Fixed Interconnection Rates in Jersey

Final Notice

Direction issued to JT (Jersey) Limited

Document No: CICRA 14/54 **29 September 2014**

Jersey Competition Regulatory Authority,
2nd Floor, Salisbury House,
1-9 Union Street, St Helier,
Jersey JE2 3RF

1. Introduction

1. Fixed line origination and termination rates are the fees charged to other telecommunications companies by the operator of a fixed line network to originate or terminate calls on its network. They are a key component of the retail charge that telecoms customers ultimately pay for telecoms calling services.

2. The issue of the level of call origination/termination rates on fixed telecommunications networks (referred to in this document as fixed origination rates, fixed termination rates or fixed interconnection rates, when referring to origination and termination collectively ("FIRs", "FORs" and "FTRs" respectively)), and the need to ensure such charges are set at levels that reflect the efficient and cost-effective provision of the services, is a matter currently under review by regulators in certain European countries. Many National Regulatory Authorities ("NRAs") in the European Union ("EU") have decided that FIRs should be based on Long-Run Incremental Cost ("LRIC") and it is anticipated that this will further reduce FIRs in the coming years.

3. In Jersey, the rates currently charged by JT (Jersey) Limited ("JT") for call origination and termination on its public telephone network in Jersey are 0.472 pence per minute and 0.428 pence per minute respectively. These rates are the same as the rates charged by Sure (Guernsey) Limited ("Sure Guernsey") and were set by a determination of the Jersey Competition Regulatory Authority ("JCRA") in November 2012 for the period to 30 September 2013, at which time the JCRA had intended (together with the Guernsey Competition and Regulatory Authority ("GCRA")) to have conducted a pan-Channel Island review of FIRs, and other interconnection rates, and to have set new FIRs for JT (with the GCRA setting new FIRs for Sure Guernsey).

4. In June 2014 the JCRA and GCRA jointly consulted on whether, going forward, FIRs 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 interconnection rates 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 FIRs and their current properties (second plus second billing, technology neutral etc) for a period until a further decision is taken by JCRA.

5. On 31 July 2014 the JCRA issued an Initial Notice setting out the JCRA's proposals with regards to FIRs.

6. The JCRA has issued a separate Final Notice in relation to the mobile termination rates charged by JT and the two other existing mobile network operators in Jersey.

7. This document summarises the responses received and sets out a direction issued by the JCRA under Condition 33.2 of the Class III licence issued to JT by the JCRA under Article 14(1) of the Telecommunications (Jersey) Law 2002 (the "Telecoms Law").

8. This document constitutes the Final Notice of the determination under Article 11(1) of the Telecoms Law.

2. Summary of representations and objections

9. In the IN, the JCRA proposed capping the fixed call origination rate at 0.472 ppm and the fixed termination rate at 0.428 ppm. The JCRA also propsed that the FIRs:

   - 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 netural basis.

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

10. The IN proposed that the FIR 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 sunmission from JAL. The submission did not raise objections to the substance of the IN.

12. Having considered the representations made in response to the IN the JCRA has decided that it should confirm the proposed direction outlined in the IN.

3. Direction

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 Condition33.2 of JT's licence as follows:

- the rate charged by JT for call origination on its public telephone network provided at a fixed location in Jersey ("the fixed origination rate") shall be no more than 0.472 pence per minute;

- the rate charged by JT for call termination on telephone networks provided at a fixed location in Jersey ("the fixed termination rate") shall be no more than 0.428 pence per minute;

- the fixed origination rate and fixed termination rate shall be billed on a per second basis effective from the first second;

- the fixed origination rate shall apply with respect to all calls originated on JT's fixed line network on a technology-neutral basis (i.e. from both copper and fibre networks) and irrespective of the destination of the traffic;

- the fixed termination rate shall apply with respect to all calls terminated by JT on its fixed line network on a technology-neutral basis (i.e. from both fixed line and 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 the 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 the 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 interconnection offer ("***RIO***"). The JCRA has previously issued directions to JT on the production of a RIO[1].

In April 2010, following a review of the markets for telecoms services in Jersey[2], the JCRA made the following decision with respect to significant market power ("***SMP***") in markets relevant to this Initial Notice:

2. Call origination on the public telephone network provided at a fixed location: JT has SMP in this market;

3. Call termination on individual public telephone networks provided at a fixed location: JT has SMP in this market;

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:

a) provide for the overall limit to apply to such Telecommunications Services or categories of Telecommunications Services or any combination of Telecommunications Service;

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

c) provide for different limits to apply in relation to different periods of time falling within the periods to which the determination applies."

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.

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[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

[2] *Response to the Consultation Paper 2009 – T3, "Review of the Telecommunication Market in Jersey" and Decision on the Holding of Significant Market Power in Various Telecommunications Markets*, 21 April 2010, see http://www.cicra.gg/_files/100420%20market%20review%20decision.pdf