



JT's Response to

Telecoms Wholesale Access Services

Consultation

31st March 2016

NON-CONFIDENTIAL

1 Introduction and Background

JT welcomes the opportunity to respond to the consultation on Telecoms Wholesale Access Services on behalf of its operations trading in Jersey and Guernsey.

2 Executive Summary

2.1 Proposed Wholesale Access Products in Jersey

CICRA is consulting on the merits of introducing further wholesale access products in Jersey namely; Bitstream Access, Fixed Number Portability (FNP) and Carrier Pre-select (CPS). These products were consulted on previously as part of CICRA's Pan CI Wholesale Access Products (CIWAP) process.¹

In their 2011 consultation document CICRA state that *"The purpose of the Channel Islands Wholesale Access Project (CIWAP) is to facilitate the development of an active and vibrant market in fixed line services."*²

We are extremely surprised and disappointed that CICRA has focused this consultation on Jersey only, given all Guernsey operators also operate in Jersey. The consultation cites that CICRA has been approached by operators to process fixed line access services and that these approaches have been limited to Jersey. We do not agree that CICRA should only be looking at wholesale access products for the Jersey market but that it should review products on a Pan CI basis as was previously agreed. The CIWAP process started in 2010 with JT, Sure and Newtel taking an active part in the product discussions. In fact the suggestion of an inter-operator forum was made back in 2009 by JT in its response to the "Regulaid Report – Regulatory Accounts and Access Provisions".

"JT rejects Regulaid's approach of simultaneously imposing the broadest superset of possible remedies.

Instead, JT wishes to highlight the merits of creating and sustaining a multi-operator forum, chaired by the JCRA, with the specific purpose of eliciting the true need and demand (if any) for these products and associated forecasts. (emphasis added)

- *Furthermore, this forum should be conducted on a pan-island basis. JT observes that at present, there is very little inter-working between the JCRA and the OUR. We consider this sub-optimal and think it is sensible and desirable for the approach outlined above to be applied on a pan-island basis, i.e. the need or otherwise for these remedies should be considered in both Jersey and Guernsey concurrently. Our proposition is prompted by several observations:*

- *The two islands have significant geographic and economic similarities and inter-dependencies*
- *The same operators operate on both islands*
- *The small size of the Channel Islands suggests that economies of scale in the design and implementation of regulation will be of significance*

¹ http://www.cicra.gg/_files/CICRA%201101.pdf

² Page 5 of CICRA- 11/01

- *Fundamentally, formulation of a common approach among common geo-economic areas to key regulatory issues has wide-ranging benefits, notably the promotion of regulatory certainty and potential for competition and investment across jurisdictions. Indeed, the European Regulators Group in the EU is an example of such a facilitative body with a much more complicated and heterogeneous area, The case for harmonisation of regulatory approaches in the circumstances characterising the Channel Islands is therefore even more compelling.*
- *It has worked before: Developing a consistent approach across both Jersey and Guernsey has been shown to be successful in the past (i.e. on MNP)."*

JT's comments remain as apt today and all of the points made in the statement above remain valid. The introduction of WLR was done on a Pan CI basis and although some difficulties were encountered in the development, JT believe benefits were gained from approaching this on a Pan CI basis. JT therefore cannot agree that new products should be developed on a Jersey only basis and that they must be developed on a Pan CI basis.

2.2 Product Demand

JT has recently had discussions with current wholesale operators on what broadband products they would like developed as part of the fibre broadband roadmap. Appendix A includes Sure's and Newtel's feedback on this request. It was our assumption that our request for feedback on wholesale fibre broadband products would include any requirement for Bitstream Access.

Additionally we have asked for their views on the development of the other two wholesale access products being consulted on. Appendix B includes feedback received on this. We have received feedback from Newtel however Sure has not responded to the request. Sure has previously mentioned that it launched its fixed line services in the Isle of Man using Carrier Pre-Select and it may consider requesting that this product is developed for Jersey. However we have no further feedback on if they have any further product requirements. Additionally, we have offered to engage with Sure on a wholesale product roadmap however Sure declined to take this offer up.

2.3 Cost Benefit Analysis

As has been stated on many occasions, JT is in favour of developing wholesale access products that are fit for purpose and future proof. It is also important that demand is assessed before deciding which products to develop and that the benefits of developing the products outweigh the cost.

The consultation document states at 4.3 *"In terms of benefits, the view of CICRA is that, irrespective of whether customers choose to switch or not, the improved level of competitive pressure in the market is beneficial to all consumers, and not confined to those who choose to switch away from the incumbent. This is because the incumbent is likely to have to react to this competitive pressure in serving its existing customers, with related benefits to customer who remain with it."*

JT would like to stress that if this is CICRA's view, then it is important that the cost of producing products, which may only have a very limited take up, needs to be considered in the cost benefit analysis and if the incumbent operators are directed to provide these products, they must be able to make a sufficient return on their investment.

