by £10,000 and to increase the cash limits for the year 2002 by £250,000 to meet the cost of specialist consultancy projects and advice and assistance to the States as described in section 3 of that Report.

DE V. G. CAREY
Bailiff and President of the States

The Royal Court House,
Guernsey.
The 7th September, 2001.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 26TH DAY OF SEPTEMBER, 2001

The States resolved as follows concerning Billet d'Etat No. XVIII
dated 7th September, 2001

PROJET DE LOI
entitled
THE INCOME TAX (PENSION AMENDMENTS) (GUERNSEY)
LAW, 2001

- I.
 1. To approve the Projet de Loi entitled "The Income Tax (Pension Amendments) (Guernsey) Law, 2001", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.
 2. Considering it expedient in the public interest so to do, to declare, pursuant to section 1 of the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992, that the said Projet de Loi shall have effect on and after the 1st January, 2002 as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

THE INCOME TAX (EXEMPTION OF BENEFITS)
(AMENDMENT) ORDINANCE, 2001

- II. To approve the draft Ordinance entitled "The Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

PROJET DE LOI
entitled
THE RUE MARGUERITE (CLOSURE) (GUERNSEY) LAW, 2001

- III. To approve the Projet de Loi entitled "The Rue Marguerite (Closure) (Guernsey) Law, 2001", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI
entitled
THE TAXES, DUTIES AND IMPÔTS (DOMESTICALLY-PRODUCED
GOODS) (GUERNSEY) LAW, 2001

- IV. To approve the Projet de Loi entitled "The Taxes, Duties and Impôts (Domestically-produced Goods) (Guernsey) Law, 2001", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE MARKETS (MISCELLANEOUS PROVISIONS)
(REPEAL) ORDINANCE, 2001**

- V. To approve the draft Ordinance entitled "The Markets (Miscellaneous Provisions) (Repeal) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

**THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION)
(AMENDMENT) ORDINANCE, 2001**

- VI. To approve the draft Ordinance entitled "The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

**THE BOVINE SEMEN, ARTIFICIAL INSEMINATION AND EMBRYO
TRANSPLANTATION (AMENDMENT) ORDINANCE 2001**

- VII. To approve the draft Ordinance entitled "The Bovine Semen, Artificial Insemination and Embryo Transplantation (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

THE AGRICULTURAL CENSUS (AMENDMENT) ORDINANCE, 2001

- VIII. To approve the draft Ordinance entitled "The Agricultural Census (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

**THE STATES AGRICULTURAL AND MILK MARKETING BOARD
(TRANSFER OF FUNCTIONS) ORDINANCE, 2001**

- IX. To approve the draft Ordinance entitled "The States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

**PROJET DE LOI
entitled**

**THE STATES COMMITTEE FOR AGRICULTURE AND
STATES DAIRY COMMITTEE
(TRANSFER OF FUNCTIONS) (REPEAL) (GUERNSEY) LAW, 2001**

- X. To approve the Projet de Loi entitled "The States Committee for Agriculture and States Dairy Committee (Transfer of Functions) (Repeal) (Guernsey) Law, 2001", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE PUBLIC TRANSPORT (AMENDMENT) (NO. 2)
ORDINANCE, 2001**

- XI. To approve the draft Ordinance entitled "The Public Transport (Amendment) (No. 2) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

STATES ADVISORY AND FINANCE COMMITTEE

THE FUTURE PROVISION OF TELECOMS AND POSTAL SERVICES

XII. After consideration of the Report dated the 24th August, 2001, of the States Advisory and Finance Committee:-

1. To approve the draft Ordinance entitled "The States Trading Companies (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
2. To approve, subject to the following Amendments, the draft Ordinance entitled "The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

Amendments

- "1. In section 10(1) of the draft Ordinance, appearing on page 42 of the Brochure to the Billet d'État, after the words "column 2 of Schedule 2 are," insert "on the appointed day,".
2. In section 16(1) of the draft Ordinance, appearing on page 54 of the Brochure to the Billet d'État, for the definition of "appointed day" substitute the following definition-

"appointed day", in Part IV of this Ordinance, means -

- (a) in relation to Guernsey Post Limited and Guernsey Telecoms Limited, the date of commencement of this Ordinance;
 - (b) in relation to Guernsey Electricity Limited, the date appointed by resolution of the States;
 - (c) in relation to a States trading company in respect of which an entry is added to column 1 of Schedule 2 after the date of commencement of this Ordinance, the date on which that entry comes into force;"
3. For section 20 of the draft Ordinance, appearing on page 59 of the Brochure to the Billet d'État, substitute the following section -

Commencement.

20. (1) This Ordinance shall, subject to the provisions of subsection come into force on the 1st October, 2001.

(2) Section 3 of this Ordinance shall, in relation to Guernsey Electricity Limited, come into force on the date appointed by resolution of the States."

