

TELECOMMUNICATIONS (JERSEY) LAW 2002

Clear Mobitel (Jersey) Limited

INITIAL NOTICE

The Jersey Competition Regulatory Authority (the JCRA) having received an application from Clear Mobitel (Jersey) Limited (the CMJ) to run a telecommunications system in Jersey and in exercise of its powers under Articles 11 and 14 of the Telecommunications (Jersey) Law 2002 (the Law), proposes to grant a Class II Licence to CMJ.

CMJ intends to deploy a wireless broadband network in Jersey utilizing the 2600 MHz spectrum recently released by Ofcom for the provision of Long Term Evolution (LTE) wireless services.¹ CMJ proposes to offer Jersey consumers and business customers access to innovative broadband products. LTE is a rapidly evolving new technology and promises to provide exciting new opportunities for innovative development of telecommunications services.

The Law requires the JCRA to perform its functions in a manner consistent with its duties as set out in Article 7. The JCRA's consideration of these duties is detailed below.

I Considerations under Article 7(1) of the Law

1. The JCRA's primary duty in Article 7(1) of the Law is to exercise its functions in a way best calculated to ensure that, so far as reasonably practical, telecommunications services are provided, both within Jersey and between Jersey and the rest of the world, so as to satisfy all current and prospective demands for them, wherever arising.
2. There are current demands both within Jersey and between Jersey and the rest of the world for high speed data based services in order to satisfy both the requirements of the finance industry and the States of Jersey stated policies regarding ecommerce. The services proposed by CMJ would satisfy these demands.
3. In addition to satisfying the current demands, the proposed Licence would potentially satisfy demands for prospective services that require high bandwidth. CMJ has informed the JCRA in its application that it intends to develop its network as new technologies evolve.

¹ The JCRA issued a consultation paper on the allocation of 2600 MHz spectrum on 3 June 2009. The allocation of spectrum in Jersey is the responsibility of Ofcom.

4. In considering whether CMJ's proposed services satisfy demands for telecommunications services under Article 7(1), the Law directs the JCRA to have regard to the considerations listed in Article 7(3) of the Law. The JCRA has preliminarily concluded that the deployment of proposed CMJ wireless broadband network in Jersey would satisfy the Article 7(3) considerations:
 - information provided to the JCRA indicates that the range of services to be offered by CMJ would be priced competitively to both Jersey consumers and business customers;
 - CMJ proposes to deploy other innovative services that require a high quality, high speed delivery network including video streaming, peer to peer, high definition TV and nomadic working; and
 - CMJ proposes to deploy its own infrastructure, thus providing an alternative network for the deployment of services. This network is entirely configurable by the operator and thus can be optimized for specific applications.

II Considerations under Article 7(2) of the Law

5. Article 7(2) of the Law specifies additional duties that the JCRA must consider in so far as this is consistent with its primary duty set out in Article 7(1). These considerations are set out below:
 - A. Article 7(2)(a)**
6. The JCRA has a duty under Article 7(2)(a) to perform its functions in such manner as it considers best calculated to protect and further both the short-term and long-term interests of users of telecommunications services and apparatus within Jersey and to perform them where appropriate by promoting competition among persons engaged in commercial activities connected with telecommunications.
7. CMJ has applied for a Licence to provide advanced telecommunications services and the JCRA considers that the grant of a Licence would potentially benefit users of telecommunications services in Jersey through providing more competition, consumer choice and innovation. CMJ's proposals embrace both business and residential consumers of telecommunications services and by deploying its own infrastructure to provide these services, would offer real choice to users.

B. Article 7(2)(b)

8. The JCRA has a duty under Article 7(2)(b) to perform its functions in such manner as it considers best calculated to promote efficiency, economy and effectiveness in commercial activities connected with telecommunications in Jersey.
9. It is generally recognized that competition serves to promote productive and allocative efficiencies. CMJ believes that its arrival in the broadband market in Jersey will cause retail prices to fall while increasing speed, quality and service differentiation to the Jersey consumer. CMJ also proposes to use its network to offer high grade virtual leased lines in Jersey. Thus, granting a Licence to CMJ would appear to be consistent with the consideration set out in Article 7(2)(b).

C. Article 7(2)(c)

10. The JCRA has a duty under Article 7(2)(c) to perform its functions in such manner as it considers is best calculated to promote the economic interests of Jersey.
11. Jersey is a world leader in the provision of financial services. The development of these services in line with the States of Jersey policies is fundamental to the success of the Jersey economy. This development relies heavily on high-quality, efficient and affordable telecommunications services and in granting a Licence to CMJ the JCRA is of the view that this requirement is satisfied. The availability of a high speed, high quality affordable broadband network will also assist the development of small businesses that are able to provide diversification of services within the Jersey economy, opening up opportunities for the development of knowledge based enterprises that rely on the availability of high speed data connections both within Jersey and between Jersey and the rest of the world.

D. Article 7(2)(d)

12. The JCRA has a duty under Article 7(2)(d) to perform its functions in such manner as it considers is best calculated to impose the minimum of restrictions on persons engaged in commercial activities connected with telecommunications in Jersey. The conditions contained in the proposed Class II Licence to CMJ reflect the conditions contained in the other Class II Licensees in Jersey such as universal service, number portability, consumer protection and interconnection with other networks. Thus, the proposed Licence is drafted to facilitate the development of competition on a level playing field in telecommunication services, with the minimum of restriction.

E. Article 7(2)(e)

13. The JCRA has a duty under Article 7(2)(e) to have regard to the need to ensure that persons engaged in commercial activities connected with telecommunications in Jersey have sufficient financial and other resources to conduct those activities. CMJ has provided confidential information to the JCRA that it has the financial and other resources to fulfil its proposals set out in the proposed Licence.

F. Article 7(2)(f)

14. The JCRA has a duty under Article 7(2)(f) to have regard to any special needs of persons who are disabled or have limited financial resources or have particular needs. The JCRA is satisfied that the grant of this Licence will have neutral effect on this objective.

Based on these considerations, the JCRA has preliminarily concluded that the grant of a Class II Telecommunications Licence to CMJ would be consistent with the considerations set out in Article 7. The JCRA therefore intends to grant the Licence, which would be effective on **21st August 2009**, unless the JCRA receives representations or objections about the proposal prior to that date. In that case the effective date will be specified in any Final Notice issued by the JCRA under Article 11(5) of the Law.

Copies of the proposed Licence and this Notice are available for inspection at the offices of the JCRA and on its website at www.jcra.je. Written representations or objections to the exercise of this specified regulatory function may be made by letter marked for the attention of Graeme Marett, Telecommunications Case Officer, 2nd Floor, Salisbury House, 1 ó 9 Union Street, St Helier, Jersey JE2 3RF, on or before **midnight on 19th August 2009**.

In compliance with the procedures set out in the Guideline on Procedures under the Telecommunications (Jersey) Law 2002, the JCRA intends to publish full non-confidential texts of any representations or objections received in response to this Initial Notice. Thus, respondents to this consultation should clearly identify all confidential information contained in their responses.

17th July 2009

By Order of the Board of the JCRA