



Telecommunications Licence Application Form and Instructions

Jersey Competition Regulatory Authority

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Completed application forms should be sent for the attention of the Executive Director at the above address.

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APPLICATION INFORMATION

1. INTRODUCTION

This document details all the information needed for applications for telecommunications licences issued by the JCRA.

There are three principal types of licence, categorised as Class I, Class II and Class III. In addition, there is a General Class licence, which will require no application whatsoever.

All applicants for a Class I, Class II or Class III licence must complete the official application form but at different levels of detail depending on the class of licence being applied for. The applications form makes clear the sections that are relevant for each application class.

The key distinction between the application requirements for Class I licences and those for Classes II and III is that all applicants for Class II or Class III licences must submit a Impact Statement ('IS'). This is not required from Class I applicants.

Class II and Class III applicants are advised that their IS ought to be completed at the earliest possible stage in the application process. No application form will be accepted unless it is accompanied by, or the JCRA has already received, a satisfactory IS. For more information on the IS, please contact the JCRA, or refer to the booklet on the Impact Assessment (ref.: 2004/IS), which is available on the JCRA website.

The JCRA encourages all potential Applicants to give the JCRA an indication of their intentions at the earliest possible stage of the application. In most cases this is likely to be during the pre-screening stage in the preparation of an IS. The JCRA hopes that by establishing a dialogue with an Applicant early on, the efficiency of the process will be enhanced. It ought to ensure that the application is properly targeted from the outset, and that it remains so during its preparation. This should benefit all concerned by reducing the likelihood of delays caused by requests for further information at the later stages.

The procedures for licence applications are designed to be easy to use, clear and light handed while at the same time ensuring that the JCRA has adequate and appropriate information on which to base decisions in relation to the applications. The information requested is the minimum necessary for the JCRA to make informed decisions on applications. There is provision for requests for further information where necessary. The failure to provide sufficient information at the outset is likely to delay the JCRA's decision on the award of a licence.

The staff of the JCRA are available, where appropriate, to offer guidance on the submission of licence applications, and to answer any queries that applicants may have on the nature and extent of the information required.

2. **DISCLAIMER**

The information contained in the ‘Application Information’ section is for the purpose of guidance of applicants only. It is not intended to and should not be construed as placing any limit whatsoever upon the exercise by the JCRA of any of its powers and duties under the provisions of the Law.

3. SCOPE AND TYPES OF LICENCES

3.1 Legal Framework for Telecommunications Licensing in Jersey

The Telecommunications (Jersey) Law 2002 ('the Law') provides for the licensing of any telecommunications system. '**Telecommunications System**' means a system for the conveyance of messages through the agency of energy. Communication systems, including those using radio-based infrastructure, are required to be licensed.

Article 5 of the Law provides for a number of **exceptions to the requirement for a licence**, in particular for telecommunications systems which are not connected to other telecommunications systems and which are either (i) on a single set of premises in single occupation or (ii) under one person's control and used solely for that person's domestic purposes or (iii) are used in the conduct of a business where messages are between employees engaged in the business and no message is conveyed by way of rendering a service to another person.

As a guiding principle, a telecommunication system will fall to be licensed if it is provided the public. However, the ultimate decision will generally be made on a case-by-case basis, as will the decision regarding the category of licence (*see below, section 3.2-3.3*) that a particular system falls under.

The procedures that the JCRA will follow in respect of issuing and consulting on licensing decisions are set out in Part 4 of the Law: 'Notice, Consultation and Appeals'. (*See below, section 4.6.*)

3.2 General Class Licence

Article 15 of the Law states: "*a licence may be granted...to persons (whether or not named in the licence) of a class that is specified in the licence*" as long as it does not contain "*a condition that designates the system to which the licence relates as a public telecommunication system*". The JCRA has issued a General Class Licence which effectively provides authorisation for a range of telecommunications systems and services that are licensable under the law but where a formal application by the operator is unnecessary and inappropriate. In such cases, there will be no need to register the system or to pay a licence fee. However, the systems must be run so as to conform to the terms of the class licence.