3. That in respect of those properties which are to be transferred to the States Trading Companies on a leasehold basis, leases shall be granted on the terms set out in the Heads of Agreement shown in Annex 3(A and B) to that Report provided that the leases shall be completed in terms approved by the States Board of Administration, the States Advisory and Finance Committee and the Law Officers.
4. To approve the transfer of assets, as set out in that Report into:
 - (a) Guernsey Post Limited; and
 - (b) Guernsey Telecoms Limited.
5. That, under the provisions of section 17 of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, the States Advisory and Finance Committee shall be delegated with authority to transfer or otherwise dispose of shares in Guernsey Telecoms Limited.
6. To appoint the following persons as non-executive directors of the Boards of:
 - (a) Guernsey Post Limited
 - Advocate R. A. Perrot
 - Mr. D. T. Roberts
 - Mr. E. Smith
 - Mr. C. P. Spencer
 - Mr. D. Warr;
 - (b) Guernsey Telecoms Limited
 - Mr. P. J. Bachmann
 - Advocate M. G. Ferbrache
 - Mr. D. R. Jehan
 - Mr. R. G. Knight.
7. To approve the draft Ordinance entitled "The Transfer of States Undertakings (Protection of Employment) (Guernsey) Law, 2001 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
8. To approve the draft Ordinance entitled "The Transfer of States Undertakings (Protection of Employment) (Post Office Board) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
9. To approve the draft Ordinance entitled "The Transfer of States Undertakings (Protection of Employment) (Electricity Board) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
10. That the States of Guernsey (Public Servants) (Pension and Other Benefits) (Amendment) Rules 2001 shall come into force on the 1st October, 2001, in respect of Guernsey Post Limited.

11. To provide an unlimited guarantee to underwrite any unforeseen detrimental effects on the Superannuation Fund of implementing the pension arrangements in respect of employees of GT Limited as described in that Report.
12. To approve the draft Ordinance entitled "The Transfer of States Undertakings (Protection of Employment) (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
13. To defer the obligations of Guernsey Telecoms Limited arising under, and the rights of any person exercisable by virtue of, section 5 of the Transfer of States Undertakings (Protection of Employment) (Guernsey) Law, 2001 until the 1st October, 2002.
14. To approve the draft Ordinance entitled "The Income Tax (States Trading Companies and Public Servants Pension Scheme) (Guernsey) Law, 2001 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
15. To approve for inclusion in the Strategic and Corporate Plan the States Guidance to the States Advisory and Finance Committee on exercising, on behalf of the States, the role of shareholder as set out in Annex 5 to that Report in respect of:
 - (a) Guernsey Post Limited; and
 - (b) Guernsey Telecoms Limited.
16. That, with effect from 23.59 hours on the 30th September, 2001, to dissolve:
 - (a) the States Post Office Board; and
 - (b) the States Telecommunications Board.
17. To add to clause a. of the mandate of the States Board of Industry the words:

"the provision of regulated postal, telecommunications and electricity services".

STATES BOARD OF INDUSTRY

REGULATORY FRAMEWORK FOR UTILITY SERVICES IN GUERNSEY

XIII. After consideration of the Report dated the 24th August, 2001, of the States Board of Industry:-

1. To approve the draft Ordinance entitled "The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

2. To approve the draft Ordinance entitled "The Telecommunications (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
3. To approve the draft Ordinance entitled "The Post Office (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
4. To approve the draft Ordinance entitled "The Regulation of Utilities (Exclusion of Liability) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
5. To approve the draft Ordinance entitled "The Regulation of Utilities (Utility Appeals Tribunal) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
6. To approve the draft Ordinance entitled "The Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.
7. To appoint Ms. Regina Finn as the Director General of Utility Regulation in accordance with section 1(2) of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.
8. To give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

"Identity of the First USO Telecommunications Licensee *The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet."*

9. To give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

"Identity of the First USO Electricity Licensee *The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board."*

10. To give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

"Identity of the First USO Postal Licensee *The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to*

Guernsey Post Limited, the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet."

11. To give a direction to the Director General in accordance with section 3(1)(b) of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.
12. To give a direction to the Director General in accordance with section 3(1)(b) of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year.
13. To request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the States Board of Industry on the introduction of such competition.
14. To give the following direction to the Director General in accordance with section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

"Universal Service in Post

The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:

- * *One collection from access points on six days each week;*
- * *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days; except in any week where there are one or more public holidays (including Christmas Day and Good Friday), in which case the number of days on which delivery must be made shall be reduced by the number of public holidays in that week."*
- * *Collections shall be for all postal items up to a weight of 20Kg;*
- * *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;*
- * *Services for registered and insured mail.*

In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.

"access point" shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.

15. To give a direction to the Director General in accordance with section 3(1)(b) of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure maintenance of the universal postal service specified by States' directions under section 3(1)(c) of that Law.
16. To request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal service market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.
17. To approve an increase in the States Board of Industry budget for the year 2001 by £10,000 and to increase the cash limits for the year 2002 by £250,000 to meet the cost of specialist consultancy projects and advice and assistance to the States as described in section 3 of that Report.

K.H. TOUGH,
HER MAJESTY'S GREFFIER.