TELECOMMUNICATIONS (JERSEY) LAW 2002

Jersey Telecom Limited

INITIAL NOTICE

Direction of the JCRA 2004/5 Re: Jersey Telecom Limited Leased Lines

Under the Telecommunications (Jersey) Law 2002 the JCRA must perform its functions wherever it considers it appropriate by promoting competition among those engaged commercially with telecommunications whilst also having an eye to efficiency, economy and effectiveness and the economic interests of Jersey. The JCRA is publishing this Initial Notice in accordance with the provisions of Article 11 of the Telecommunications (Jersey) Law 2002.

The JCRA has previously determined that Jersey Telecom Limited ("JT Ltd") is dominant in all telecommunications markets in Jersey, including the provision of Leased Lines. A formal investigation regarding the provision and terms and conditions of the supply for JT Ltd Leased Line products was launched following complaints from Cable & Wireless Jersey and Newtel Limited (together the 'OLO's'), alleging, *inter alia*, discriminatory pricing, unfair conditions, overpricing with regard to takeover charges and limitations on access to the JT Ltd downstream retail division, all of which suggested a breach of Licence Conditions.

JT Ltd supplies a number of Leased Line products including off-island products and other broadband circuits locally. The Leased Line business is highly front-loaded. Almost all costs, with the exception of network maintenance, are incurred only during the installation and recovery phases of the product supply to the customer. Once installed, there are minimal support costs. The billing costs are also negligible since billing is by subscription which does not change over the contract term. JT Ltd, however, uses a policy of spreading all unavoidable costs such as billing, pro rata across all their products. With regards to Leased Lines, this does not reflect the true cost of provision.

Extensive discussions and negotiations concerning wholesale Leased Lines have taken place with JT Ltd, ever since its Licence hearings in 2002. The JCRA has always held the view that Leased Lines and other wholesale products should be related to cost of provision, and therefore, the pricing structure for OLO's should be cost-plus and, consequently, be incorporated into the Reference Interconnect Offer ("RIO").

The direction that follows is an interim measure pending proper accounts separation by JT Ltd. Regulatory Accounting Guidelines were published by the JCRA in November 2002. The JCRA has issued Consultation 2004-3 on Accounting Separation and Costing Methodologies. Responses were received and the deadline for comments has now passed. The JCRA is currently considering the responses. The JCRA recognise that the provision of cost-plus products requires clear separation of accounts and therefore believes that a product based on a retail-minus cost would be a logical introductory solution until further accounting separation is developed. The JCRA has chosen to set a discount figure based on international comparators and has determined that the appropriate rate of discount shall be 20%.

OLO's have complained that JT Ltd is not offering its full range of products as is required by their Licence and their current wholesale offer is restricted only to on-island products. The JT Ltd Licence Condition 28.2 requires that JT Ltd offers Leased Lines to OLO's on the same terms as its own business divisions. The Board of the JCRA has determined that by not offering to OLO's the same range of leased line products as is offered to their own business divisions and other companies in the JT Group, that JT Ltd is in breach of its Licence Condition 28.2.

The pricing structure adopted by JT Ltd is a primary concern. By restricting the available products and further by attempting to raise the cost of these products to OLO's while reducing the cost of products which JT Ltd is not currently offering as wholesale leased lines, JT Ltd is deemed to be distorting the Leased Line market in favour of its own retail arm. The JCRA Board, has therefore, determined that JT Ltd is in breach of its Licence Conditions 31 and 34.

The Direction 2004-5 that follows, directs JT Ltd with regards to the provision of Leased Line circuits to OLO's, pertaining to their Licence Conditions 28, 31, and 34.

Copies of the Decision Papers, Direction and this Notice are available for inspection at the offices of the JCRA at 6th Floor, Union House, Union Street, St Helier, Jersey JE2 3RF, between the hours of 9.00 am and 5.00 pm Monday to Friday. These documents may also be downloaded from the JCRA web site www.jcra.je.

Written representations or objections to the exercise of this specified regulatory function shall be made by letter marked for the attention of the Executive Director, JCRA and delivered to 6th Floor, Union House, Union Street, St Helier, Jersey, JE2 3RF on or before 31 August 2004.

20 July 2004 *By Order of the Board of the JCRA*

Direction 2004-5 of 28 July 2004 under Article 19 of the Telecommunications (Jersey) Law 2002 issued by the Board of the JCRA to:

Jersey Telecom Limited

Under the terms of their Licence issued on 1 July 2003 by Order of the Board

Pertaining to Jersey Telecom Limited Class III Licence Conditions 28, 31 and 34.

WHEREAS

After full review, the Board of the JCRA has fully considered all relevant facts and materials pertaining to the provision of Leased Line circuits to Other Licenced Operators ("OLO") by Jersey Telecom Limited ("JT Ltd"), proceeding from its historic status as a States-protected monopoly and in its position as the dominant provider of telecommunications services in the Bailiwick of Jersey.

THE BOARD OF THE JCRA NOW DIRECTS

1. that connection and/or rental charges on all the current leased line products in the JT Ltd wholesale range of Local Kiloline Circuits, Local Nx64 Circuits and Local Megaline circuits shall not be increased;

2. that as an interim measure, pending the satisfactory completion of accounting separation, JT Ltd shall offer a discount of 20% to OLO's on all its existing on-island and off-island retail leased circuit portfolio and those new products as notified to the JCRA on 19 April 2004 and any future products;

3. that JT Ltd shall publish all existing and future discount schemes offered to their retail customers;

4. that JT Ltd shall amend their offer to include Class I operators in line with the JT Ltd Reference Interconnect Offer;

5. that the Take Over Charge to OLOs shall be set at that currently offered at the standard rate shown on the JT Ltd web site for administrative changes at £49.99 regardless of circuit bandwidth or capacity.

These directions shall become effective on 1 September 2004 and will be reviewed after the accounting separation process is completed.

20 July 2004 By Order of the Board of the JCRA