Newtel Solutions

28 January 2010

Jersey Competition Regulatory Authority
Union House
Union Street
St Helier
Jersey JE2 3RF

Attention: Graeme Marett Esq
Telecommunications Case Officer

Dear Sirs

Re: <u>Response to JCRA Review of the Telecommunications Market in Jersey</u>

We refer to the above Consultation Draft, published on 27th November 2009, which sets out the JCRA's preliminary views on whether any telecommunication operators have significant market power in any of the seven markets that have been analysed.

Newtel agrees with each of the stated views with the exception of the following:

4.6 Off-Island Wholesale Leased Lines

- The JCRA state that JT have 58% of this market but conclude that no single competitor holds a position of significant market power (SMP) since other operators have access to independent off-island infrastructure. Newtel does not agree that this access to other independent off-island infrastructure negates their dominance in this market.

- Our view is supported by the JCRA,s statement that JT, the largest supplier of leased circuits (Newtel would emphasis significantly largest), has a buying power that enables it to create economies of scale that are unavailable to OLOs.

- The acquisition of Newtel Guernsey by Wave (though in a neighbouring regulatory jurisdiction), will have increased this imbalance.

- All off-island circuits must be terminated locally with an on island leased line. With insignificant competitive local infrastructure, JT remains dominant in this critical part of the off-island service.

- More than 20% of the retail cost of a Jersey to London circuit is the critical last mile. Newtel are concerned that by declaring JT non dominant in off-island leased lines, this imbalance will increase.

- Therefore it is Newtel's view that, until the review of JT's on-island local private circuit pricing is complete and the market is more balanced, JT remain dominant with significant market power.

- In addition, it should be noted that several ISPs and data centres do not have access to of island infrastructure (and OLO ISPs' access to the same economies of scale). The off-island leased line is the most significant cost when calculating the margin of an ISP. If JT are considered non-dominant, it will be tempted to favour its own ISP to the detriment of competition.

4.8 The Mobile Networks and Services Markets

- Newtel's view is quite straight forward: JT dominate over 70% of the mobile market.

- 70% of mobile to mobile calls made by JT customers will be the profitable "on-net calls"

- 70% of mobile to mobile calls made by OLO customers will be cost incurring "off-net calls"

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- 100% of mobile to landline calls made by JT customers will be the profitable "on-net calls"

- 100% of mobile to landline calls made by OLO customers will be cost incurring "off-net calls"

In conclusion, whilst Newtel agrees that there has been a recent growth in additional infrastructure, one can not therefore infer that JT no longer dominates the market of the service in question. Newtel are of the strong opinion that there is still quite some way to go before the designation of dominance can be removed in any of the seven markets that have been analysed.

We would be pleased to discuss any of our comments further.
Yours faithfully

NEWTEL LIMITED

JEREMY SWETENHAM