



JERSEY TELECOM'S RESPONSE TO

**JCRA REVIEW OF THE TELECOMMUNICATIONS MARKETS IN
JERSEY**

CONSULTATION PAPER 2009 – T3

29TH JANUARY 2010

(REDACTED VERSION)

1 INTRODUCTION AND BACKGROUND

- 1.1 Jersey Telecom (“JT”) welcomes the opportunity of responding to the Jersey Competition Regulatory Authority’s (“JCRA’s”) consultation on the Review of the Telecommunications Market in Jersey.
- 1.2 In 2002 the JCRA consulted on market definitions and significant market power in the telecommunications sector¹ and in April 2004, the JCRA² determined that Jersey Telecom was dominant in the following markets:-
 - Fixed line telecommunications services;
 - Fixed line telecommunications networks;
 - Leased circuits;
 - Mobile telecommunications services;
 - Mobile telecommunications networks; and
 - Fixed-line broadband services.
- 1.3 Since that time, the mobile market has changed significantly with the entry of Cable & Wireless Jersey (“C&WJ”) and Jersey Airtel Limited (“JAL”). Both C&WJ and JAL have deployed their own mobile networks and offer the full range of 2G and 3G services in the island of Jersey. Added to this, Jersey Post have recently entered the market with their “me:mo” branded mobile service which utilises the JAL network infrastructure to provide the service.
- 1.4 While the competitive pressures at work in the fixed line market are less developed than in the mobile sector, they are far from absent. The conflation of fixed and mobile markets through fixed mobile substitution means that significant competitive pressures are transmitted from the aggressively competed mobile segment to the less competed fixed segment with mobile pricing directly affecting fixed pricing. Increasingly the demand for fixed line services in the consumer segment is more and more associated with broadband internet access and less to do with voice which is being increasingly served by mobile devices.
- 1.5 Network and technology developments have introduced mobile broadband substitutes to the traditional fixed line broadband service. Clear Mobitel (Jersey) Limited (“Clear Mobitel”) has been issued with a Class II licence by the JCRA and a package of 2.6GHz spectrum by Ofcom and is due to announce its roll out plans imminently. As well as offering broadband type services, Clear Mobitel is also likely to introduce alternatives to traditional fixed infrastructure based on-island leased lines.
- 1.6 As part of the fixed access review conducted by Regulaid on behalf of the JCRA³ it was recommended that the JCRA should undertake a market review to underpin remedies on operators with significant market power. Regulaid also recommended that in line with the European Union the focus should be on wholesale markets, recognising that if the wholesale market is competitive the

¹ JCRA Consultation Document 2002/1 – Market Definition & Significant Market Power in the Telecommunications Sector

² JCRA Decision Paper and Direction 2004-1 Telecommunications Market Dominance

³ Review of Jersey Telecom Ltd’s Regulatory Accounts and Access Provisions

corresponding retail market will also be competitive.

1.7 Using the EU recommended markets⁴ Regulaid⁵ proposed that the relevant markets in Jersey should be defined as follows:-

- Access to the public telephone network at a fixed location for residential and non-residential customers;
- Call origination on the public telephone network at a fixed location for residential and non-residential customers;
- Call termination on the public telephone network provided at a fixed location;
- Voice call termination on individual mobile networks;
- On island wholesale leased lines;
- Off-island wholesale leased lines; and
- Wholesale broadband services provided on fixed line network.

2 JERSEY TELECOM COMMENTS

2.1 Proposed Market definitions

2.1.1 JT would reiterate its response to the Regulaid report⁵ where it stated:-

“the underlying model and principles provided by the EU regulatory framework is a good one. In particular, a process of market definition, followed by sound analysis of those markets, identification of operators with SMP, and characterisation of potential resultant competition problems, are necessary pre-conditions for the imposition of any remedies on operators. However, as we emphasise, this is completely distinct from any suggestion that the remedies available or applied in the EU should simply be transposed automatically onto JT, based on a vague hint of competition issues. As stressed throughout the EU framework and associated commentary and precedent, an equally integral part of the framework is the principle that remedies must be appropriate and proportionate to the identified competition issues. Practically, this means that remedies should only be applied in cases of market failure and where these can be shown to have incremental benefits that far exceed the cost of implementation.”

