



19th December 2012

Mr Andrew Riseley
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Dear Andrew

JT's Response to Initial Notice on Wholesale Line Rental product

Thank you for the opportunity to respond to the JCRA's Initial Notice ("IN") on the Wholesale Line Rental ("WLR") product.

As stated in JT's response to the CICRA consultation on Wholesale Access Products, JT is in favour of developing wholesale access products that are fit for purpose and future proof. It has always been our view throughout the wholesale access process that it is not in the interests of Channel Island consumers to develop wholesale versions of legacy products. JT has consistently held the view that new products should be forward looking and has favoured the development of a Naked DSL with Bitstream ("NDB") product and Fixed Number Portability ("FNP") product.

JT's opinion has not changed on what products would be more appropriate in the Channel Island, however the JCRA has concluded after conducting a cost benefit analysis ("CBA") that WLR should be introduced in Jersey and Guernsey by 3rd June 2013 offering Option 1 billing.

In the IN the JCRA states "*feedback from operators indicates that WLR could be launched in nine months from the commencement of the project.*"¹ However, the JCRA has set a deadline of 3rd June, less than six months from the date on which the proposed modification to JT's licence will take place. To completely disregard the feedback from Operators, who are the experts in running telecommunications businesses, and to pick an arbitrary date for implementation is not a sensible approach and is setting JT up for failure. If Operators tell the JCRA that it will take nine months then the JCRA must give the Operators nine months to implement the service.

The JCRA states in the IN that "*having consulted with operators over an extended time period, there is a clear demand conveyed by operators that customers would respond to alternative choices to the incumbent in Jersey in the fixed telecoms market.*"²

JT's experience in engaging with Other Licenced Operators ("OLOs") in its fibre migration programme is somewhat different to the JCRA's statement above. It would appear that Newtel are no longer interested in WLR as they have launched their own Wimax wireless

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¹ Page 12 of Channel Islands Wholesale Access Project – Wholesale Line Rental Initial Notice

² Annex A – Consideration under Article 7 of the Telecommunications (Jersey) Law 2002

solution offering end users a voice and broadband service. They have stated that they won't be interconnecting with JT on fibre and will therefore not be providing their end users with fibre broadband services. This will effectively mean that Newtel's ADSL broadband customers who decide not to take the Ytel Wimax solution must move their service to another provider if they wish to have a fibre connection into their property. In JT's view this shows that they have no interest in providing a landline service to their customers. As JT will be removing copper from its network, a fibre delivered landline will be the only option.

It is also our view that C&W has deliberately attempted to block JT's fibre roll out strategy and their push for WLR instead of a wholesale fibre naked bitstream product is solely based on the cost of introducing the product in Guernsey and has no bearing on their requirements in Jersey. They have not committed to interconnecting with JT on fibre although technical discussions on configuration are underway. C&W has specifically requested that JT develop a wholesale fibre naked bitstream service in Jersey and JT has started discussions with them and Newtel on their requirements. However, the JCRA's decision to develop WLR will have an impact on the resources available within JT to consider other wholesale access products such as wholesale fibre naked bitstream during 2013. Should the JCRA direct WLR, with limited resources available, JT will have to prioritise the development of WLR over other wholesale products during 2013.

In Annex A the JCRA considers its duties under Article 7 of the Telecommunications (Jersey) Law 2002 and has stated that its primary duty is to perform its functions in such manner as is *"best calculated to ensure that (so far as reasonably practicable) such telephone communications services are provided as satisfy all current and prospective demands for them, wherever arising."*

The JCRA believes that it has satisfied this duty by consulting with operators over an extended time period and believes that customers wish to have alternative fixed line choices to the incumbent in Jersey. It also states that demand is reflected in the States Policy to liberalise Jersey's telecommunication markets. While JT agrees that the JCRA has consulted with Operators it does not agree that WLR is the appropriate wholesale product to take forward. JT would strongly argue that the passage of time between consultation and the current IN has altered OLOs requirements in Jersey and that its own discussions with OLOs would indicate that there was a greater need for Naked Bitstream product than WLR.

