

TELECOMMUNICATIONS (JERSEY) LAW 2002

BHARTI GLOBAL LIMITED

FINAL NOTICE

On 1 December 2005, the Jersey Competition Regulatory Authority (JCRA), being mindful of the need to ensure that all telecommunications systems that are required to be licensed under the Telecommunications (Jersey) Law 2002 (the Law) are fully licensed, and having received and considered an application for a licence by Bharti Global Limited (Bharti), published an Initial Notice of its intention to grant Bharti a Class II licence for 15 years for the running of a telecommunication system. In the said Initial Notice, the JCRA invited written representations or objections in respect of the proposed grant of this Licence.

One objection or representation was received to the invitation, namely from Cable and Wireless Jersey Limited (CWJ). CWJ is one of the operators currently licensed by the JCRA to provide telecommunications services (both fixed and mobile) in Jersey, and has recently (together with Bharti, Colt Telecommunications Limited and Jersey Telecom Limited) been awarded spectrum licences enabling it to provide second and third generation (2G and 3G) mobile telecommunications services in Jersey.

As regards the JCRA's decision whether or not to grant Bharti a licence, CWJ's submission concerned the potential effects of allowing more than two operators to provide mobile services in Jersey. CWJ's arguments in this context fell into three broad categories: sustainability, potential environmental effects, and administrative burden. CWJ argued that allowing more than two operators to provide mobile services would not be in the interests of the Jersey marketplace, since, in a market of Jersey's size, only two mobile operators would appear at this time to be economically sustainable. CWJ also expressed concerns about the potential environmental effects of authorising additional operators (such as the erection of new masts) and whether the JCRA would have sufficient resources to deal with the increased workload in regulating a market with additional mobile operators.

The JCRA has carefully considered CWJ's submissions in the context of the JCRA's duties under Article 7 of the Law, which apply to the exercise of the JCRA's functions, including the decision whether or not to grant a telecommunications licence. The JCRA has a primary duty to exercise its functions in such a way as (to summarise the terms of Article 7(1)) best ensures that current and prospective demands for telecommunications services are met. In assessing whether such demands are met, the JCRA must have regard to the affordability of services to users, innovation in services and quality of services. The JCRA is not satisfied that the benefits of lower prices, greater innovation and higher quality are more likely to be met by refusing to grant a licence to Bharti than by granting

a licence to Bharti (with the consequent prospect of a new competitor in the mobile sector). The grant of a licence, in the JCRA's view, would also be compliant with its other duties under Article 7, including the duty to exercise its functions in such a way as best protects and furthers the interests of users, where possible by promoting competition in telecommunications services.

Regarding CWJ's argument on sustainability, one of the JCRA's duties under Article 7 is, in performing its functions, to have regard to the need to ensure that telecommunications operators have sufficient financial and other resources to conduct their activities. On the basis of the information currently available to the JCRA, including the information provided with Bharti's application, the JCRA has no reason to believe that Bharti has insufficient resources for this purpose. As regards environmental issues, operators' licence obligations include a requirement to enter into mast-sharing arrangements with other operators if the JCRA so instructs; otherwise environmental issues such as any required planning consents are a matter between the operator in question and the relevant authorities of the States of Jersey. As regards the increased administrative burden of dealing with additional mobile operators, the JCRA cannot allow an increased workload to deflect it from the performance of its statutory duties. The JCRA has concluded that none of the arguments put forward by CWJ would justify the JCRA in refusing to approve Bharti's application for a licence, or a change in the terms of the Licence proposed in the Initial Notice referred to above.

The JCRA therefore now intends to grant the said Licence to Bharti. The Licence will take effect on 24 February 2006. The Licence may be inspected 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.

24 January 2006

By Order of the Board of the JCRA