3.3 Licensing Structure and Regulatory Framework

The JCRA's licensing structure is based upon three classes of telecommunications licence:

(i) **Telecommunications Operator Licence - Class I**

To cover telecommunication operations which are licensable under the Law, but which have no discernable impact on a competitive market

- (ii) **Telecommunications Operator Licence - Class II**
For entities providing telecommunications systems to the public, not possessing significant market power (“SMP”)
- (iii) **Telecommunications Operator Licence – Class III**
For entities providing telecommunications systems to the public who do have SMP

Class I may include ISPs, ISVR and other systems providing telecommunication services not included in the General Class Licence. There will be no special regulatory treatment of Internet or VoIP services. Regulation will be determined according to whether the licence applicant is running (or is intending to run) a telecoms system. However, if the service involves Carrier Select ISVR, then the provider must apply as an ISVR licensee for a Class I licence.

The licences form modular building blocks: a Class II licence includes all of the conditions in a Class I licence, plus conditions specific to Class II; a Class III licence contains further conditions in addition to all those contained in a Class II licence.

This structure is reflected in the licence application procedure. There is one official application form, which all applicants must complete. However, Class I applicants need provide only minimal information on this form, whereas greater detail is required from Class II applicants and more still from Class III applicants.

Any applicant who is in doubt as to which licence they ought to be applying for, or indeed whether a licence is needed at all, should contact the JCRA for guidance. Indeed, the JCRA encourages all providers of telecoms services to register with the JCRA, no matter how small their business.

3.4 Mobile Telephony

The JCRA has determined that all Class II and III licensees can operate mobile telephony systems subject to the approval of their IS by the JCRA. In addition, mobile and satellite services may require a licence (issued by Ofcom on behalf of the JCRA under the UK Wireless Telegraphy Acts 1949 to 1998 and subject to the terms imposed by the Communications Act 2003) to authorise the use of an operator’s radio transmission equipment. If, however, a telecoms system is to be used to provide TV or radio services in the island, licences will be required under the Broadcasting Acts 1990 and 1996 and subject to the conditions imposed by the Communications Act 2003 as administered by Ofcom.

3.5 Provision of Cable

The JCRA is of the view that DSL telephone lines and cable are the only suitable conduits for the provision of broadband Internet into Jersey or anywhere. Given the technical superiority of the cable infrastructure for broadband Internet as compared with the public telephony

network, combined with the future ability of any cable providers to bundle television, Internet and telephony, cable applicants will fall under a Class III licence. }

Cable operators are subject to licensing under the Telecommunications (Jersey) Law 2002. Any operator with significant publicly available infrastructure is considered able to deliver broadband services and will require licence, the class of which will be determined by the JCRA.

3.6 Significant Market Power (SMP)

A new operator in Jersey will be unlikely to have SMP and consequently may be expected to initially apply for a Class II licence. Thereafter, movement by a licensee into Class III will depend on that licensee meeting the criteria for designation of SMP.

Upon designation of a licensee as having SMP, and therefore becoming a Class III operator, the relevant Class III licence conditions will be triggered and will bind the licensee in question. Additional Class III conditions may also be introduced by way of licence amendment.

3.7

Separate Applications from Legal Entities

Other than in the case of general class licences (*see above, section 3.2*), licences will be granted *only* to the person named in that licence. Licences are required by all separate legal entities. This means, for example, that a licence issued to an individual may not be used for the benefit of any company of which the individual is a director. Such a company must have its own separate licence.

4. APPLICATION PROCEDURE

4.1 Format and Presentation

All applicants must complete the **official application form**.

Where more space is required, and particularly for the completion of Part 2, in which applicants are asked to specify their service details, further sheets of paper should be attached to the application form. Where information is presented on extra sheets, it must be typed and on A4 paper. The information must be clearly presented in numbered sections that correspond to the numbered requirements in the application form.

The Applicant must provide the JCRA with **6 full copies** of the application, including all attachments.

4.2 Fees

All licence applications **must** be accompanied by the appropriate registration fee. The current scale of fees is published on the JCRA web site www.jcra.je.

Under Article 17 of the Law fees may be related to the administrative costs of licensing. This will be achieved by a one off **application fee** payable with all applications, and a periodic **licence fee**, which all successful applicants will be subject to under the conditions of their Licence. No Licensee will be able to exercise the rights of their Licence until the appropriate fees have been paid.

The completed application form must be accompanied by the appropriate application fee, payable to the Jersey Competition Regulatory Authority. No application will be considered until the application fee has been paid.