2.1.2 JT agrees with the JCRA’s proposed market definitions as being appropriate to the Jersey market with the exception of the definition proposed for broadband services. JT would request that the JCRA considers a wider definition for broadband access considering the consumer usage fluctuations and product substitution for mobile broadband services.

⁴ EU Directive 2002/21/EC

⁵ Review of Jersey Telecom Ltd’s Regulatory Accounts and Access Provisions

2.2 Access to the public telephone network at a fixed location for residential and non-residential customers

2.2.1 The JCRA takes a preliminary view that JT is dominant in the supply of fixed line access in Jersey for residential and non-residential customers. The JCRA takes this view primarily due to the fact that no other operator has developed fixed line infrastructure in Jersey since liberalisation of the market in 2003 and access can only currently be provided using the existing network operated by JT.

2.2.2 JT would agree that it still provides all fixed lines in Jersey for both business and residential subscribers and no wholesale line access product is currently available. However, the market place is changing and “fixed line access services” have been launched by JAL utilising their mobile network. The JAL product is marketed as a fixed line service and has a Jersey (01534) fixed line number range allocated to it. From a consumer point of view this is a fixed line service and JAL provides both a monthly subscription service and a pay-as-you go option, which is an alternative to a JT fixed line. The table below shows a comparison of the JAL Homephone Pay Monthly against the JT Coreline tariff package:

Table 1 – Comparison of JAL Pay Monthly and JT Coreline

Features	JAL*	JT
Entry Cost	£1	£49.99 or £120.49
Waiting Time	None	4 working days
Credit Check	No	Yes
Minimum Monthly Commitment	£0	£12.40
Handset	£49	Various
Tariffs/Call Pricing pm	JAL*	JT
To Airtel Mobile (Jersey & Guernsey Mobile)	1p	12p / 10p / 9p
Jersey Mobile	10p	20p / 15p / 13.5p
Jersey JT Landline	10p	12p / 10p / 9p
Jersey Airtel Landline	2p	Min 7p thereafter 0.23ppm
UK Mobiles	1p	Min 7p thereafter 0.23ppm
UK Landlines	20p	25p / 15p / 13p
International	5p	3.5p
Data (per MB)	Various	Standard
SMS	1p	4p / min
	5p	N/a

* Information taken from Airtel Vodafone's website on 27/01/2010

2.2.3 The concept of dominance used by the EU is one in which an entity enjoys a position of economic strength, which allows it to behave to an appreciable extent independently of its competitors, its customers and ultimately, consumers.

JT would argue that it does not enjoy dominance as defined by the EU and its behaviour in the Jersey market is conditioned by consumer expectations, substitute fixed and mobile products and benchmarking of JT's prices with services available in the UK market.

2.2.4 The substitution trend from fixed to mobile voice continues, especially in the youth, 18-25 age group and transient segments where mobile is the communication method of choice for voice and to a smaller extent for data

connection. The introduction of the shared mobile voice/text bundle has changed user behaviour in the business sectors, encouraging greater mobile use amongst business customers who would have previously used the fixed line for voice calls but now utilise the additional value provided in their minute bundles. This is apparent in the fixed minute downward trend seen by JT (44% decrease in local call minutes between 2005 and 2009) and has been confirmed in discussions with customers on their usage patterns.

The mobile substitution trend is apparent worldwide and recent quotes from the GSMA support this:-

“Of EU households, 83% have access to at least one mobile phone, whereas only 49% have PC-based broadband, and 24% are ‘mobile-only’, with no access to fixed line.”⁶

Mobile value to consumers is summed up by a quotation from research carried out by the GSMA in August 2009: *“My mobile is like my hand; I can’t live without my hand”⁷.*

(JT Fixed Line Customer Numbers Redacted)

(Jersey Fixed Call Minutes 2005-2009 Redacted)

2.2.5 In the business community there is a growing trend for the use of Voice Over Internet Protocol (“VoIP”). Newtel Solutions offer “Broadband Talk” service utilising VoIP technology and although their market share is currently small the trend for VoIP adoption is growing.

2.2.6 JT would agree that it still provides all fixed lines in Jersey for both business and residential subscribers, however it would ask that the JCRA consider the points made above regarding fixed line substitution going forward and would recommend that the market be reassessed in 18 months time.

