

TELECOMMUNICATIONS (JERSEY) LAW 2002

CRONUS CONSULTANCY LIMITED

FINAL NOTICE

1. On 10 September 2009 the Jersey Competition Regulatory Authority ('JCRA') issued an Initial Notice under Article 11 of the Telecommunications (Jersey) Law 2002 (the 'Law') concerning the proposed grant to Cronus Consultants Limited ('CCL') of a Class I Licence for a period of ten years for the running of a telecommunication system (the 'Licence'). A Class I licence is for those telecoms operators that have no discernible impact on the competitive market.
2. Written representations or objections were invited regarding the proposed grant of the Licence. Only one representation was received in response to the Initial Notice from Cable & Wireless Jersey Limited ('CWJ').
3. The representation from CWJ highlighted what it considered to be six pertinent issues.
4. The first was that the JCRA intended to grant the licence just one day after the closing date for representations or objections. Under Article 11 of the Law, the licence could only be granted on that day if *no* representations or objections are received. Where any are received, then the JCRA must consider those representations and objections, and respond to them in a Final Notice. The earliest date on which the licence could come into force if representations or objections are received is 29 days after publication of the Final Notice. The JCRA therefore rejects CWJ's suggestion that it has worked to a truncated timeline or process.
5. The second point was that access to wholesale products for Class I licence holders is being considered in the report produced by Regulaid into Jersey Telecom's Regulatory Accounts and Access Provisions, and CWJ questioned the issue of further licences at this stage. Whether or not one outcome of the Regulaid report is that holders of certain types of licence should or should not be entitled to wholesale rates from Jersey Telecom should not hold up the grant of licences. It was also stated by CWJ under this point that there was no information available as to the services that CCL plans or proposes to offer. As noted in paragraph 6 below, the JCRA has been provided with sufficient confidential information to allow it to carry out due diligence on the application, including the services to be provided.

6. The third point that CWJ raised was the duty of the JCRA to undertake full and rigorous due diligence on CCL.
7. The JCRA is required under Article 7(2)(a) of the Law to protect and further the short and long term interests of users of telecommunications services and apparatus. Furthermore Article 7(2)(e) of the Law requires the JCRA to “ensure that persons engaged in commercial activities connected with telecommunications in Jersey have sufficient financial and other resources to conduct those activities.” CCL was established in 1999 but has only recently entered the market sector that requires it to obtain a telecommunications licence. The JCRA has been supplied with sufficient confidential information to enable it to conclude that these and the other Article 7 considerations are satisfied.
8. The fourth point raised by CWJ was the requirement that the JCRA must consider all representations and objections received to the Initial Notice as required by Article 11 (4) of the Law.
9. The JCRA is required to perform its functions under the Law by issuing the Initial Notice on the proposed grant of the Licence. It has done so and CWJ was therefore able to make its representation to which the JCRA now responds. The JCRA has carefully considered CWJ’s comments and the JCRA has determined that the issuance of this Final Notice is appropriate. It has therefore complied with its obligations under Article 11 of the Law.
10. The fifth point raised by CWJ concerned the JCRA procedures. It proposed that the JCRA should by 15 October 2009 publish a statement on its website stating:
 - the number of responses received to the Initial Notice relating to the grant of the Licence to CCL;
 - the identity of the respondent; and
 - an estimated time-table of when it intends to publish a Final Notice.
11. The JCRA published this information on its website on 14 October 2009, and thus has followed this procedure.
12. The sixth and final point raised by CWJ concerns the duties of the JCRA under Article 11(10) of the Law. CWJ states that the JCRA must, after consideration of all representations and objections, if it wishes to change its proposal (other than the date when it is to take effect), issue both a Final Notice closing this consultation process and a fresh Initial Notice.
13. The JCRA recognizes its duties under the Law and has considered all of CWJ’s points. The JCRA has determined, however, that the issuance of a Licence to CCL is appropriate, and thus has issued this Final Notice. The JCRA has therefore carried out its functions in accordance with the Law.

14. The JCRA has therefore concluded that the representation received does not warrant it refusing to approve CCL's Licence or changing the terms of the Licence as proposed in the Initial Notice. Accordingly, the JCRA publishes this Final Notice under Article 11(5) of the Law. The JCRA will now exercise the specified regulatory function and the Licence shall come into effect on 18 December 2009.

Copies of this notice, the Licence and the JCRA's response are available for inspection at the offices of the JCRA at 2nd Floor, Salisbury House, Union Street, St Helier, Jersey JE2 3RF between the hours of 9.00 am and 5.00 pm Monday to Friday or on the JCRA website www.jcra.je.

16 November 2009

By Order of the Board of the JCRA