



Mobile Termination Rates in Jersey

Final Notice

Directions to JT (Jersey) Limited, Jersey Airtel Limited and Cable & Wireless Jersey Limited

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**Jersey Competition Regulatory Authority,
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1. Introduction

1. Mobile termination rates (**MTRs**) are the fees charged to other telecommunications companies by mobile network operators (**MNOs**) to terminate calls on mobile networks. They are a key component of the retail charge that mobile customers ultimately pay for their mobile phone services.
2. The need to ensure MTRs are set at levels that reflect the efficient and cost-effective provision of terminating services is a matter currently under review by regulators in many European countries. Within the European Union, there has been much progress in recent years to ensure MTRs are set at an efficient and cost-effective level, with further progress expected as the European Commission increasingly focuses its attention on charges in the mobile sector.
3. In Jersey, there are three mobile network operators currently providing mobile services: JT (Jersey) Limited (**JT**), Cable & Wireless Jersey Limited (**CWJ**) and Jersey Airtel Limited (**JAL**). The current MTR applied by all three operators is 5.6 pence per minute (**ppm**) and it has been at this level for some considerable time. The Jersey Competition Regulatory Authority (**JCRA**) has been reviewing the charges applied by JT for all interconnection services, and on 30 July 2012 issued an Initial Notice (**IN**) setting out the JCRA's proposals with regard to MTRs. The JCRA has issued a separate Final Notice in respect of a cap on the rate charged by JT for call origination and termination on its fixed line telephone network.
4. JT, CWJ and JAL each hold licences issued to them by the JCRA under Article 14 of the *Telecommunications (Jersey) Law 2002* (**Telecoms Law**).
5. This document summarises the submissions received by the JCRA in response to the IN, and the JCRA's response to those submissions. It also sets out the directions that the JCRA hereby issues to JT under Condition 34.1(c) of its licence, to CWJ under Condition 27.1(c) of its licence and to JAL under Condition 27.1(c) of its licence.
6. This constitutes the Final Notice of these directions under Articles 11(4) and 11(5) of the Telecoms Law.

2. Legal and Regulatory Framework

2.1 Legal Background

7. Article 16 of the Telecoms Law provides that the JCRA may include in licences such conditions as it considers necessary to carry out its functions including (but not limited to):
 - conditions for the prevention or reduction of anti-competitive behaviour; and
 - conditions allowing the JCRA to make determinations.
8. A Class III licence also includes conditions relating to the requirement to provide interconnection services and the production of a reference offer for interconnection services (**RIO**). The JCRA has previously issued directions to JT, the only Class III licence holder in Jersey, on the production of a RIO.

2.2 Regulatory framework

9. In April 2010, following a review of the markets for telecoms services in Jersey¹, the JCRA made the following decision with respect to significant market power (**SMP**) in markets relevant to this Initial Notice:²

“Voice call termination on individual mobile networks: Each mobile operator, that is, JT, CWJ and JAL has SMP in the market for terminating calls on its own network”

10. Condition 33.2 of the licence issued to JT provides that:

“The JCRA may determine the maximum level of charges the Licensee may apply for Telecommunications Services within a relevant market in which the Licensee has been found to be dominant. A determination may:

- a) provide for the overall limit to apply to such Telecommunications Services or categories of Telecommunications Services or any combination of Telecommunications Service;*
- b) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or*
- c) provide for different limits to apply in relation to different periods of time falling within the periods to which the determination applies.”*

11. This condition therefore allows the JCRA to regulate the prices that JT charges for telecommunications services in a way and for a time that it deems appropriate, provided that JT has a dominant position in the relevant market in which those services are supplied.

¹ Jersey Competition Regulatory Authority, *Response to the Consultation Paper 2009 – T3 “Review of the Telecommunication Market in Jersey” and Decision of the Holding of Significant Market Power in Various Telecommunications Markets*, 19 April 2010, (**JCRA SMP Decision**).

² JCRA SMP Decision, page 8.

12. In addition, condition 34.1(c) of JT's licence is designed to protect fair competition in the markets in which JT operates, and provides as follows:

The Licensee shall:...

(c) comply with any direction issued by the JCRA for the purpose of preventing any market abuse or any practice or arrangement that has the object or effect of preventing, restricting or distorting competition in the establishment, operation and maintenance of Licensed Telecommunication Systems or the provision of Telecommunication Services.

13. This licence condition allows the JCRA to give directions to JT, including in relation to the prices that it charges, in the circumstances set out in the condition.
14. As noted above, both JAL and CWJ were also found, in the JCRA SMP Decision, to possess SMP in the provision of termination services on their mobile networks. Part IV of their licences provide for the JCRA to impose further obligations in the event the JCRA determines the operator has SMP in a specific market. Those obligations include a Fair Competition condition (Condition 27), part of which is in the same terms as Condition 34.1(c) of JT's licence, set out in paragraph 122 above.

3. Summary of representations and objections

15. In the IN, the JCRA proposed capping MTRs for all Jersey MNOs at 4.11ppm. The JCRA, also proposed that the MTR cap:

- be back-dated to 1 April 2012;
- be implemented as a flat rate (i.e. no time of day or weekend distinction);
- be charged on a per second basis (no minimum call charge or call duration);
and
- apply on a technology-neutral basis.

This proposal would put in place a common MTR across the Channel Islands.

16. Finally, the IN proposed that the MTR cap remain in place until 30 September 2013, when it is contemplated that MTRs will be determined for both Jersey and Guernsey, on a pan-Channel Islands basis.

17. The JCRA received submissions from three parties: JAL, CWJ and Newtel Jersey Limited.

18. No submission raised objections to the substance of the IN. Certain other matters were raised in submissions; however, as they did not address the substance of the IN or the proposed directions, they have not been detailed in this notice.

19. In the interests of reducing the burden on JT of implementing the change to MTRs, the JCRA is prepared to allow for any rebates for the period 1 April 2012 to 24 December 2012 to be paid by JT, CWJ and JAL to their respective interconnection customers on 29 December 2012, to coincide with the introduction of JT's new billing system. For the avoidance of doubt, the JCRA expects each of the operators to implement the price change for MTRs resulting from the directions on 24 December 2012.

20. Having considered the representations made in response to the IN, the JCRA has decided that, other than the modification outlined in paragraph 19, it should confirm the proposed directions outlined in the IN.

4. Directions

21. For the reasons set out in the IN and the paragraphs above, the JCRA has decided to issue the following directions to JT under Condition 34.1(c) of its licence, to CWJ under Condition 27.1(c) of its licence and to JAL under Condition 27.1(c) of its licence:

- the rate charged by the licensee for voice call termination on its public land mobile network in Jersey (*the mobile termination rate*) shall be no more than 4.11 pence per minute;
- there shall be no additional charge (other than the mobile termination rate) applied by the licensee for any on-island transit of a call to be terminated on a mobile network;
- the mobile termination rate shall be billed on a per second basis effective from the first second;
- the mobile termination rate shall apply with respect to all voice calls terminated by the licensee in Jersey on a technology-neutral basis (i.e. on both 2G and 3G mobile networks, and 4G mobile networks should deployment occur) and irrespective of the origin of the traffic;
- the direction shall take effect on 24 December 2012, and, unless otherwise stated, shall expire on 30 September 2013; and
- the direction shall be deemed to have come into effect on 1 April 2012, and any rebates payable by the licensee in respect of mobile termination services supplied between 1 April 2012 and 24 December 2012 shall be paid by the licensee to its interconnection customers on or before 29 December 2012.

By order of the JCRA Board

23 November 2012