



Clear Mobitel (Jersey) Ltd.

JCRA Review of the Telecommunications Market in
Jersey.

Comments on JCRA Consultation Document 2009 - T3.

Please Note: *The following are Clear Mobitel (Jersey) Ltd's (CMJ) formal responses the JCRA Consultation Paper 2009-T3. CMJ has no objection to the JCRA publicizing these responses on its website or via any other media.*

Response to (4.1). Access to the public network at a fixed location for residential and non-residential customers.

CMJ agrees with this view.

Experience from the UK mainland telecoms market clearly shows that the opening up of the fixed line asset, owned and operated by BT, led to a major, positive breakthrough in the competition paradigm. It was recognized by Ofcom in its 2008 Communications Market Review that in the UK, the introduction of local loop unbundling (LLU) caused a seismic shift in stimulating both real terms growth in broadband connectivity and a migration by LLU-status service providers of their retail customer base away from BT's wholesale broadband product portfolio to their own-network services which are substantially cheaper to deliver and are innovative in type.

CMJ believes that LLU made a significant contribution to changing the paradigm in UK mainland fixed broadband competition in a positive way by facilitating an exit from the reliance on the incumbent's wholesale broadband portfolio for competitive service providers.

CMJ has stated in previous submissions to the JCRA that the evidence clearly shows that JT remains dominant in its supply of fixed line access to both residential and non-residential customers and that this greatly impedes effective competition.

Response to (4.2). Call origination on the public network provided at a fixed location.

CMJ agrees with this view.

CMJ firmly believes that the reason for continuing dominance in this service by JT is partly to do with the reasons as outlined in CMJ's response to (4.1), but also to do with other reasons. Firstly, CMJ believes strongly in consumer choice. That choice in this instance is stymied in reality because of the absence of fixed number portability support. It is true that both Sure and Newtel have made small in-roads into this market. However, for it to be effective, consumers will want to be able to port their existing number onto a competitors' network when they decide to change service provider.

This is not possible at present. JT's continued monopoly of the fixed line asset renders real and effect market competition on both origination and termination of calls on individual public networks at a fixed location impossible.

Response to (4.3). Call termination on individual public networks provided at a fixed location.

CMJ agrees with this view.

CMJ reiterates the response given to (4.2).

Response to (4.4). Voice call termination on individual mobile networks.

CMJ agrees with this view.

Response to (4.5). On-island wholesale leased lines.

CMJ agrees with this view.

Response to (4.6). Off-island wholesale leased lines.

CMJ agrees with this view.

Response to (4.7). Wholesale broadband services provided on fixed line network.

CMJ agrees with this view.

CMJ would refer the JCRA to its comments on this matter which can be reviewed in its non-confidential submission made for its Class 2 Telecommunications Operator License application.

Response to (4.8). Mobile networks and services market.

CMJ agrees with this view. Experience from the UK mainland would suggest that the JCRA's trend analysis of this market's likely future is correct.

Response to (5). Preliminary Conclusions.

In summary, Clear Mobitel (Jersey) Ltd strongly believes that the appropriate market definitions are those proposed by Regulaid, including mobile services to accurately review the condition of the Jersey telecommunications market. Further, CMJ believes overwhelming evidence exists to clearly demonstrate JT's SMP in key service offerings in the Jersey telecommunications market.

Since the abolition of the States of Jersey monopoly on the provision of telecommunications services in Jersey in early 2003, as a result of the passing of the Telecommunications (Jersey) Law 2002, the success of the emerging other licensed operators (OLOs) in competing with Jersey Telecom (JT) has been mixed.

Whilst there is much evidence that there has been considerable progress in mobile networks and services market competition in Jersey, particularly since the introduction by the JCRA of Mobile Number Portability (MNP), the same cannot be said of competition in the fixed line access environs.

It is the view of CMJ that this is largely down to the fact that it is simpler and much cheaper to build mobile network asset than it is to dig new duct network into the ground. This is no surprise, as this has been the experience in almost every other regulatory jurisdiction in Western Europe, particularly the UK mainland. It is fact that in the 1990s, the UK cable companies nearly bankrupted themselves digging every street in major towns and cities to provide services via their own fixed line infrastructure. Indeed theirs is an abject example that explains why there has not been, and will not be, a compelling economic case for an OLO in Jersey to embark on a large scale duct network dig to compete with JT in the fixed line access.

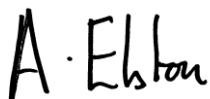
There is however continuing compelling evidence that JT still enjoys SMP today in almost every service type that relies on the fixed line access network to deliver it, which was gifted to the

company [JT] during market liberalization legislation in 2002/2003. The statistics provided by the JCRA in its 2008 Telecommunications Statistical Review bear unequivocal witness to that fact.

The experience from the UK mainland is worthy of note when considering the current state of the telecommunications market in Jersey.

A similar situation prevailed in mainland UK until Ofcom carried out a strategic review of telecommunications and found that BT enjoyed SMP in similar circumstances. As a result of the review in January 2006, BT reached agreement with Ofcom to separate its access network activities away from the core network operations, in accordance with section 5.1 of the Undertakings given by BT to Ofcom, pursuant to the Enterprise Act 2002. The resultant company formed was called BT Openreach. One of key tenets of the establishment of BT Openreach was to "*ensure that all rival operators have equality of access to BT's own local network.*" As a result, local loop unbundling (LLU) and wholesale line rental (WLR) services were incepted. This change has facilitated true competition to flourish in both price and service innovation between competitive service providers (CSPs).

CMJ strongly believes that the JCRA would be right to adopt a similar approach to that of Ofcom in addressing the current, serious imbalance of competition in the Jersey telecommunications market. It believes that this approach would provide an adequate and lasting remedy to the problems of JT's SMP in the provision of services that rely on the fixed line access environs and the unequal access it still enjoys to this day.



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Regulatory Affairs Director

For and on behalf of Clear Mobitel (Jersey) Ltd