



5<sup>th</sup> February 2010

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

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Dear Sirs

Re Comments on JCRA Consultation Document 2009-T4

We thank you for the opportunity to provide you with our views on your "Consultation on the Publication of Jersey Telecom Limited's Regulatory Separated Accounts" issued on 15 December 2009.

We are pleased to respond to the questions you have posed as follows:

1. "Do stakeholders agree that JT should publish its regulatory separated accounts and its accounting methodology in full ?"

A. The Need for JT Financial Information

It is essential that the JCRA directs JT to publish full financial details of its annual results and in particular separated accounts. As Regulaid BV, the JCRA's consultants, concluded in their report the "Review of Jersey Telecom Ltd's Regulatory Accounts and Access Provision", dated 29 June 2009:

"We regard the problems of Jersey's telecommunications sector as severe because there is no firm foundation for effective competition."

Imposing a requirement on JT to publish full financial information is one of the basic elements of a foundation for effective competition.

B. Available JT Financial Information

Currently there is no publicly available source of information on JT's financial results other than the summary of the consolidated profit & loss and balance sheet statements that appear in the company's "Annual Review" in the section entitled "Overall Figures." The information provided is derisory. The last time JT published financial accounts to a level approaching Jersey GAAP standards was for the year ending 31 December 2002. JT was incorporated in the following year since when it has ceased publishing any detailed financial information despite the company being owned 100% by the States of Jersey. The black out was put in place as a matter of deliberate policy. The Chairman stated in the JT Report and Accounts for 2003:

"In the matter of published information, by agreement with the shareholder we do not intend to make public, business or financial information of a commercially sensitive nature or that which would be likely to benefit a competitor."

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JT has maintained this position and it is clear that the only way the company will publish any meaningful financial information is if the JCRA requires it to do so.

C. Preparation and Publication of Information

It is our view that the JCRA should require JT to prepare and publish financial information annually as follows:

- Statutory accounts to Jersey GAAP standards;
- Detailed profit and loss statements;
- A statement of capital employed and return on capital;
- Separated accounts by revenue and cost centres;
- Consolidation and reconciliation of statutory accounts with separated accounts by revenue and cost centres;
- A description of the costing methodologies used;
- Non-discrimination notes detailing all transfer charges;
- A description of accounting policies and regulatory accounting principles;
- A statement of compliance with regulatory directions;
- Other supplementary schedules as required;
- A statement of compliance from JT's auditors confirming the methodology used and the results of the separated financial accounts.

D. Requirement for Audited Information

The JCRA consultation paper states that in relation to the accounting information JT has provided to the Authority to date:

"In the interest of proportionate regulation, the JCRA does not require JT to have its separated accounts independently audited . . . ."

In our view it is absolutely essential that the separated accounts and the methodology used to produce the information provided are independently audited and verified. As noted it is JT's stated policy to withhold financial information from the marketplace and under the circumstances an auditors' review is essential to ensure that all information is fully disclosed and accurate.

E. Jersey in Comparison to other Jurisdictions

The JCRA consultation paper states:

"The JCRA has regard to international best practice and notes that in many jurisdictions the national regulatory authority ("NRA") publishes

the separated accounts of the dominant telecommunications operator.”

In our view the word “many” in the above statement should be replaced with “most all”. Jersey lags seriously behind other jurisdictions by not having previously required JT, the dominant operator, to publish statutory and separated accounts. The Office of Utility Regulation in Guernsey, our nearest comparable marketplace, directed the dominant operator to publish separated regulated accounts, cost attribution methodology and accounting documents in 2004 and the incumbent has subsequently done so annually. With few exceptions all of the NRAs in the EU have required similar financial disclosures by the dominant operators recognising that the availability of the information is essential to the growth of meaningful competition.

2. “Are there any parts of the JT regulatory separated accounts which should remain in commercial confidence and therefore not be published ?”

It is our very strong view that JT should be required to publish statutory accounts, separated accounts and the balance of the financial information outlined above. The information and processes used to determine the information should be reviewed by the company’s auditors who should confirm that the resulting information is accurate and has been properly prepared in accordance with the accounting records of the company. It is our further view that the publication of this information will still leave JT with considerable scope for maintaining commercial confidentiality. The separated accounts will not require JT to reveal customers, numbers of customers, suppliers, details of operating overheads and other information that might be considered commercially sensitive.

3. “Is the format of the separated accounts, as set out in the Annex to this consultation document an appropriate format ?”

Regretfully it is our view that the reporting schedules included in the Annex do not contain sufficient detail to serve as separated accounting records. Some questions that arise:

- The consultation document refers to six separate areas of JT business that will be broken down into separated accounts. Additional business areas should be considered including: private circuits, collocation and disaster recovery, retail sales, installation and submarine cables. Is there scope for requiring this information ?;
- The annex sets out a profit and loss statement and a statement of mean capital employed for JT’s “Core Network Business”. Are we to assume that similar statements will be provided for each business area as defined above ?
- There is no return on capital analysis by business sector which is essential to the separated accounting process. Will schedules be included ?;
- The “Inter Business Cost Summary – 2005” has a statement at the bottom “transfer payments net out”. What does this mean ?

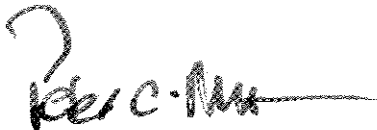
- As far as the rest of the schedules are concerned it is extremely difficult to judge their usefulness and clarity without actual figures to analyze. How do these schedules fit together and consolidate with JT's financial statements ?

There are existing models for the form of separated accounts reporting from other jurisdictions. For instance, the separated accounts that the OUR requires C&WG to publish provide far more detail, scope and clarity than the schedules included in the Annex. The separated accounts provided by BT under the direction of Ofcom provide even better information. We would suggest that the JCRA should review the form of the reports required from JT urgently and publish a detailed table of contents for the reports.

Finally, we would like to ask why is it taking the JCRA so long to require JT to provide financial information and separated accounts ? The JCRA carried out its first consultation on accounting separation and costing methodologies in June 2004. Nearly six years have passed and the telecommunications marketplace is no closer to having the financial information available from JT which everyone agrees is critical to the growth of competition. In the meantime other jurisdictions have introduced separated accounting requirements successfully including Guernsey. It is our view that the JCRA needs to act.

We thank you for your consideration.

Yours faithfully  
NEWTEL LIMITED



PETER C FUNK  
DIRECTOR

PCF/jk