



7 November

JCRA determination of JT being in Contravention of its Licence.

The JCRA has investigated instances where, through letters written to Sure customers, JT has breached its telecoms licence by acting in an anticompetitive manner and taking advantage of its position as the incumbent (network) operator.

During the fibre optic installation process JT's fibre installation team had cause to write to some Sure customers informing them about their fibre switchover – this was an appropriate communication on JT's part. However at the same time JT took the opportunity to sell its own services to customers of Sure and in so doing placed Sure, who competes with JT, in a disadvantaged position as it was not able to contact JT's customers in the same way.

The JCRA has found that JT is in contravention of its Licence Condition 31 which requires JT *"...not to show any undue preference to, or exercise unfair discrimination against, any User or Other Licensed Operator regarding the provision of any Telecommunications Services or Access. The Licensee will be deemed to be in breach of this Condition if it favours any business carried on by the Licensee or a Subsidiary or Joint Venture or Other Licensed Operator so as to place Other Licensed Operators competing with that business at an unfair disadvantage in relation to any licensed activity."*

The JCRA acknowledges and appreciates that JT has taken steps to avoid a repeat of this contravention when it was identified by the JCRA.

The Telecommunications (Jersey) Law 2002, as amended, provides that the JCRA can issue a financial penalty under Article 19A given a contravention that is non trivial and in circumstances where the contravention is not amenable to a remedy.

The JCRA is of the view that whilst it has the legal basis to issue JT with a fine under Article 19A as well as undertake a review of JT's wholesale broadband processes by relying on alternative powers available, The appropriate way to address the matter in these circumstances is through an undertaking by JT.

In lieu of a fine following JCRA's finding JT has agreed through a formal undertaking that it will carry out a full and transparent review of its wholesale broadband process. JT will commission an independent report with the terms of reference being agreed by the telecoms operators and the JCRA. Telecom operators will be invited to participate fully throughout.

The JCRA welcomes JT's cooperation in this matter.