2.4 Implementation of Wholesale Access Products

If after due consultation, taking into consideration the real demand for wholesale access products, it is deemed that certain wholesale products should be developed then proper consideration needs to be given to the resources required from the incumbent operator and the other programmes of work they are running. It is important that CICRA learn from the findings of the WLR court case.

*“The JCRA has determined that a particular course of action is required. It is entitled to require that the regulated entity achieve this within a reasonable timescale. However, the JCRA **must take account of resourcing issues which are presented to it by the parties it regulates, so that any timescale strikes a reasonable balance between the requirements of the regulator and the commercial interests of the operator** (emphasis added).”³*

*“It is in our judgment unreasonable to expect regulated entities to incur time and expense in beginning to implement the course of action proposed in the Initial Notice at a time when there is no certainty that that course of action will be proceeded with. Accordingly **we find that the JCRA should fix any timescale having regard to how long would reasonably be needed for implementation from publication of the Final Notice** (emphasis added).”⁴*

³ Paragraph 92 of JT-v- JCRA 29 Nov 2013

⁴ Paragraph 93 of JT –v- JCRA 29 Nov 2013

3 Responses to Questions

- Q.1 CICRA is seeking the views of respondents on the merits of implementing Bitstream Access in Jersey, in particular a) what benefit there would be to consumers b) estimated take-up and c) the types of services that would be enabled.**

JT has not received any direct requests for this product. It has canvassed both Newtel and Sure on their wholesale fibre broadband product requirements and neither have expressed an interest in this product. (see Appendix A)

- Q.2 CICRA welcomes the views of respondents on the implementation of Fixed Number Portability in Jersey, in particular a) what benefit there would be to consumers b) estimated take-up c) types of services that would be enabled.**

JT has specific comments on 6.8 and 6.9 on page 7 of the consultation document.

“6.8 Initial indications are that JT would be able to implement FNP on its existing switching network.”

JT is unaware where the initial indications came from but we would like to make it clear that JT does not have this capability on its existing switching network. FNP is not simply a recycling of MNP and would require analysis, design, capital expenditure and operational expenditure and would also require work to be done on JT's billing system.

“6.9 The administrative solution for MNP is provided by PortingXS from The Netherlands which could be amended and updated to be able to support FNP. This change should have little impact on the operators who currently provide MNP.”

This statement does not accurately reflect reality. The existing platform may be able to be used but in order to do that JT would need to integrate the extension of its existing platform or may require a new platform. These options would need to be assessed from a design and cost perspective before a decision could be made.

JT has not received any direct requests for this product. It has canvassed both Newtel and Sure on their wholesale access requirements and neither have expressed an interest in this product directly to JT.

- Q.3 CICRA welcomes the views of respondents on the implementation of Carrier Pre-Selection in Jersey, in particular a) what benefit there would be to consumers b) estimated take-up c) types of services that would be enabled.**

JT has specific comments on 7.3 on page 8 of the consultation document.

“7.3 Initial indications are that JT would be able to implement CPS on its existing switching networks (the operators switching and call routing functionality needs to be able to support CPS).”

JT is unaware where the initial indications came from but we would like to make it clear that JT does not have carrier pre-select capability on its existing core network. In order to

determine the costs and functionality JT would need to undertake analysis and design and would also require work to be done on JT's billing system.

JT has not received any direct requests for this product. It has canvassed both Newtel and Sure on their wholesale access requirements and neither have responded formally with interest in this product directly to JT.

Q.4 CICRA welcomes the views of respondents as to whether the matters under consideration in this consultation should be extended to Guernsey.

JT fully supports Channel Island regulation in terms of a consistent approach to regulation across Jersey and Guernsey. We are surprised and disappointed that CICRA has focused this consultation on Jersey only given all Guernsey operators also operate in Jersey. The consultation cites that CICRA has been approached by operators to process fixed line access services and that these approaches have been limited to Jersey.

JT believes that there are definite benefits to developing products in both Jersey and Guernsey at the same time and would argue that processes followed to develop WLR demonstrated the benefits of this. Developing wholesale access products in Guernsey at the same time as Jersey is a better use of time as both incumbents processes can be looked at together and consistent processes can then be developed. Additionally, it works as an incentive to both incumbent operators if they are both working to the same time lines and both have an interest in using the product that is being developed.

Q.5 CICRA welcomes the views of respondents as to whether there are alternatives or additional fixed access services that have been identified that are not listed above and in particular how they might deliver the strategic aims of CICRA set out in section 3.

JT has not received any feedback from Newtel or Sure as to alternatives or additional fixed access services.