



Mobile Termination Rates in Jersey

Final Notice

Direction to Mobile Operators

Document No: CICRA 14/53

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Jersey Competition Regulatory Authority,
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1. Introduction

1. Mobile termination rates ("MTRs") are the fees charged to other telecommunications companies by mobile network operators ("MNOs") to terminate calls on their mobile network. They are a key component of the retail charge that mobile customers ultimately pay for their mobile phone services.
2. The issue of the level of MTRs and the need to ensure such charges are set at levels that reflect the efficient and cost-effective provision of terminating services is a matter currently under review by regulators in many European countries. There has been considerable progress in reducing MTRs in recent years within the EU.
3. In June 2014 the JCRA and GCRA jointly consulted on whether, going forward, MTRs should be set by benchmarking or cost modelling methodologies. Neither of these approaches are simple exercises that can be completed in a short space of time. With a comprehensive review of MTRs in both Jersey and Guernsey expected to be carried out in 2014, the JCRA considers the best approach, in the circumstances, is to extend the existing MTRs for a period until a further decision is taken by JCRA.
4. On 31 July 2014 the JCRA issued an Initial Notice setting out the JCRA's proposals with regard to MTRs.
5. The JCRA has issued a separate Final Notice in relation to the fixed interconnection rates charged by JT in Jersey.
6. In Jersey, there are three mobile operators currently providing mobile services: JT (Jersey) Limited ("JT"), Sure (Jersey) Limited ("*Sure Jersey*") and Jersey Airtel Ltd ("JAL"). The current MTR applied by all three operators is 4.11ppm and has been in place since November 2012.
7. This document summarises the responses received and sets out:
 - The direction that JCRA proposes to issue to JT under and Condition 34.1 of the Class III licence issued to JT by JCRA under Article 14(1) of Telecommunications (Jersey) Law 2002 (the "Telecoms Law");
 - The direction that JCRA proposes to issue to Sure Jersey under Condition 27.1(c) of the Class II licence issued to Sure Jersey by JCRA under Article 14(1) of the Telecoms Law; and
 - The direction that JCRA proposes to issue to JAL under Condition 27.1(c) of the Class II licence issued to JAL by JCRA under Article 14(1) of the Telecoms Law.
8. This document constitutes the Final Notice of these directions under Article 11(1) of the Law.

2. Summary of representations and objections

9. In the IN, the JCRA proposed capping MTRs for all Jersey MNOs at 4.11ppm. The JCRA also proposed that the MTR cap:
- Be implemented as a flat rate (i.e. no time of day or weekend distinction);
 - Be charged on a per second basis (no minimum call charge or call duration); and
 - Apply on a technology-neutral basis.

This proposal would mean a common MTR across the Channel Islands.

10. The IN proposed that the MTR cap is deemed to have come into effect on 1 October 2014 and shall remain until a further decision is made by the JCRA.
11. The JCRA received a submission from JAL. The submission did not raise objections to the substance of the IN.
12. Having considered the representation made in response to the IN the JCRA has decided that it should confirm the proposed directions outlined in the IN.

3. Directions

13. For the reasons set out in the IN and the paragraphs above, the JCRA has decided to issue the following direction to JT under Condition 34.1(c) of JT's licence, and directions to Sure Jersey and JAL under Condition 27.1(c) of their respective licences, as follows:

- The rate charged by the relevant licensee for voice call termination on its public land mobile network in Jersey ("the mobile termination rate") shall be no more than 4.11 pence per minute;
- there shall be no additional charge (other than the mobile termination rate) applied by the relevant mobile network operator for any on-island transit of a call to be terminated on a mobile network;
- the mobile termination rate shall be billed on a per second basis effective from the first second; and
- the mobile termination rate shall apply with respect to all voice calls terminated by the relevant mobile network operator in Jersey on a technology-neutral basis (i.e. on both 2G, 3G and 4G mobile networks) and irrespective of the origin of the traffic.
- The directions shall be deemed to have come into effect on 1 October 2014, and shall remain until a further decision is made by JCRA.

By order of the JCRA Board

29 September 2014

Annex A: Legal Background & Regulatory Framework

Article 16 of the Telecoms Law provides that JCRA may include in licences such conditions as it considers necessary to carry out its functions. The Telecoms Law specifically provides that licences can include:

- conditions for the prevention or reduction of anti-competitive behaviour; and
- conditions allowing JCRA to make determinations.

A Class III licence also includes conditions relating to the requirement to provide interconnection services and the production of a reference offer for interconnection services ("RIO"). JCRA has previously issued directions to JT on the production of a RIO¹.

This condition therefore allows the JCRA to regulate the prices that JT charges for telecommunications services in a way and for a time that it deems appropriate, provided that JT has a dominant position in the relevant market in which those services are supplied.

In April 2010, following a review of the markets for telecoms services in Jersey, JCRA made the following decision with respect to significant market power ("SMP") in markets relevant to this Initial Notice:

- ***Voice call termination on individual mobile networks:*** Each mobile operator, that is, JT, Sure Jersey and JAL has SMP in the market for terminating calls on its own network;

Condition 33.2 of the licence issued to JT provides that:

“The JCRA may determine the maximum level of charges the Licensee may apply for Telecommunications Services within a relevant market in which the Licensee has been found to be dominant. A determination may:

Provide for the overall limit to apply to such Telecommunications Services or categories of Telecommunications Services or any combination of Telecommunications Services;

Restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or

Provide for different limits to apply in relation to different periods of time falling within the periods to which the determination applies.”

¹

Direction of the JCRA 2004/3 Re: Jersey Telecom Limited's Reference Interconnect Offer, 29 April 2004, see http://www.cicra.gg/_files/040429%20Initial%20Notice%202004-3.pdf

This condition therefore allows JCRA to regulate the prices that JT charges for telecommunications services in a way and for a time that it deems appropriate, provided that JT has a dominant position in the relevant market in which those services are supplied.

Condition 34.1(c) of JT's licence is designed to protect fair competition in the markets in which JT operates, and provides as follows:

The Licensee shall:...

(c) comply with any direction issued by the JCRA for the purpose of preventing any market abuse or any practice or arrangement that has the object or effect of preventing, restricting or distorting competition in the establishment, operation and maintenance of Licensed Telecommunication Systems or the provision of Telecommunication Services.

This condition allows JCRA to give directions to JT, including in relation to the prices that it charges.

As noted above, both JAL and Sure Jersey have also been found in April 2010 to be dominant (or to possess SMP) in the provision of termination services on their networks. Part IV of their licences provide for JCRA to impose further obligations in the event JCRA determines the operator has SMP in a specific market. Those obligations include a Fair Competition condition (condition 27), part of which is in the same terms as Condition 34.1(c) of JT's licence, set out immediately above.