4.3 Submission of Application

Applicants must submit the completed application form to: The Jersey Competition Regulatory Authority, 6th Floor, Union House, Union Street, St Helier, Jersey, JE2 3RF, Channel Islands. Envelopes should be marked for the attention of the Executive Director.

Before submitting the application, applicants should check that:

- all the relevant section of the application form have been completed in full
- the relevant licence fee is enclosed
- 6 full copies of that application have been provided
- in the case of Class II and Class III applicants, the IS is included, or has already been submitted to the JCRA.

The JCRA will confirm receipt of the application and the accompanying application fee.

4.4 Review of Application

The JCRA will review applications received with a view to establishing that:

- (i) the application, including the IS and the declaration, is in due form and has been properly and fully completed;
- (ii) the service / network falls within the licence type applied for;
- (iii) the Applicant is not disqualified from holding the licence concerned; and
- (iv) the appropriate application fee has been paid.

If the JCRA considers that the application has not been properly completed, or that the information provided by the Applicant is insufficient to support the application, the JCRA shall contact the Applicant within 56 days of the original application in order to seek further information or to request that the application be resubmitted. Please note that in such cases, the award of any licence to the Applicant may be delayed.

4.5 Evaluation of Application

In evaluating an application for a licence the JCRA will be concerned to ensure that there are no grounds to doubt, *inter alia*, that:

- (i) the proposed system is lawful and consistent with international obligations and with Jersey law;
- (ii) the Applicant has the necessary financial, managerial and technical resources to operate the proposed system;
- (iii) the proposed system and service will meet the requirements specified in the application form and IS (in the case of Class II and Class III licences), and the Applicant will comply with the conditions for the licence and with any additional conditions which the JCRA may consider appropriate having regard to relevant legislation; and
- (iv) in the case of a telecommunications network, that it is designed to assure quality and availability of service.

4.6 Decision on Grant of Licence

The JCRA will endeavour to deal with all applications as speedily as possible. In any event, the JCRA will notify the Applicant of its decision in relation to the grant of a licence within 56 days of receipt of the licence application ***provided that the application is in due form and has been properly and fully completed.***

If additional information is required after the original application has been submitted, it may be necessary to extend the 56-day period. A decision on the grant of a licence will then be issued within 56 days of such time at which the JCRA considers the application to be in due form, properly and fully completed, with sufficient information having been received.

This is in accordance with the Law, which states: “...*if the Authority has not given initial notice of the exercise of a specified regulatory function in response to an application within 56 days (or such longer period as may be agreed in writing between the relevant applicant and the Authority) after the application has been served in the Authority, the Authority shall be taken to have given initial notice of a refusal of the application and to have published in accordance with Article 11 on the day after the last day of that period.*”

If sufficient information is not provided, it is likely to result in the refusal – automatic or otherwise – of the application.

The JCRA will issue to the Applicant an **initial notification** of its decision in respect of the licence application and will simultaneously issue an **initial public notice** stating their

decision, and the date at which the decision is proposed to take effect, in accordance with its duty under Article 11 of the Law.

Under Article 11, the period between the issue of the initial public notice of the JCRA's decision and the date on which that decision is proposed to come into force shall not be less than 29 days. Any person may make representations or objections to the Authority about the decision within the intervening 28-day period.

On expiry of the 29 day period, the JCRA will issue a **final public notice** stating its decision on whether or not it intends to proceed to grant a licence in the light of any representations or objections that may have been made. It will simultaneously issue the Applicant with a **final notification** of its decision.

4.7 **Exercise of Rights**

Provided the relevant application fee has been paid, an Applicant will be entitled to exercise the rights conferred by the relevant licence upon receipt of the **final notification** of the JCRA's decision to grant the licence.

Under Article 12 of the Law, if the JCRA has not issued an initial notice of its decision on the award of licence in response to an application within 56 days (or longer, as may be agreed between the JCRA and the relevant applicant) after the submission of that application, *'the Authority shall be taken to have given notice of a refusal of the application and to have published that notice in accordance with Article 11 on the day after the last day of that period.'*

4.8 **Other Licence Application Procedures**

From time to time and where objectively justifiable the JCRA may hold a competition for award of a licence. If a competition is held the JCRA will at that time specify the application procedures to be followed by participants in the competition.

