

# **JERSEY COMPETITION REGULATORY AUTHORITY**

## **FINAL NOTICE**

### **Under Article 11 of the Telecommunications (Jersey) Law 2002**

1. On 12 May 2005 the Jersey Competition Regulatory Authority (JCRA) published in the Jersey Gazette an Initial Notice of a proposed Direction to Jersey Telecom Limited (JT) requiring JT to implement separated accounts within the meaning of Condition 29 of its telecommunications licence.
2. Only JT submitted written representations or objections to the proposed Direction. These can be summarised as follows:
  - (i) JT rejected the JCRA's reasoning in the proposed Direction on the level of detail (or disaggregation) of JT's accounts required by the proposed Direction. JT submitted that the JCRA's justification was insufficient since it did not consider the 'alternative' remedy of the Competition (Jersey) Law, which comes fully into force on 1 November 2005. JT submitted that a lower level of disaggregation, supported by the Competition (Jersey) Law, would be sufficient to achieve the JCRA's objective.
  - (ii) JT submitted that the proposed requirement on JT to produce separated accounts for the year 2006 onwards within six months of the end of the relevant financial year should be replaced by an obligation to do so within six months of the production of JT's statutory accounts for the relevant financial year.
  - (iii) JT argued that the requirement for a CCA (Current Cost Accounting) valuation of JT's assets represents a disproportionate cost given the scale and relative age of JT's network.
  - (iv) JT submitted that the three month period by which the activity-based costing methodology is to be produced should start from the date when the Direction takes effect.
3. The JCRA's responses to JT's representations (following the same numbering) are as follows:
  - (i) Accounting separation requirements are imposed in EU jurisdictions on incumbent telecommunications operators precisely because competition

law (which relies upon ex post investigation of suspected competition law infringements) is considered insufficient to ensure that incumbent operators allocate costs appropriately and that there are no unfair cross-subsidies. The JCRA therefore does not accept that competition law is an appropriate alternative (in whole or in part) to the accounting separation requirements set out in the Direction.

(ii) To require, as JT has suggested, the production of JT's separated accounts within six months of the production of JT's statutory accounts would mean that the information in the separated accounts would be substantially out-of-date, and therefore of limited value, by the time the JCRA received it. Moreover, any delay in producing the statutory accounts would, according to JT's proposal, result in a delay in producing the separated accounts. The JCRA therefore continues to believe that a requirement to produce separated accounts within six months of the end of the relevant financial year, with effect from financial year 2006, is reasonable.

(iii) The concept of CCA valuation of assets is generally used by telecommunications regulators to ensure that costs used for accounting purposes in respect of retail and wholesale services, and particularly interconnection costs, reflect the up-to-date cost of assets and technologies used in providing those services.

(iv) The JCRA accepts JT's representation as summarised in 2 (iv) above.

4 The JCRA therefore now intends to issue the said Direction. The Direction will take effect on 1 August 2005.

**1 July 2005**

**By Order of the JCRA Board**

## **Annex**

### **JT's Business Activities subject to this Direction**

#### **a) Core Network**

#### **b) Local Access Network**

#### **c) Retail Fixed:**

- Retail – Exchange Line Rental and Connection
- Retail - Local Calls
- Retail - National Calls
- Retail – International Calls
- Retail – Calls to Jersey Mobiles
- Retail – Non-geographic Calls free to calling customer
- Retail – Non-geographic Calls charged at local rates
- Retail – Non-geographic Calls charged at national rates
- Retail – Non-geographic Calls charged at premium rates
- Retail – Internet Calls
- Retail – Directory Enquiry
- Retail – Public Payphones
- Retail – Leased Lines (private circuits)
- Retail – Remaining Activities

#### **d) Broadband**

- xDSL
- Other

#### **e) Mobile**

Access Network

Retail:

- Retail – Connection
- Retail – Rentals
- Retail – Prepaid Sales
- Retail - Jersey Calls
- Retail – Calls from Mobile
- Retail – Calls to Mobile
- Retail – SMS
- Retail – Roaming
- Retail – Directory Enquiries

Other (MMS, GPRS Services).

**f) Other Activities, for example:**

Retail Sales  
ISP Services  
Network Cabling

Annex 1 of the Consultation Paper provides full definitions for the disaggregated Retail activities specified above.