2.3 Call origination on the public telephone network provided at a fixed location

2.3.1 The JCRA concludes in the consultation document⁸ that JT’s sole control over the fixed line network in Jersey acts as a significant barrier to retail entry or expansion in the market for call origination on the public telephone network provided at a fixed location. While the JCRA notes that there has been some substitution from fixed to mobile services, business customers remain reliant on fixed line services.

2.3.2 JT would agree that it is dominant in call origination on the public telephone network provided at a fixed location. However, JT would like to highlight the key points made previously, which indicate that this market is not as clear cut as the JCRA’s analysis suggests and that alternatives are available for fixed call origination:-

2.3.2.1 The substitution trend from fixed to mobile voice in the youth, 18-25 age group and transient segments where mobile is the communication method of choice for voice and to a smaller extent for data connection;

⁶ http://gsmworld.com/documents/gsma_2015_mobile_manifesto.pdf

⁷ Ingenious Consulting focus group, Aug 2009

⁸ Review of the Telecommunications Market in Jersey - 2009 – T3

2.3.2.2 The introduction of the shared mobile voice/text bundle has changed user behaviour in the business sectors, encouraging greater mobile use amongst business customers who would have previously used the fixed line for voice calls but now utilise the additional value provided in their minute bundles;

2.3.2.3 In the business community there is a growing trend for the use of VoIP; and

2.3.2.4 The introduction of mobile service products marketed as a fixed line service using fixed number ranges.

2.3.3 JT provides OLOs wholesale access to call origination through its Reference Interconnect Offer (“RIO”). The JCRA’s figures detailed in figure 1 (Page 6) of the consultation paper show that a reasonable share of the call origination market has been gained by OLOs.

2.3.4 As stated previously, JT agree that it is dominant in call origination on the public telephone network, however it would ask that the JCRA consider the points made above regarding fixed line substitution going forward and would recommend that the market be reassessed in 18 months time due to changes in consumer behaviour and availability of substitute products.

2.4 Call termination on individual public telephone networks provided at a fixed location

2.4.1 The JCRA conclude in the consultation document that all calls to fixed numbers with a prefix of 01534 will be terminated directly on JT’s network and it therefore has an absolute monopoly in the market for call termination on individual public telephone networks provided at a fixed location.

2.4.2 JT would argue that this is not the case and both C&WJ and JAL have 01534 number ranges allocated by Ofcom and have the ability to negotiate call termination with international carriers in their own right. JT would agree that it is dominant in providing termination of locally originating 01534 calls.

2.5 Voice call termination on individual mobile networks

The JCRA conclude in the consultation document that each mobile operator has SMP for the calls that it terminates on its own network. JT would agree with the JCRA’s view that each mobile operator has SMP in respect of call termination on its own network.

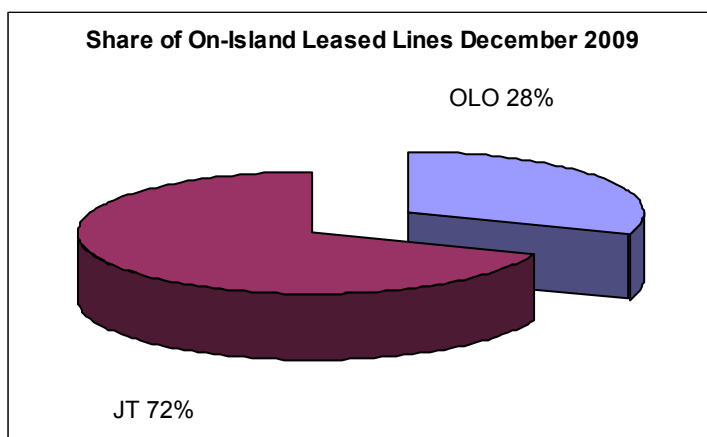
2.6 On-island wholesale leased lines

2.6.1 The JCRA takes the preliminary view in the consultation document that JT remains dominant in the provision of leased circuits on Jersey. While JT would agree that it remains dominant in the supply of fixed infrastructure on-island circuits, it should be noted that there are substitute products in the market.

2.6.2 The concept of dominance used by the EU is one in which an entity enjoys a position of economic strength, which allows it to behave to an appreciable extent independently of its competitors, its customers and ultimately, consumers.

