



Telecommunication Consultants

Response to Review of the Price Control of On-
island Leased Lines: Jersey

April 2015

Introduction

Leased lines wholesale access is an essential component of a liberalized market where the former monopoly incumbent still maintains Significant Market Power (SMP) in the provision of underground connectivity. The incumbent operator has a considerable advantage over new entrants having inherited infrastructure in place prior to liberalization of the market. For the new entrant to replicate the infrastructure would be both inefficient and expensive, therefore in most jurisdictions where the market has been opened to competition, the National Regulatory Authority (NRA) has required the incumbent to open its network to new entrants. In order to promote competition, the NRA usually stipulates the price at which new entrants may obtain access to the incumbent's network and, because the vertically integrated incumbent has significant advantage with regard to managing its network costs, this cost is carefully set in order to simulate a level playing field.

The incumbent nevertheless retains significant advantage as it continues to manage the network on behalf of the new entrants and thus is able to make efficiency savings due to its magnitude of scale.

In some jurisdictions the NRA has attempted to make the market more even by requiring the incumbent to not only provide wholesale access to its network but also to its infrastructure. This is done through the use of dark fibre or duct sharing, whereby the new entrant can reap some of the advantages attributed to the vertically integrated incumbent. There is currently a unique opportunity for either of these options as has declared that it intends to recover its historic copper network after completing its present fibre project. This would release significant duct space in its underground infrastructure. JT already employs a trusted third party for its underground network maintenance and construction and this could easily be extended to new entrants on an equal basis.

Response to the Consultation

Q1: do you agree with the JCRA's proposal to implement a retail-minus price control, strengthened by supporting remedies? If not, what alternatives do you suggest?

Given the difficulties in producing a cost-efficient cost model for a cost plus control, ACS agrees that a retail-minus approach is an acceptable alternative.

Q2: do you agree that the control should be set ex ante? If not, why not?

An ex-ante approach is the fairest solution to price control as well as reducing the overheads that could occur in an ex-post approach which would inevitably increase regulatory workload for both the authority and operators

Q3: do you agree that the control should apply to all wholesale on-island leased lines? If not what alternatives do you suggest?

There appears to be no justification for introducing a subset of leased lines within the island. If it were the case then it would likely result in the rise of disputes over the demarcation boundaries between sets.

Q4: do you agree that the control should apply to each wholesale on-island leased line? If not, what alternatives do you suggest

For the reasons given in response to Q3 above this should be the case.

Q5: do you agree that every retail on-island leased line product offered by JT must have a wholesale equivalent? If not, what alternatives do you suggest?

This approach is essential for ensuring that there is a level playing field for all operators.

Q6: should all retail price discounts and temporary promotions be mirrored in wholesale level pricing? If not, what alternatives do you suggest?

Since it is difficult to determine the exact point of saving in a fully integrated incumbent telecommunications operator, it is essential that such promotions are reflected at the wholesale level. This will further ensure the minimization of potential disputes and investigations of alleged margin squeeze.

Q7: do you agree that the control should be set as a fixed percentage? If not, why not?

This is the simplest approach and while not a perfect solution does maintain the differential between retail and wholesale in the absence of a cost-plus regime. While there is the potential for margin erosion in a falling market, given the static nature of the current on-island leased line pricing this should not present too many difficulties in the future.

Q8: do you agree that retail minus 20% is an appropriate margin? If not, what alternatives do you suggest?

Given the level of granularity of the JT separated accounts it is difficult to judge whether this is the appropriate level. Headline figures would suggest that it is perhaps a little too low.

Q9: do you agree that it is not appropriate to use the price control mechanism to address differential pricing? If not, why not?

Sub-300m leased lines are effectively cross-connexions in the JT POPs. This enables a price to be placed on a retail product function. In the absence of co-location facilities this product has no competitive product from OLOs. Therefore it should be subject to regulatory price control.

Q10: do you agree that the term of the price control should be aligned with the market review cycle? If not, what alternatives do you suggest?

It makes for regulatory efficiency to align these functions.

Q11: do you agree with the JCRA's proposed use of supporting remedies? If not, why not?

The JCRA should use its powers to ensure that there is a fair market and that JT does not abuse its dominant position to the detriment of the consumer.

JT's pricing structures should be regularly monitored in order to avoid any possible abuses of its SMP and to avoid potential margin squeeze complaints.

ACS is fully sportive of the JCRA proposals outlined in this consultation.

For the avoidance of doubt all or any part of this document may be published.

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