



**Clear Mobitel (Jersey) Limited**

## T-083 Telecoms Market Review

April 2025

## Response to Consultation

**Question 1: Do you agree with the Authority's Draft Decision for fixed broadband set out in Chapter 4 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.**

Clear Mobitel (Jersey) Limited ('CM') fully agrees with the conclusion that JT holds SMP in the fixed broadband market. JT, as the former monopoly incumbent, owns and operates the main underground infrastructure on the island, utilizing its inherited cable duct network originally housing copper cable and now fibre. While there is a limited amount of underground infrastructure installed by other operators, there is no reasonable expectation that another operator could finance any replication of the entire network in order to effectively compete island wide.

JT is not required to share access to its underground ducts or its poles and therefore any new entrant would be required to construct from scratch an effective alternative. Thus the only means of ensuring competition is at the wholesale level whereby the underlying wholesale cost of providing the access network is offered to JT's own service business at the same rate as to other operators. Competition, therefore, is only at the service level and is the only means of offering network differentiation. Given this restriction, CM agrees that wholesale pricing should be regulated as a cost-plus model.

**Question 2: What are your views on the Authority's proposals with respect to JT's SMP obligations set out in Box 2 of this Draft Decision?**

CM agrees with the Authority's conclusion in that full transparency between JT's wholesale and retail divisions. Experience in regulated markets elsewhere has shown that cross-subsidisation and discrimination in favour of the incumbent's own retail arm is a common issue in SMP markets. This requires authorities to diligently monitor operators with SMP to ensure a level playing field. This is one reason why, for example, that BT was required by Ofcom to split its wholesale and retail arms into separate companies, albeit under a common corporate entity. It is likely that such a radical requirement would not be appropriate in a small jurisdiction given the additional overheads imposed. Nevertheless, CM agrees that there should be improved internal separation within JT and regulatory oversight to ensure competition.

Extending the notification period to 28 days would enable other operators more time to adjust their own retail offers. The SMP operator has a built-in advantage in that it can model changes before notifying the changes. The Authority should also

examine the processes behind any proposed changes to ensure that they are non-discriminatory.

**Question 3: Do you agree with the Authority's Draft Decision for fixed voice set out in Chapter 5 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.**

For the same reasons as under broadband above, CM agrees that JT has SMP in the fixed line market. Currently, the only realistic option for fixed line competition is through the WHL market, whereby other operators enter the market at wholesale level and take ownership of the JT overlaid fixed line number in order to offer retail service differentiation, this being largely through rental and call costs.

In common with other jurisdictions, fixed line usage is declining among both residential and business users<sup>1</sup>. Consumers are increasingly moving to broadband and web based connection solutions for both person to person and person to business communications.

Originally Internet access was achieved by using dial-up services thus it was necessary for users to rent at least a standard Plain Old Telephone Service ('POTS') line in order to access. Nevertheless, consumers could choose not to subscribe to Internet services and thus just retain the basic line connection. Later, always-on broadband was introduced as an overlay service on a standard POTS line using ADSL technology. Again, consumers could opt not to subscribe to a broadband service and just maintain a standard line. However, broadband has changed consumer behaviour and with the introduction of Smart Phones users communication expectations changed and as a consequence are migrating to IP services which give a better user experience than basic telephony.

With the introduction of Fibre to the Home ('FTTH') there was a fundamental shift in telecommunications practice. Broadband is now the bearer service and fixed line telephony has become an overlay service which consumers should be able to opt out. CM, therefore, strongly advocates a broadband only FTTH product at wholesale level.

**Question 4: What are your views on Fixed Number Portability and the Authority's proposals set out in Box 4 of this Draft Decision?**

The Channel Islands has already deployed a mobile number portability system which has enabled competition between networks. The technology required for

<sup>1</sup> For example: Q4 2024 Telecommunications Market Data Update

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such a system is somewhat less complex than that needed for fixed number portability ('FNP'). Jersey is integrated into the UK numbering scheme and FNP is already implemented there. In order to implement locally a complex arrangement would be needed to ensure correct routing. FNP requires routing calls to another network that is configured to manage fixed lines, this could be a fixed or wireless network. Subsequent costs would need to be less than WLR to make it economic to do so.

Given the decline in fixed line usage, the volume of ported numbers is likely to be low which would impinge on the costs for the receiving network. The implementation costs would likely outweigh the benefits. Consequently CM is inclined to agree with the Authority's conclusion.

**Question 5: Do you agree with the Authority's Draft Decision for leased lines set out in Chapter 6 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.**

As outlined above the barriers to entry for fixed line competition are very high and there is no reasonable expectation that a new entrant would be prepared to invest the necessary sums to build a competitive network. CM thus agrees that JT has and will retain SMP in the Leased Line market.

**Question 6: With respect to dark fibre, do you agree that this should be maintained as a regulatory option? If yes, please provide evidence and information on the circumstances in which dark fibre might become necessary?**

CM agrees that dark fibre should be continued as a possible regulatory remedy. Dark fibre is widely available in other jurisdictions and enables further network differentiation and innovation. Dark fibre permits other operators to configure their networks as they wish and not rely on the services provided by the incumbent which necessarily means a lesser or larger degree of compromise. Dark fibre enables overall cost reduction for the new entrant.

**Question 7: As set out in Box 5 the Authority is giving consideration to data centres, what are your views on data centre availability and connectivity in Jersey?**

The current arrangement of data centres in Jersey does bring into question the possibility of anti-competitive behaviour. Over the past few years there has been a degree of consolidation in this market and the largest two providers are the incumbents in Jersey and Guernsey. This gives both operators the potential to set conditions that make it difficult for new entrants. Given this ownership and the changing nature of IT and telecommunications, CM would suggest that it is now within regulatory scope to determine the principles on which data centres operate. CM would encourage carrier neutrality and separation of the data centre business in the same way as network wholesale is regulated.

**Question 8: Do you agree with the Authority's Draft Decision for mobile services set out in Chapter 7 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.**

The mobile current market in Jersey was created after the approval by the Guernsey States of the Sure-Airtel merger first proposed in 2022. The merger approval relied heavily on the proposed entry into the market of an MVNO based on the wholesale offer proposed by Sure. CM is not convinced that the entry of an MVNO into the local market will have any significant effect on competition or add consumer benefit for the reasons set out in CM's response to the merger consultation<sup>2</sup>. The current position in Jersey is as stated in the consultation with two operators forming a duopoly and thus able to manipulate the market by, for example, price following, thus causing consumer harm.

Since there is a fundamental change in the usage of telecommunications CM notes that there are opportunities for other services specific to particular user groups. Some of these services require specific configuration of the network which cannot be achieved via a wholesale MVNO product. Therefore CM is of the view that mobile network competition is still valid in Jersey.

CM has long advocated that mobile network wireless infrastructure should be pooled to enable the most efficient usage of spectrum. A jointly owned wireless network company would reduce the environmental impact on the island and enable competition through independently configurable service providers. Using such a configuration would enable future technologies by the freeing up of spectrum.

<sup>2</sup> CM response to consultation C-042

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**For the avoidance of doubt, this document may be published in its entirety.**