TELECOMMUNICATIONS LICENCE APPLICATION FORM

GENERAL INFORMATION

- *This application form must be completed fully in type or block letters*
 - *Applicants are expected to attach extra pages setting out the information required in Part 2 of this form, or wherever more space is required.*
 - *Any attached pages must be typed and A4-size. The information on extra pages must be presented clearly and numbered in accordance with this form.*
 - *Applicants are required to submit 6 full copies of the application, including any attachments.*
 - *Completed forms must be sent to: The Jersey Competition Regulatory Authority, 6th Floor, Union House, Union Street, St Helier, Jersey, JE2 3RF, Channel Islands. Envelopes should be marked for the attention of the Executive Director.*
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PART 1: CONTACT AND BUSINESS DETAILS OF APPLICANT

1.1 Details of Applicant Organisation

Name of Applicant
Address of Applicant
Website of Applicant (if applicable)

1.2 Trading name

Name under which Applicant proposes to trade
Registered office address (if different to that in 1.1)

1.3 For companies or other bodies corporate

Registered number

1.4 For overseas applicants only

Address in Jersey for service of process or other notices

1.5 Details of designated contact person within Applicant Organisation

Name
Position held in Applicant Organisation
Address (if different from that in 1.1)
Telephone number
Fax number
E-mail address

1.6 If the Applicant is a company, partnership, co-operative or other body, please give the name(s) and private address(es) of each of the current directors, company secretary, partners, or members of the committee of management. *(Applicants must provide the names and addresses of all relevant individuals. If more space is required please attach an extra page.)*

Name	Name
Position	Position
Address	Address

Name	Name
Position	Position
Address	Address

Name	Name
Position	Position
Address	Address

PART 2: SERVICE DETAILS

The amount of information required from applicants for Part 2 depends on the Class of licence being applied for:

- Section A is to be completed by **all applicants**
- Section B is to be completed by **Class II and Class III applicants only**
- Section C is to be completed by **Class III applicants only**

SECTION A - TO BE COMPLETED BY ALL APPLICANTS:

A.1 Service Details

A.1a	A description of each proposed service and targeted customer base.
A.1b	A separate schematic diagram for each proposed service showing the routing of the services through telecommunications networks.

A.2 General Information

A.2a	Details of current and proposed arrangements for ensuring adherence to Jersey (and EU) legislative measures for the protection of personal data.
A.2b	Details of any other current or proposed arrangements for ensuring compliance with Jersey legislative measures in relation to telecommunications.
A.2c	Information as to whether the Applicant has applied for an allocation of numbers. If yes, please include a copy of the application for numbers. If no, please indicate any plans to apply for a numbering allocation.

**THE REST OF PART 2 APPLIES TO CLASS II AND CLASS III APPLICANTS ONLY.
CLASS I APPLICANTS SHOULD GO DIRECTLY TO PART 3.**

SECTION B - TO BE COMPLETED BY CLASS II AND CLASS III APPLICANTS ONLY:

B.1 Competitive Impact Statement

A Competitive Impact Statement (IS) must be completed in accordance with the instructions set out in the booklet entitled 'Competitive Impact Assessment' (ref: 2001/IS), which is available from the JCRA on request or to download from the JCRA website. *No application will be considered until a properly-completed IS has been received. Applicants should begin their preparations for an IS at the earliest possible stage in the application process and the JCRA encourages applicants to submit their IS in advance of their application form.*

THE REST OF PART 2 APPLIES TO CLASS III APPLICANTS ONLY. CLASS II APPLICANTS SHOULD GO DIRECTLY TO PART 3

SECTION C - TO BE COMPLETED BY CLASS III APPLICANTS ONLY:

C.1 General Information

C.1a	<p>A high-level business plan. The plan should outline any major assumptions used and should cover a period between five and ten years. The information provided should include:</p> <ul style="list-style-type: none"> ○ sources of funding, debt levels, equity and independent confirmation where appropriate; ○ audited accounts, if available; ○ balance sheet, if available, or projected balance sheet; ○ profit and loss account, if available, or projected profit and loss accounts; ○ cash flow projections; ○ market forecasts. <p><i>It may suffice here for applicants to refer to the business plan which will have been completed for Section 5 of the IS, but <u>only</u> if that business plan is sufficiently detailed to cover all of the areas indicated above.</i></p> <p><i>Applicants may be assured that all commercially sensitive information will remain strictly confidential.</i></p>
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C.2 Information on Service Offerings and Charges