JT would argue that it does not enjoy dominance as defined by the EU in the on-island leased circuit market as competitor and consumer pressure would have been applied had JT's prices in the on-island segment of leased lines be deemed to be too high. JT's behaviour in the Jersey market is conditioned by consumer expectations and by benchmarking JT's prices with services available in Guernsey and the highly competitive UK market.

2.6.3 In the consultation document⁹ the JCRA displayed a pie chart showing the share of the on-island retail leased line market which showed JT as having 93% market share and OLOs with 7% market share. The figures presented are historic and more recent data shows a market share split of JT 72% and OLOs 28%¹⁰.



2.6.4 It is important to note that in a key on-island leased line product area of 2Mbit/s, OLOs have a 39% market share¹¹. At this current point in time JT is dominant in the supply of on-island leased lines that are provided over a fibre or copper infrastructure, however, there are a number of leased line services provided utilising radio infrastructure, one of notable size being the States of Jersey Education infrastructure (approx 40 circuits) that accounts for approximately 5% of the total on-island leased line base.

2.6.5 Clear Mobitel (Jersey) Limited has been issued with a Class II licence by the JCRA and a package of 2.6GHz spectrum has been allocated by Ofcom and is due to announce its roll out plans imminently. As well as

⁹ Review of the Telecommunications Market in Jersey - 2009 – T3

¹⁰ December 2009

¹¹ Market share figure based on number of services at end of December 2009

offering broadband type services, its product offering is also likely to include substitute products for on-island leased lines.

- 2.6.6 The following table shows the current wholesale/retail split of leased line services and indicates the competitiveness of this market. However this table doesn't take account of any on-island radio based leased line services provided in the market.

(On-Island Leased Line Market (December 2009) Table Redacted)

Considering the evidence that 28% of on-island leased lines are provided to Jersey businesses by OLOs and other substitute products are available such as those provided using radio technology. The reality is that JT cannot behave independently in its pricing of on-island services. JT submits that it does not enjoy dominance as defined by the EU in the on-island leased circuit market. All JT pricing changes must consider the service pricing of competitors in the Jersey market and neighbouring jurisdictions.

2.7 Off-island wholesale leased lines

- 2.7.1 The JCRA conclude in the consultation paper¹² that the off-island market is competitive amongst those operators that have access to independent backhaul provision, and no single competitor holds a position of SMP.

- 2.7.2 JT would agree with the JCRA's view. The off-island wholesale leased line market has been competitive since 2004 with both C&WJ and Newtel providing off-island capacity on their own networks. The amount of off-island capacity has increased exponentially with the introduction of the CIEG between Jersey, Guernsey and France and the subsequent installation of the HUGO and Liberty submarine cable systems from Guernsey to the UK. This infrastructure shift has made the off-island wholesale leased line market extremely competitive providing the business segment in the Channel Islands with very competitively priced high speed access into the UK and Europe.

2.8 Wholesale broadband services provided on a fixed line network

- 2.8.1 The JCRA concludes in the consultation document that JT remains the dominant supplier of fixed broadband service in Jersey. JT would agree that it is the sole provider of wholesale fixed broadband services however, there are several substitute products in this quickly evolving market. JT believes the JCRA should consider the market dynamics and the changes in consumer behaviour before setting a market definition for broadband services.

- 2.8.2 JT would challenge the proposed market definition of "wholesale broadband services provided on a fixed line network" as being too narrow and should be widened accordingly.

The concept of dominance used by the EU is one in which an entity enjoys a position of economic strength, which allows it to behave to an appreciable extent independently of its competitors, its customers and ultimately consumers. JT does not enjoy dominance in the overall broadband service market. Trends show that consumers are increasingly

¹² Review of the Telecommunications Market in Jersey - 2009 – T3

accessing broadband services from mobile devices such as the iPhone and it is changes in lifestyle and the use of new devices that will drive mobile broadband usage.

2.8.3 Although mobile broadband is currently seen as a more expensive service, with current maximum speeds of 3.6Mbps, this will rapidly change with the introduction of new mobile devices and the launch of LTE based services. It is highly likely that alternative radio-based internet services will be available in Jersey in the next 1-2 years which will offer more attractively priced services to consumer and business sectors and will be a real alternative to fixed line broadband.

