



Consultation Document 2009-T4

Consultation on the Publication of Jersey Telecom Limited's Regulatory Separated Accounts

15 December 2009

Introduction

Jersey Telecom Limited ('JT') is required under the terms of its licence Condition 29 to provide to the JCRA a set of accounting records set out in a manner that enables the activities specified in the JCRA Direction on Separated Accounts¹ (the 'Direction') to be separately identifiable. The Direction refers to Annex 1 of the JCRA Consultation on Accounting Separation and Costing Methodologies² that gave guidance on the form of documentation to be provided, which should be considered in conjunction with this consultation.

The Direction also set out a timetable for the production of JT's separated accounts which included specific dates by which the accounts should be provided to the JCRA. JT has provided three sets of the accounts in line with that timescale. The JCRA is now in a position to assess these accounts which are now largely in the same format across JT's products and services.

The JCRA has regard to international best practice and notes that in many jurisdictions the national regulatory authority ('NRA') publishes the separated accounts of the dominant telecommunications operator. The JCRA is now consulting on whether and in what format the JT separated accounts should be published.

Procedure

If, having taken into account the views expressed by interested parties to this consultation, the JCRA decides to require JT to publish its separated accounts a new Licence condition would be inserted into JT's Licence. That condition would oblige JT to publish its separated accounts in such a format as directed by the JCRA. The precise wording of the draft Licence condition would be set out in an Initial Notice and be subject to the consultation process required by Article 11 of the Telecommunications (Jersey) Law 2002, so all stakeholders would have the opportunity to comment on the proposal.

The purpose of regulatory accounts

Separated regulatory accounts are one of the tools used by NRAs to access financial information of a dominant operator in order to be able to do a number of things including set regulated prices and assess potential competition issues. For this purpose, the regulated entity divides its business activities into separate accounting streams in accordance with the determinations of the NRA. In many jurisdictions this data is accessible not only by the regulator but also by other stakeholders and interested parties.

¹ Direction re: Jersey Telecom Limited – Separated Accounts issued 1 July 2005 – available at: <http://www.jcra.je/pdf/050511%20Direction%20to%20JT%20re%20Seperated%20Accounts.pdf>

² Consultation on Accounting Separation and Costing Methodologies - available at: <http://www.jcra.je/pdf/040602%20Accounting%20separation%20consultation.pdf>

This form of accounting differs from traditional financial accounting statements (Statutory Accounts) in that it concentrates on the costs and revenues from individual business activities with greater granularity than is necessary for financial account reporting. Statutory accounts provide only an overall picture of the company's business activity which is largely intended for the shareholders and investors.

Separated accounts can assist the regulator in many ways, particularly with potential abuses by the regulated entity of its dominant status in some relevant markets, for example, the access market. Some of the potential uses for such accounts are:

- Monitoring of the operator's performance for purposes of regulated product price control;
- Informing on costs for the purpose of setting wholesale access charges;
- Setting interconnection pricing;
- Aiding the NRA in detecting anti-competitive behaviour such as unfair cross subsidisation and undue discrimination at levels of disaggregation appropriate to the relevant market; and
- Assisting in comparative competition (the process of benchmarking a company's performance in relation to other companies' performance).

If they are published, such information may also inform other stakeholders with regard to market behaviour.

Regulatory separated accounts format

The JCRA now proposes to ask stakeholders their views on whether, and if so in what format, the JT separated accounts should be published.

The Direction provided details of how the accounts should be set out. This was largely in line with the EC Recommendation of 8 April 1998 on interconnection in a liberalized telecommunications market Part 2 - Accounting separation and cost accounting³ and formed a substantial part of the JCRA consultation preceding the Direction.

The JT separated accounts identify 6 separate areas of its business:

- Core network
- Local access network
- Retail fixed
- Broadband
- Mobile
- Other activities

³ EC Document: - available at:
http://ec.europa.eu/information_society/policy/ecomm/doc/info_centre/recomm_guidelines/interconnection_recommendation/rec20c0en.pdf

JT is required to provide a profit and loss statement and a balance sheet in a form consistent with the measure of capital employed which is used for price setting purposes in each of its regulated activities. In addition, some other non-regulated activities are identified for comparison and rationalization.

In the interest of proportionate regulation, the JCRA does not require JT to have its separated accounts independently audited, but it does require that the accounts are verified and signed-off by two of its Directors. The JCRA also reserves the right to appoint its own auditors to examine all or part of the accounts.