C.2a	<p>Details of the products and services provided by the Applicant and the terms on which they are available, including:</p> <ul style="list-style-type: none"> ○ details of directory information services offered to the public and other operators ○ details of any public call boxes offered or intended to be offered and the arrangements for display of call charge information ○ details of emergency services to be offered by the Applicant
C.2b	<p>Details of any other special wholesale terms on which facilities and services will be made available to providers of services having no interconnecting network.</p>
C.2c	<p>Details of the cost accounting system to be adopted by the Applicant in order to allow unbundling of interconnection charges and the calculation of component costs.</p>

C.2d	<p>Details of any other trading activities of the Applicant in and outside the telecommunications market and arrangements made to ensure no cross-subsidisation between the Applicant's:</p> <ul style="list-style-type: none"> ○ wholesale and retail activities; ○ telecommunications and non-telecommunications activities; ○ telecommunications equipment production or supply and other telecommunications activities.
C.2e	<p>Details of current and proposed offerings of leased lines and the terms of the leases.</p>
C.2f	<p>Details of current and proposed arrangements for the rental, maintenance and repair of terminal equipment.</p>

C.3 Information relating to customer service

C.3a	<p>Details of quality of service targets supported by the Applicant.</p>
C.3b	<p>Details of current contracts with all classes of customers (please provide copies).</p>
C.3c	<p>Details of measures adopted by the Applicant for the effective and fair resolution of complaints made by customers and other operators who are customers of the Applicant.</p>
C.3d	<p>Details of measures adopted by the Applicant to ensure transparent publication of all terms and conditions including charges for services.</p>
C.3e	<p>Details of any Code of Practice for ensuring fair marketing practices, especially in the context of comparisons with service offerings of other service providers, linked sales and trial services.</p>
C.3f	<p>Details of any Code of Practice in relation to customers, including withdrawal of service from customers.</p>

C.4 Network Information

C.4a	A summary of the infrastructure the Applicant already has in place or is planning to put in place within the next three years, including radio based infrastructure.
C.4b	If the Applicant is already using radio frequency spectrum, please provide details of the licences held, including the number of licences and the reference number of each licence.
C.4c	Please indicate the steps the Applicant is taking to ensure the orderly and efficient use of such spectrum. (This information may be provided as a separate annex.)

C.5 Information on other licences

C.5a	Does the Applicant currently hold a licence to provide the services specified in this application? If yes, please provide details of the licence currently held.
C.5b	Please confirm whether or not the Applicant will relinquish their currently-held licence upon a licence being issued as a result of this application.

PART 3: LICENCE CONDITIONS

Please note:

CONDITIONS FOR EACH LICENCE TYPE WILL BE INSERTED IN THIS SECTION.

To be inserted here:

- Licence Conditions for Telecommunications Operator - Class I licence
- Licence Conditions for Telecommunications Operator - Class II licence
- Licence Conditions for Telecommunications Operator - Class III licence

The conditions of the relevant licence are to be included in full in this part of the application. Submission of these conditions, together with the declaration (Part 4), will constitute an agreement by the Applicant to the conditions under which they will operate, in the event that the application is successful and a licence is granted.

PART 4: DECLARATION

Please note: this declaration constitutes an agreement to abide by the condition of the licence, if awarded, as well as confirmation that the information furnished is complete and accurate in all respects. Where there is more than one signatory, each individual must fill out a separate declaration. Photocopies of the original form are acceptable.

All Applicants are to complete this declaration, which must be signed:

- (i) in the case of an individual, by the person in whose name the application is made;
- (ii) in the case of a partnership, by each of the partners;
- (iii) in the case of a company or other body corporate, by a director, company secretary or other authorised officer;
- (iv) in the case of a co-operative or other body, by the secretary of the co-operative or other body.

Name of Applicant
Full name of Signatory
Position held in Applicant Organisation

On behalf of the Applicant, I declare that:

- (a) this application is made in accordance with the Telecommunications (Jersey) Law 2002;
- (b) the information provided in respect of this application is true, accurate and complete in all respects and is not misleading;
- (c) all information that may be relevant to this application has been fully and properly disclosed to the JCRA; and
- (d) I am authorised to make this declaration on behalf of the Applicant named above.

Signed:

Date: