



## **Investigation into Dispute between Cable & Wireless Jersey Limited and Jersey Telecom Limited regarding ADSL broadband takeover charges**

Comment by Teletech Solutions in response to the JCRA's Provisional Findings dated 3 October 2011

10th October 2011

### **1 INTRODUCTION**

Teletech Solutions welcomes the opportunity given by the JCRA to comment on provisional findings of the investigation into the dispute between Cable & Wireless Jersey Limited (C&W) and Jersey Telecom Limited (JT) regarding ADSL broadband takeover charges, and the initial notice of proposed determination.

This document contains the response of Teletech Solutions to the JCRA document published on 3rd October 2011.

### **2 SUMMARY**

Firstly, Teletech Solutions is pleased to see that the JCRA is investigating the issue of broadband takeover charges in Jersey and proposing a change to lower them from the current £44.00 to £12.75. It is our opinion that the imposition of a broadband takeover charge is a significant barrier to competition in the Island and limits customer choice in this important service. We believe the reduction should be implemented at the earliest possible opportunity.

In our opinion, the proposed determination does not go far enough however, and should only be considered an interim step towards creating a truly competitive and customer-focused broadband service in Jersey. The basis of this conclusion is as follows:

1. While this determination goes some way to help improve the general competitive nature of broadband in Jersey, it should be part of a wider framework of measures imposed to reform the overall structure of the market.
2. The proposed 'takeover' price of £12.75 is arrived at through a somewhat arbitrary analysis, and may be open to challenge now or in the future.

3. As with mobile number portability, the determination should ensure there is no migration fee levied against the retail customer.
4. The determination does not compel the operators to offer a seamless migration process from a customer's perspective.
5. The charges should be bilaterally applied.
6. It does not encompass SDSL, for which a takeover charge of around £170 exists.

### 3 DETAILED COMMENT

Teletch Solutions is pleased to see the JCRA investigating the issue of broadband takeover charges and to see its proposals for reducing the fee currently charged. We believe this is an area long overdue for examination and that the application of a rigorous regulatory broadband framework is needed in order for Jersey businesses and consumers to receive true choice and value for money.

While welcoming the proposed reduction in the broadband takeover charge, we believe it does not go far enough however, is too narrow in its application and too limited in its scope. The reasons for concluding this are set out below:

#### 3.1 More widespread measures are needed to improve Jersey's broadband services

Broadband is no longer a nice-to-have service, for many businesses and consumers it's now indispensable. And this is a situation that will only become more apparent in the years to come. Yet Jersey customers are faced with a broadband market we believe needs to change in order offer customers better choice and value for money.

Given this situation, a more wide-ranging review of the Jersey broadband market would have been desirable and hopefully resulted in a regulatory framework that fully takes into account the needs and expectations of customers and operators.

#### 3.2 The arbitrary nature of fee may result in a challenge

The proposed fee of £12.75 is derived through rather arbitrary analysis which may be open to challenge now or in the future.

#### 3.3 The determination should preclude passing takeover charges on to retail customers

As is the case with mobile number portability, there should be no or minimal barriers to broadband migration, and certainly not financial disincentives. The proposed determination makes no reference to this, however, leaving C&W free to pass the £12.75 takeover charge on to retail customers, directly or with some mark-up.

While we recognise this approach would not be advantageous to C&W, they may have little choice given the probable low wholesale margins. We therefore believe that in the interests of competition the JCRA's determination should set the takeover charge at zero - regardless of the costs incurred by the host broadband operator – and that the recipient operator should be precluded from charging the retail customer a takeover fee.

### 3.4 The determination should address the entire takeover process

While lowering the takeover charge may go some way towards improving customer choice in Jersey, there remains the absence of an agreed and binding broadband takeover process that minimises customer inconvenience and cost. In the UK and elsewhere, this process, which involves the use of a migration authorisation code (MAC) being exchanged between broadband providers, minimises migrating customer disruption, downtime and costs. This process has been compulsory in the UK since 2007.

Without this process, the migration of broadband services in Jersey are likely to involve additional IT time and costs as customers need to reconfigure their equipment and may result in unacceptable service downtime. The determination should either address this, or put in place a framework that seeks to do so in the near future.

### 3.5 The takeover charge should be bilateral

The new takeover charge should apply to all Jersey broadband providers, including C&W and Newtel.

### 3.6 The investigation and determination does not include SDSL

The investigation and proposed determination only relates to ADSL (Asymmetric Digital Subscriber Line) and not SDSL (Symmetric Digital Subscriber Line). This is significant oversight given that SDSL services, although far less widespread than ADSL, are the most expensive broadband services in Jersey today and therefore perhaps the most desirable to move to a lower cost provider. Moreover, the current takeover charge for an SDSL service is around £170 compared to £44 for ADSL. The determination should therefore cover ADSL as well.

## 4 CONCLUSION

As stated, the investigation and proposed determination in respect of ADSL broadband charges are broadly welcomed by Teletech Solutions and should be implemented without delay.

We would, however, ask the JCRA to consider and respond to the comments we have raised in this response document, and where appropriate, modify the proposed determination to accommodate. In particular we believe the determination should be modified to include:

- a) Precluding the pass-on of takeover charges to the customer
- b) The introduction of bilateral arrangements
- c) The inclusion of SDSL in the scope of the direction

Finally, thanks to the JCRA for giving the opportunity to comment on this matter.