In addition to its separated accounts, JT may be required to provide additional information to the JCRA under specific circumstances. This information is generally requested as necessary.

The JCRA may use the information available in the separated accounts to determine prices both in the retail sector and in the wholesale sector, including the prices for interconnection that are published in the JT Reference Interconnect Offer ('RIO'). The RIO is used to establish relationships between JT and other licensed operators ('OLOs') in Jersey. In reviewing prices within the JT RIO, the JCRA uses best international practice and in particular uses the published works of the EC concerning interconnection⁴. Examples of the type and format of data provided in the JT Separated Accounts are shown in the Appendix A to this document. The methodology adopted by JT is also published in a separate document alongside this consultation.

JCRA proposals

The reason for creating separated accounts for an incumbent operator is to demonstrate that it is not discriminating between its own downstream operations and those of competing providers. It is the view of the JCRA that making these accounts publicly available will assist in the detection of (or help to verify in the absence of) anti-competitive behaviour in the relevant retail and wholesale markets. This will assist in the development of competitive markets that will ultimately benefit the consumer.

Publication of the dominant operator's accounts is in line with best international practice in both large and small jurisdictions. The Office of Utility Regulation in Guernsey requires publication the Regulatory Separated Accounts of Cable & Wireless Guernsey Limited⁵ as does UK regulator Ofcom with regard to British Telecom plc⁶. Therefore the JCRA is of the preliminary view that JT's separated accounts should be published.

⁴ Directive 2002/19/EC of The European Parliament and of The Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) – available at: http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_108/l_10820020424en00070020.pdf

⁵ Cable & Wireless Guernsey Limited Regulatory Accounts - available at: <http://www.surecw.com/guernsey/page-966>

⁶ British Telecom plc Regulatory Statements – available at: <http://www.btplc.com/Thegroup/Regulatoryinformation/Financialstatements/index.htm>

In order to achieve the optimum level of transparency, the JCRA is of the view that the published information should be in sufficient detail for other operators to be able to determine that there is no discrimination between JT's internal retail arm and the wholesale services offered to OLOs.

On the other hand, the JCRA is also aware of JT's need to protect commercially sensitive information from its competitors that another purpose of this consultation is to assist the JCRA in finding the correct balance between appropriate transparency and the protection of commercial confidentiality. Nevertheless, in its report on the regulation of telecommunications in Jersey carried out in 2008 by LECG on behalf of the States of Jersey Economic Development Department, it was recommended that JT publishes its separated accounts. In addition, a recent review carried out on behalf of the JCRA by telecommunications consultancy Regulaid into JT's separated accounting methodology and access review⁷ also concluded that publication would create efficiency and transparency in the telecommunications market. The appendices to this consultation show an example of the format that the JT separated accounts might take for the information and comments of respondents.

Survey of stakeholders

The JCRA now proposes to ask stakeholders their views on the publication of the JT accounts:

- 1. Do stakeholders agree that JT should publish its regulatory separated accounts and its accounting separation methodology in full?*
- 2. Are there any parts of the JT regulatory separated accounts which should remain in commercial confidence and therefore not published?*
- 3. Is the format of the separated accounts, as set out in the Annex to this consultation document an appropriate format?*

Consultation Period

Written comments on this Consultation Paper are invited, to be received no later than **5PM on 5 February 2010**. Submissions should be clearly marked "Comments on JCRA Consultation Document 2009-T4" and may be supplied either in hard copy or electronically, addressed (as appropriate) to:

⁷ Consultation 2009-T2 Fixed Line Access Review -available at:
<http://www.jcra.je/pdf/090817%20Fixed%20Access%20consultation%202009-t2.pdf>

Graeme Marett
Telecommunications Case Officer
Jersey Competition Regulatory Authority
2nd Floor Salisbury House
1 – 9 Union Street
St Helier
Jersey
JE2 3RF

E-mail: enquiries@jcra.je

N.B. In compliance with the procedures set out in the Guideline on Procedures under the Telecommunications (Jersey) Law 2002, the JCRA intends to publish full non-confidential texts of any submissions received in response to this consultation. Thus, respondents to this consultation should provide a non-confidential version in their submissions. Finally, please note that it is an offence under Article 54 of the Law to knowingly or recklessly provide materially false or misleading information to the JCRA in response to this Consultation.

