

TELECOMMUNICATIONS (JERSEY) LAW 2002

GENERAL CLASS LICENCE

FINAL NOTICE

The Jersey Competition Regulatory Authority ('JCRA'), being the competent authority for the licensing of telecommunications under the Telecommunications (Jersey) Law 2002, and in exercise of its powers under Article 18 of the Law, will modify all the Class Licences issued under the Telecommunications (Jersey) Law 1972. Under Article 1 of the Telecommunications (Jersey) Law 2002 the interpretation of 'modify' includes 'revoke'.

On 24 March 2004, the JCRA Board, being mindful of the need to ensure that all telecommunications systems that are required to be licensed under the Law are fully licensed, and in exercise of its powers under Article 11 of the Telecommunications (Jersey) Law 2002, published an Initial Notice detailing their intention to replace the revoked Class Licences issued under the Telecommunications (Jersey) Law 1972, with a new General Class Licence.

Written representations or objections were received on or before the 22nd April 2004 from Jersey Telecom Limited and I.T. Consultancy Limited.

A full discussion of the points raised and considered can be found in *The Response of the JCRA to Representations by Jersey Telecom Limited and I.T. Consultants* and what follows here is a summary.

Jersey Telecom Limited made 6 main representations. Details of the Authority's response follow each point in italics. The representations were regarding:

- 1) the use of the word 'Users' as opposed to 'Providers' throughout the draft Licence;

The Law defines neither Provider nor User; rather it refers to a "person running" a telecommunication system. The General Class Licence refers to a Provider or User both of which are defined terms within the Licence. The Law does require that a person running a telecommunication system holds a Licence. The JCRA is of the view that in order to construe the meaning of the Law, it is necessary, in certain circumstances, to licence Users.

- 2) the use of the word 'and' rather than a comma in the sentence 'Telecommunications Apparatus within the Bailiwick of Jersey and subject to the...';

This wording is identical to the wording employed in all JCRA Licences, including that of Jersey Telecom Ltd, who have never previously sought to comment on this matter. This wording construes the meaning of the Licence and any change would not materially affect this.

- 3) the fact that the draft General Class Licence is designed to replace all existing Class Licences issued under the 1972 Law;

This is, of course, the intention of the draft Licence, as stated in the Initial Notice.

- 4) Clause 3.3 of the draft General Class Licence implying each user of the Licence had a need to register with the JCRA thus creating undue bureaucracy;

Clause 3 is provided only for the purpose of monitoring compliance with the Law and Licence and is included in all Licences to ensure that the requirements of the Law in respect of information procurement in the case of a breach or suspected breach of licence are understood. It is not the intention of this clause nor is it the intent of the JCRA, as outlined in the application instructions, that licensees shall register, and therefore concerns about undue bureaucracy are dissipated.

- 5) a simpler Schedule to the Licence grouping certain items under a generic heading;

The JCRA is of the view that grouping under generic headings could constrain licensing in the light of evolving telecommunications technologies, thus prefer to maintain an open list.

- 6) the fact that apparatus connected to a private network requires no Licence unless that network is connected to the PSTN or provides a service to others.

This is true and thus such situations are exempt. In all other cases where a Class I, Class II or Class III Licence is not required, the General Class Licence will suffice.

The summaries of representations made by I.T. Consultancy Limited, and the response of the JCRA are that:

- 1) a request that the draft be altered to make it clear that all amendments to the appendix can only be made in accordance with Article 18 of the Law following notice under the provisions of Article 11;

The JCRA can confirm that amendments to the Schedule would follow the procedure of "specified regulatory functions" under Article 11 of the Telecommunications (Jersey) Law 2002.

- 2) Clause 3.3 of the draft General Class Licence implies each user of the Licence had a need to register with the JCRA thus creating undue bureaucracy;

The JCRA response is the same to that of Point 4 of JT Ltd above.

- 3) the word 'modems' alone in item (u) of Appendix A might exclude some types of equipment such as ISDN terminal adapters and certain ADSL devices;

These are simply forms of modems, which are included in the Schedule.

After due consideration of both these representations, the Board of the JCRA have decided that none of the points raised by either party merit any changes in the General Class Licence. A full discussion of the points raised and considered can be found in *The Response of the JCRA to Representations by Jersey Telecom Limited and I.T. Consultants Limited*.

Copies of this notice, the JCRA Response, and the General Class Licence are available for inspection at the offices of the JCRA at 6th Floor, Union House, Union Street, St Helier, Jersey between the hours of 9.00 am and 5.00 pm Monday to Friday and on the JCRA website www.jcra.je .

The General Class Licence will now take effect 29 days from the publication of this Notice, i.e. September 11 2004.

14 August 2004

By Order of the Board of the JCRA

This Final Notice supersedes that published on 22 July 2004 following a request from Jersey Telecom Limited.