Pan Channel Island Consultation

Wholesale Access to Fixed Telecoms Networks

Wholesale Line Rental

Response on behalf of *NITEL LIMITED*

Question 1

CICRA seeks respondent's views on the level of interest that it currently assigns to WLR. Respondents should state whether they see WLR as a necessary product, a somewhat necessary product, no strong opinion, a somewhat unnecessary product or an unnecessary product. Respondents should provide supporting information to justify their choice of level of interest. If a respondent's response differs from its previous response then the respondent is requested to provide a rationale to support the change.

Wholesale Line Rental (WLR) is not simply a "necessary product".
It is an absolutely imperative application for all lines supplied by the current Duopoly - Cable & Wireless/ Sure in Guernsey (CWG) and JT Global (JTG) in Jersey – for the following reasons-

1. Customers across the islands do not have a choice of provider for essential telecommunications services.
2. Without WLR, there cannot be a "level playing field" for businesses operating in the local telecommunications market. As an example, NITEL is trading at a serious disadvantage without WLR or other provider options such as, Least Cost Routing (LCR) or Fixed Number Portability (FNP). As a supplier and installer of bespoke office telecommunications systems, NITEL provides and services telecommunications equipment, but is in direct competition with the dominant incumbent JTG, which supplies and installs the same equipment brand, whilst having the advantage of revenue from the call and data charges that follow from any installation. WLR would provide NITEL with call and data charge revenue.
3. Despite promises made by the first CEO of the Jersey Competition Regulatory Authority (JCRA) some ten years ago that JTG's dominant market position would be addressed, nothing has happened. Additional undertakings, such as the introduction of carrier pre-select, number portability and WLR persuaded a number of telecommunications businesses to invest millions of pounds into Jersey. Not one of the itemised promises has been delivered and businesses will not continue to throw good money after that which is already wasted if the delay and procrastination continues. At minimum WLR will provide a revenue stream where nothing currently exists.
4. Beyond the survivability of small and medium sized operators in the local telecommunications industry, the fact is that industry customers are leaving because of the high costs associated with fixed line data services. Notable departures include Dexia Private Bank, Play.com (NITEL Client), Bank of Nova Scotia (NITEL) and Bank of Bilbao. WLR would introduce competition into this element of the market.

Question 2

Respondents are asked to set out in as much detail as possible what they consider is the appropriate definition of the WLR product they propose.

This definition should include the respondent's requirement for 1) PSTN single line WLR, 2) PSTN multiple line WLR, 3) WLR on ISDN lines as well as the availability of a calls service.
If a respondent's response differs from its previous response then the respondent is asked to provide a rationale to support the change.

These limited options are far too restrictive. Respondents' requirements as licensed telecommunications operators and re-sellers will reflect the needs of clients, which will almost certainly cover all aspects of the existing technical provision. In consequence WLR must apply to all elements of the data transfer infrastructure on a single or multiple line basis.

For example, it would be wholly unacceptable for JTG to simply offer WLR via the current broadband installation programme but resist WLR access to ISDN and other "older technologies" on the grounds that they are to be phased out.

As a re-seller, NITEL would wish to utilise WLR in order to offer business grade, real time, and integrated communications solutions to its clients, which is normal throughout UK and the rest of Europe. This would require tailor made solutions for individual clients, which will require varied options including single and multiple lines, bundled packages and access to different delivery technologies.

In order to establish successful competition within the pan Channel Islands market with re-sellers utilising WLR, JTG & CWG should be obliged to offer WLR for all lines/circuits, including SDSL, ADSL, Fibre, ISDN2e, ISDN30 and Analogue lines.

<u>Question 3</u>

CICRA requests respondents to indicate the principles that should inform both the extent of technical and operational details the regulator should prescribe in WLR access product definition, as well as those aspects it should leave to negotiations between operators and incumbents.

The general principles to prescribe technical and operational details in respect of WLR are well laid out in the Regulaid Review that was commissioned by the JCRA and submitted on 17th August 2009. The overarching principle being that competing re-sellers should be able to replicate the retail services provided by the dominant incumbent operator via the WLR arrangements. This would also apply to services offered by re-sellers from third parties or services offered by re-sellers themselves.

In light of the above, the extent of technical requirements prescribed in the WLR should include all fixed line services (ISDN, DSL, SDSL, Digital, Fibre, lease lines and analogue circuits).
All local mobile networks should also be included in the WLR offer.

Simplicity is the overriding feature that should apply to the operational details of WLR.
For example, following the acquisition and installation of WLR lines and their activation, NITEL would anticipate that JTG would send call data records to NITEL on a regular basis and NITEL would then bill the end user direct, with separate processes in place to refund JTG for WLR.
This can be easily achieved by JTG operating an access code across the main data transfer network which would tag data use to NITEL and/ or a NITEL client.