Appendix A

Financial Statements

Core Network Business

Profit and Loss Statement

	<u>2005</u> £000	<u>2004 Restated</u> £000
Turnover		
Transfer receipts from Fixed retail		
Transfer receipts from Mobile		
Transfer receipts from Other Activities		
Receipts from other operators		
Total turnover	_____	_____
Operating costs		
Direct costs		
Transfer payments to Access Network		
Transfer payments to Mobile Network		
Total operating costs	_____	_____
Return	=====	=====

Statement of Mean Capital Employed

	<u>2005</u> £000	<u>2004 Restated</u> £000
Tangible Fixed Assets		
Intangible Fixed Assets		
Investments		
Total fixed assets	_____	_____
Stocks		
Debtors		
Investments		
Cash at bank & in hand		
Creditors		
Provisions for liabilities and charges		
Total current assets less current liabilities	_____	_____
Mean capital employed	_____	_____
Return		
Return on capital employed	=====	=====

Inter Business Cost Summary – 2005

From/ To (£000)	Core Network	Local Access Network	Fixed Retail	Mobile	Other Activities	Total
Core Network						
Local Access Network						
Fixed Retail						
Mobile						
Other Activities						
Total						

Payments	Core	Access	Fixed	Mobile	Other	Total
Core						
Access						
Fixed						
Mobile						
Other						
Total						

TRANSFER PAYMENTS NET OUT

Mean Capital Employed Reconciliation 2005

JT Group (consolidated)

Statement of capital employed

<u>2005</u>	<u>2004</u>	<u>Mean</u>
£000	£000	£000

Business

Local Access Network

Core Network

Fixed Retail

Mobile

Other Activities

Total closing capital employed per Separated Accounts

Exclusions

Preference Share Liability

Corporation tax due after one year

Corporation tax due within one year

PECRS Deficit

Dividends

Deferred tax

Total closing capital employed per Separated Accounts (post adjustments)

Total closing capital employed per Annual Report

Profit and Loss Reconciliation 2005

JT Group (consolidated)

<u>Profit & Loss statement</u>	Turnover	Operating costs	Return
	2005	2005	2005
	£000	£000	£000
Separated Accounts			
Business			
Local Access Network			
Core Network			
Fixed Retail			
Mobile			
Other Activities			
Total per Separated Accounts			
Exclusions			
Elimination of intercompany revenue			
Dividends			
Pension (PECRS Deficit)			
Interest Paid			
Taxation			
Total per Separated Accounts (post adjustments)			
Total per Annual Report			

Statement of Costs of Network Services – 2005 Routing factors table (mobile network)

1 - Costs by component																
	Mobile Switching Centre - Base Transceiver Station links	Mobile Towers & Antennae	Mobile Switching Centre	Base Station Controller	Base Transceiver Station	MSC - MSC link	Local Switch - MSC Link	Mobile Network Voicemail platform - Mobile/Comver se/SMS Platform	Telsis Mobile Signalling System	Mobile MMS	Home Location Register	Mobile GPRS	Interconnect Product Management Mobile	Outpayments etc not allocated through routing factors (mobile)	Mobile network	
Total operating costs (£000)																
Total cost of capital (£000)																
Total cost (£000)																
Component volumes (000 minutes)																
Unit cost per minute (pence)																
2 - Routing factor by sub-business by component																
Business/ Sub-business	Service volumes 2005 (000 minutes)	Mobile Switching Centre - Base Transceiver Station links	Mobile Towers & Antennae	Mobile Switching Centre	Base Station Controller	Base Transceiver Station	MSC - MSC link	Local Switch - MSC Link	Voicemail platform - Mobile/Comver se/SMS Platform	Telsis Mobile Signalling System	Mobile MMS	Home Location Register	Mobile GPRS	Interconnect Product Management Mobile	Outpayments etc not allocated through routing factors (mobile)	Mobile Network
Wholesale services sold by Core																
Exchange line rental & connection (operator assist & emergency services)																
Fixed - DQ																
Fixed - National Rate																
Fixed - Local calls																
Fixed - Calls to JT mobiles																
Fixed - National calls																
Fixed - International calls																
Fixed - Calls to internet																
Fixed - Premium rate calls																
Fixed - Freephone calls																
Fixed - Local rate calls																
Fixed - Payphones																
Fixed - xDSL*																
Fixed - Leased lines*																
Other activities																
Mobile - Other																
Mobile - Directory Enquiries																
Mobile - Calls to mobile																
Mobile - Connections**																
Mobile - Rentals**																
Mobile - Roaming																
Mobile - SMS																
Mobile - Prepaid sales**																
Mobile - Calls from mobile																
Mobile - Prepaid calls																
RIO service																
PSTN Termination - Call duration																
PLMN Termination																
On-Island Transit Service - Duration																
Outgoing Off-Island Transit Service - Duration																
Incoming Off-Island Transit Service - Call duration																
Directory Number inclusion																
Operator Assistance - duration																
Emergency Services - duration																
Inspan Interconnect																
Carrier Selection - duration																
Local Call Rate - Jersey to Jersey (mobile)																
Local Call Rate - Jersey to UK (mobile)																
Local Call Rate - Jersey to Jersey (fixed)																
Local Call Rate - Jersey to UK (fixed)																
Freephone - Jersey to UK																