The JCRA's statement that *"demand is also reflected in the policy adopted by the States of Jersey to liberalise Jersey's telecommunications markets ..."* is an over simplification. The JCRA's duty is to ensure that telecommunications services are provided to ensure they satisfy current and prospective demand. One of the JCRA's secondary duties is to *"perform its functions under this Law in such manner as it considers is best calculated to further the economic interest of Jersey."* In performing this secondary duty the JCRA has to consider the objectives of the States of Jersey and its plans and ambitions for digital Jersey.

JT's number one priority in Jersey is its Gigabit programme where it has ambitions to provide a 1 Gbit/s fibre connection to every premise in Jersey. The programme is in the interests of all users of fixed line telecommunication services in the Island. As discussed with the JCRA informally, JT consider that it will be efficient to offer the WLR in conjunction with wholesale fibre broadband services on the fibre infrastructure only and not on legacy copper infrastructure which is being removed. JT's reasoning for this is twofold; JT has an ambitious and intensive programme to connect every home to fibre and wants to ensure that nothing distracts it from meeting its targets. Secondly, JT does not wish to duplicate its service provision efforts by moving OLOs services onto a copper line and then arranging a

visit to the premise at a later date to connect fibre. JT believe it would be more efficient for OLO broadband customers wishing to take a WLR service to do this with a migration to fibre. As well as removing the need to duplicate the processing of orders it would also require only one tariff option to be input in the system and keeps the process simple. It would not be appropriate for the JCRA to direct JT to perform a function that was inefficient and would not allow JT to re-coup its investment. Every premise in Jersey will have the ability to connect onto JT's fibre network by April 2013 and JT will be undertaking a process of removing copper from its network on a geographic basis with the intention of removing all copper services by the end of December 2014.

The JCRA mentions in the IN that both C&W and JT use the same billing system, one thing that has not been considered is the fact that JT is in the process of introducing the Comverse billing system while C&W have had the Comverse billing platform in their network for some time. The process of putting the Comverse system in place requires a change to all provisioning processes, tariffs, etc. This is a huge piece of work and an additional requirement such as WLR adds complexities to the implementation programme which has been specified and scoped for some time. JT will be implementing new provisioning processes as part of the move to Comverse and these provisioning processes will need to take account of WLR requirements. While the JCRA states that JT did not provide any *"convincing evidence to support the argument that it must development WLR process that are materially more complex and costly"*, it is commonly understood that when a company is implementing major changes in technology and systems and has a set programme to implement those changes, any additional out of scope elements that are forced into the programme will increase time and cost. The JCRA seems to have disregarded this and has decided to make statements without prior consultation with JT on these points.

Points for Clarification

Option 1 billing as far as JT understand, is to provide the line rental element only with the billing function being carried out by the Other Licenced Operator ("OLO") as per their current arrangements for calls. The inclusion of Option 1 only for a service delivery date of 3rd June effectively means that only existing operators that offer a fixed line call options can offer WLR at day 1. The JCRA has suggested that Option 2 is where processes would be required to enable existing licensed operators to offer WLR where they do not have the systems in place to manage call related services. JT's understanding of Option 2 therefore, is the provision of processes to enable wholesale calls to be made on the WLR and the onward billing of these calls to the OLO. JT would be grateful if the JCRA could confirm that this understanding is correct and that Option 1 is line rental only with no wholesale calls.

Wholesale Pricing

The IN states that *"the new Licence Condition 17.10 will not mandate the price at which JT is required to offer the WLR product, although it does stipulate that JT is entitled to share the efficient costs of the provision of the WLR service equally with each of the Other Licensed Operators that seek WLR."*

Should WLR be directed, JT will be seeking to recover all costs incurred from the provision of WLR and this will be reflected in the wholesale price for WLR. As previously stated, JT supports a "retail minus" approach to WLR as it is a well-known method adopted by many markets when simply reselling a wholesale version of a retail product.

Should you wish to discuss any of the points raised in this response please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. Gunasekara', written in a cursive style.

CAROL GUNASEKARA
REGULATORY OFFICE – CORPORATE AFFAIRS