On a practical level, relating to NITEL as a telecommunication systems installer, NITEL would expect to plumb into an infrastructure portal using standard industry connections. The introduction of WLR should have no impact on this.

It has been suggested that re-sellers should fund their access to WLR. This is unacceptable, especially given the ongoing income obtained on the back of WLR data charges and the dominant size of the incumbent operators.
Re-sellers should not be expected to invest in any WLR hardware requirements and the regulator should be aware that the incumbent operator may attempt to insist on such investment as a further delaying tactic or as a straightforward financial hurdle for putative competitors to deal with.
Access to WLR should be free; including all equipment such as routers, with such capacity specification as is needed to fulfil wholesale customer requests. All appropriate arrangements between licensed operators and the dominant incumbent operator can be dealt with under a straightforward contract and service level agreement.

Question 4

CICRA requests respondents to indicate their views on the approach taken by CICRA in the assessment of WLR as set out in its 2013 decision. If they consider that a revised cost benefit analysis should be carried out respondents are asked to identify the main elements of such a high level analysis that they regard as appropriate.
Where possible respondents should identify and provide evidence/rationale for any significant changes to the high level cost benefit analysis as set out in the 2013 decision.

A further cost benefit analysis is not required. In fact no further analysis at any level is required other than to determine why the regulator has proved so completely incapable on delivering what has been promised for years.

Clearly there was a level of incompetence in failing to properly deliver effective notice to JTG for the introduction of WLR during 2013, resulting in the regulator's failure in court and a heavy penalty in the award of costs. However, an entire decade of failure indicates serious problems at a deeper level within the institution.

All that is needed now is ACTION. No more Q & As, no more consulting, no more delays. Just regulate the competition, in a business sector that is so blatantly one sided in favour of the hugely dominant incumbent monopoly owner of the fixed line infrastructure.

Question 5

CICRA requests respondents to indicate whether a regulatory impact assessment is needed to support the regulatory decision and to provide evidence / a rationale to support their review.

As above. NO MORE ASSESSMENTS.
WLR is used throughout the European Union as a means for stimulating competition within telecommunication markets by giving new entrants an opportunity to obtain a foothold in the market place against dominant incumbents.
However, for some reason, entrants to the pan Channel Island industry have been allowed to commit their investment and have subsequently been left to their own devices with no practical encouragement whatsoever. Without the benefit of WLR revenues in the very short term, it is hard to see how the "new entrants" can sustain any level of serious competition against the duopoly of JTG and CWG.

Question 6

CICRA wishes to understand the timescale that is reasonable for introducing WLR sought by respondents. The incumbents in particular are requested to set out work processes they consider comprise the process of introducing WLR.

It is wholly reasonable to require that WLR is introduced AS SOON AS POSSIBLE.

The JCRA/ CICRA should have sorted this all out 10 years ago. The Channel Islands are now 20 years behind the rest of Europe. JTG and CWG have been on notice for all changes over many years, but have refused to open access to their monopolies.
It is quite staggering that the regulator is now requesting the incumbents to set out the work processes THEY consider should comprise the introduction of WLR.
What has the regulator been doing for the last decade?
Why was the deadline notice issued LAST YEAR without this apparently critical information??
Is the regulator seriously suggesting that JTG/ CWG have been unaware of the progressively imminent requirement to introduce WLR and have failed to prepare their business operations???

Question 7

CICRA wishes to understand what evidence incumbents draw upon to inform their views on the extent and nature of demand in this area. Evidence from incumbents from consultation or discussion with retail operators in particular is therefore sought. Where incumbents have chosen to respond to such demand they are asked to set out their process and timescale for delivery to meet that demand.

NITEL clients have been demanding cheaper call costs and cheaper line rentals plus cheaper broadband. To secure this, they also wish to have a choice of service provider – currently there is NO choice in fixed line services.

Question 8

CICRA seeks views on the pricing principles that should inform the setting of a WLR access price and the above approach proposed.

WLR prices should reflect efficient costs in providing the relevant services, which will be different across the Channel Islands.
Price structures should apply to all on-island operators and be straightforward with no "hidden extras" such as joining fees or supplementary impediments like minimum data purchase, bundling restrictions etc.
Most critical will be a WLR price structure that does NOT provide a "level playing field" as that position would continue to favour the larger sized market participants due to "economies of scale". What is required is an adjusted or "tilted playing field" that contains a price or discount advantage to smaller entities, in order to secure their competitive position. In short, the smallest businesses should benefit most from phased or graduated WLR price bands.
A sensible measure for assessing the varied positions of the small, medium and large businesses within such a pricing structure could be on-island total data and call charge revenue. However, this would potentially overlook overseas revenue, which could contribute cross subsidisation or risk assurance for on-island activities. Such potentials should also be considered as a pricing factor for any local operator.
The logic behind this approach is that new entrants retain an early price advantage, but as a new operator develops and increase its business turnover, it will progressively lose that advantage in comparison to established rival operators.