

TELECOMMUNICATIONS (JERSEY) LAW 2002

**JERSEY TELECOM – DIRECTION TO COMPLY WITH A LICENCE
CONDITION**

INITIAL NOTICE

1. The Jersey Competition Regulatory Authority (“JCRA”) issues this Initial Notice under Article 11 of the Telecommunications (Jersey) Law 2002 (“the Law”) concerning a Direction it proposes to give to Jersey Telecom (“JT”) under Article 19(1) of the Law. The Direction is necessitated by JT’s failure to comply with the requirements contained in Condition 33.1 of its Telecommunications Licence and to adhere to the obligation not to cause undue preference or unfair discrimination pursuant to Condition 31 of that Licence.
2. Condition 33.1 requires JT to publish at least 21 days in advance, and concurrently provide full details of the same to the JCRA, any (i) new prices for telecommunications services, (ii) discounts to published prices for telecommunication services in which JT is dominant, or (iii) special offers to customers of telecommunication services in which JT has been found to be dominant. Pursuant to the JCRA Board Decision dated 19th April 2010, JT was designated as having Significant Market Power (dominance) on three relevant fixed telephony markets. (JT had previously been found to be dominant in fixed line telephony under the JCRA Decision Paper and Direction 2004-1).
3. JT has failed to comply with the obligations in Condition 33 and / or Condition 31 as set out below concerning an offer or promotion referred to by JT as “JT Complete Bundle”.

Background

4. On 18 January 2010 JT submitted a draft Condition 33 Notice advising of a “triple play” proposed fixed, mobile and broadband bundled offer. At a meeting at the JCRA offices on 22 January, the JCRA objected to the package on the grounds that it was not replicable by Other Licensed Operators (“OLOs”) using JT’s wholesale offers. The proposed offer would thus have put JT in breach of Condition 31 of its Licence (which deals with undue preference and non-discrimination).
5. JT agreed to withdraw the LC33 Notice and the offer.
6. On 5th March 2010 JT submitted a further LC33 Notice advising of its intention to introduce a “double play” offer of a mobile and fixed broadband bundled at a

- price of £25.55 per month, subject to the subscriber accepting on-line billing and Direct Debit. It was due to enter force on 26 March 2010. The JCRA did not object to the “double play” LC33 Notice because its elements would be replicable by OLOs given JT’s obligation to supply OLOs with an equivalent wholesale product for retail sale by OLOs.
7. However, in breach of the JCRA’s requirement that the composition of the offer in the LC 33 Notice described in paragraph 4 above be withdrawn, JT has advertised on its web-site an offering which includes the non-replicable fixed line element to which the JCRA objected at the meeting held on 22 January 2010.
 8. The actual advertisement is entitled “JT Complete Bundle – Three great services, one great price” and the full advertisement is set out in Annex One to this Initial Notice.
 9. The JCRA takes the view that that advertisement comprises the non-replicable part of the offer proposed in the 18 January 2010 draft LC33 Notice to which the JCRA objected, as described in paragraph 4 above. This in turn means that JT is advertising a promotion (to which the JCRA has already objected and which JT withdrew in the light of that objection) without filing a new LC33 Notice.
 10. On 30th April the JCRA contacted JT and requested it to remove reference to the triple-play offer voluntarily, but by letter dated 7th May JT declined to do so.
 11. In the light of the facts and matters described above, the JCRA proposes to issue a Direction under Article 19(1) of the Law to JT, in the form set out in Annex Two of this Initial Notice.
 12. Copies of this notice and the proposed direction 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.
 13. The proposed Direction will take effect on **Friday 18th June 2010**, unless the JCRA receives representations or objections about the proposed Direction prior to that date, in which case the effective date will be specified in any Final Notice issued by the JCRA under Article 11(4) of the Law. Written representations or objections to the exercise of this specified regulatory function may be made by letter marked for the attention of Graeme Marett, JCRA and delivered to 2nd Floor, Salisbury House, Union Street, St Helier, Jersey, JE2 3RF or by e-mail to g.marett@jcra.je on or before **Thursday 17th June**.

17th May 2010

By Order of the Board of the JCRA

ANNEX ONE

**Advertisement for “JT Complete Bundle” taken from the JT Website on
Wednesday 12th May 2010**

Three great services, one great price





For £25.55 per month start with...

2 Meg broadband with unlimited usage. **+** **Mobile** with 200 call minutes, unlimited texts and 100 Meg data.

...then add fixed line.

Coreline Talk100 – 100 local calls* and 20% off your Top Ten numbers.

All for just £39.95 per month!



Need more?

Faster broadband

Choose our **4 Meg** service with unlimited usage for an £5 extra per month, or our **8 Meg** service with unlimited usage for an £10 extra per month.

Extra mobiles

Add up to 4 additional mobiles all with unlimited text messages for just an additional £5 each per month.

More shared mobile minutes and data

Add additional shared minutes from £10 per month and additional shared mobile data from £4.99 per month.

**For more details call 0800 7352500
or visit the JT shop.**



ANNEX TWO

Draft Direction to JT Pursuant to Article 19 of the Law and Condition 33.4 of JT's Licence

13th May 2010 – For consultation purposes only.

WHEREAS:

1. The JCRA served an Initial Notice on Wednesday 19th May 2010 concerning the failure by JT to comply with its obligations under Condition 33.1 of its Telecommunications Licence granted on 1st July 2003, in particular as such a failure would place JT in breach of its undue preference and unfair discrimination obligations as set out in Condition 31.
2. By reason of the facts and matters described in the Initial Notice, the JCRA is of the opinion that JT is in contravention of its aforesaid obligations (Conditions 33 and 31).
3. Article 19.1 of the Law states that where the JCRA is of the opinion that a licensee is in breach of a licence Condition it shall issue a Direction to the licensee to take steps or specified steps, to ensure compliance with that Condition.
4. The JCRA is satisfied that none of its Article 7 duties under the Law preclude the giving of such a Direction, nor that the breach is trivial, nor that JT is taking steps to comply with the condition nor remedy the effects of the contravention.

UNDER ARTICLE 19 OF THE LAW AND CONDITION 33.4 OF JT's LICENCE, THE JCRA HEREBY DIRECTS THAT:

- 1. JT shall cease to advertise the offer or promotion currently referred to as "JT Complete Bundle" as such, or similar wording which makes reference to "...then add fixed line. Coreline Talk 100 – 100 local calls and 20% off your Top Ten numbers".**
- 2. JT may advertise its "double play only" offer or promotion (currently referred to as "2 Meg broadband + Mobile with 200 call minutes with unlimited usage unlimited texts and 100 Meg data" for £25-55 per month").**

[DATE]

By Order of the Board of the JCRA