2.8.4 In a rapidly changing market, it does not seem appropriate to utilise market share data which is 12 months old, such as the 2008 3G broadband figures quoted by the JCRA in its consultation document. Mobile broadband services have taken off exponentially since the JCRA's data was collected with C&WJ, JAL and JT providing mobile broadband service offerings. The market is continually exposed to marketing messages promoting mobile data service packages which include laptops/netbooks/dongles.

2.8.5 The GSMA's European Manifesto sums up the changes in consumer usage of mobile broadband services:-

*"Mobile broadband is being used for on-the-move internet access and services such as banking, payments, eBay-auctioning, ticket booking, location-based apps, social networking and much more. As well as its tangible enhancement of consumers' lives, mobile broadband is a significant driver of economic productivity. The mobile internet is revolutionising our knowledge economy by connecting computers with dongles, and smart phones delivering mobile email, real time navigation, maps, news updates and much more."*¹³

2.8.6 It is of interest to note that the mobile industry has the view that in areas where there is little copper infrastructure and a large market of pre-paid mobile subscribers that pre-paid mobile broadband will be widely adopted. Although Jersey does have an extensive copper infrastructure, it is consumer habits that are changing with the use of alternative devices such as the iPhone and iPad. It cannot be emphasised enough that it is changes in lifestyle and the use of new devices that will drive mobile broadband usage and lead to the fixed broadband service becoming redundant for some customer segments.

This view is reiterated in a recent Cellular News story:-

*"In some countries such as India, the lack of existing copper infrastructure coupled with the mass market potential of pre pay services means that Pre Pay Mobile Broadband will become the norm for the majority of users to access the internet worldwide."*¹⁴

2.8.7 Consideration also has to be given to the launch of other radio-based broadband services by the likes of Clear Mobitel who are due to announce their roll out plans. Clear Mobitel intends to deploy a wireless broadband network in Jersey utilizing the 2600 MHz spectrum offering Jersey

¹³ http://gsmworld.com/documents/gsma_2015_mobile_manifesto.pdf

¹⁴ Pre Pay Mobile Broadband to Reach a Third of a Billion Users by the End of 2013 - <http://www.cellular-news.com/story/41292.php>

consumers and business customers access to innovative broadband products.

2.8.8 If the JCRA decides, subject to responses to this consultation, to retain the market definition attributed to broadband, JT would suggest that this market is reviewed within short period of time (potentially 18 months) to ensure that the market classification is up-to-date and reflects this rapidly changing area.

2.9 Mobile networks and mobile services

2.9.1 By definition, the concept of dominance is one in which an entity enjoys a position of economic strength, which allows it to behave to an appreciable extent independently of its competitors, its customers and ultimately consumers.

2.9.2 JT agrees with the JCRA's view that although JT currently has the largest market share it does not have the ability to increase its retail prices. The trend has been for the effective price of calls to drop as service bundles become the norm and additional minute and texts' are added providing consumers with extra value.

2.9.3 Both CWJ and JAL have deployed their own mobile networks and offer the full range of 2G and 3G services in the island of Jersey. JT does not hold SMP in the mobile service market by virtue of the fact it is not able to influence mobile market pricing and cannot act independently of its competitors or consumers. The mobile market is now extremely competitive in terms of price and the variety of services available. Additionally with the introduction of Mobile Number Portability in December 2008, mobile consumers have the ability to take their mobile number with them to any of the three mobile operators. This has effectively removed the final barrier to mobile competition as consumers can switch provider at will.

2.9.4 The mobile market has developed further recently with the entry of Jersey Post's "me:mo" branded mobile service which utilises the JAL network infrastructure to provide mobile service.

3 DOMINANCE REVIEW

3.1 Subject to final market definitions, JT proposes that in this rapidly changing market the JCRA should reassess dominance again in 18 months time. It is likely that the activities of the Pan CI Wholesale Access Group will bring about the introduction of new access products into the market and JT believe that it is appropriate to review markets and dominance in a shorter period of time than has been the case in the past.

3.2 JT suggest that any future assessment should include a review of substitute products and their affect on the markets. It would also be appropriate to collate up-to-date market data from telecom providers as part of the assessment exercise.