* Transfer charged at retail-minus

** No transfer charge from Core or Mobile

Statement of Costs of Network Services – 2005 Core network

The table below sets out total cost by core network component by business. This is the product of the routing factors, service volumes and unit component costs given in table 4.3 above and reconciles to the total cost of the Core Network Business.

Business/ Sub-business	Routing factor x component unit cost x service volume																	Core network		
	Service volumes 2005 (000 minutes)	Remote Concentrators (call set up)	Remote Concentrators (call duration)	Local Switches (Call set up)	Local Switches (call duration)	PSTN Switching Softswitch	Local Switch - Remote Concentrator links	Interswitch links	Backhaul voice links - fixed	Voice subsea and microwave links	JustConnect equipment	Intelligent Network	Voicemail platform - fixed	Directory Maintenance	Operator Assistance	Emergency Services	Interconnect Product Management Fixed		Other network elements charged at retail minus	Outpayments etc not allocated through routing factors
Wholesale services sold by																				
Core																				
Exchange line rental & connection																				
Fixed - DQ																				
Fixed - National Rate																				
Fixed - Local calls																				
Fixed - Calls to JT mobiles																				
Fixed - National calls																				
Fixed - International calls																				
Fixed - Calls to internet																				
Fixed - Premium rate calls																				
Fixed - Freephone calls																				
Fixed - Local rate calls																				
Fixed - Payphones																				
Fixed - xDSL*																				
Fixed - Leased lines*																				
Other activities																				
Mobile - Other																				
Mobile - Directory Enquiries																				
Mobile - Calls to mobile																				
Mobile - Connections**																				
Mobile - Rentals**																				
Mobile - Roaming																				
Mobile - SMS																				
Mobile - Prepaid sales**																				
Mobile - Calls from mobile																				
Mobile - Prepaid calls																				

Core network costs - all services
 Non-network costs - wholesale services
 Core network costs
 * Transfer charged at retail-minus
 ** No transfer charge from Core or Mobile

Transfer Charge Statement 2005

Sub-business	Core Network (£000)	Local Access Network (£000)	Mobile (£000)	Total (£000)
Fixed Retail				
Exchange line rental & connection				
Directory Enquiries				
National rate calls				
Local calls				
Calls to JT mobiles				
National calls				
International calls				
Calls to internet				
Premium rate calls				
Freephone calls				
Local rate calls				
Payphones				
xDSL				
Leased lines				
Other activities				
Mobile				
Mobile - Other				
Mobile - Directory Enquiries				
Mobile - Calls to mobile				
Mobile - Connections				
Mobile - Rentals				
Mobile - Roaming				
Mobile - SMS				
Mobile - Prepaid sales				
Mobile - Calls from mobile				
Mobile - Prepaid calls				
Core Network				
Total				

4.13 Inter Business Cost Summary – 2006

From/ To (£000)	Core Network	Local Access Network	Fixed Retail	Mobile	Other Activities	Total
Core Network						
Local Access Network						
Fixed Retail						
Mobile						
Other Activities						
Total						

Payments	Core Network	Local Access Network	Fixed Retail	Mobile	Other Activities	Total
Core Network						
Local Access Network						
Fixed Retail						
Mobile						
Other Activities						
Total						

TRANSFER PAYMENTS NET OUT