

TELECOMMUNICATIONS (JERSEY) LAW 2002

JERSEY TELECOM – DIRECTION TO COMPLY WITH A LICENCE CONDITION

INITIAL NOTICE

The Jersey Competition Regulatory Authority ('JCRA') issues this Initial Notice under Article 11 of the Telecommunications (Jersey) Law 2002 (the 'Law') concerning a direction it proposes to give to Jersey Telecom ('JT') under Article 19 of this Law. This direction is necessitated by JT's repeated failure to comply with the requirements contained in Condition 33.1 of its Telecommunications Licence.

Condition 33.1 requires JT to publish at least 21 days in advance, and concurrently provide full details of the same to the JCRA, any (i) new prices for telecommunications services, (ii) discounts to published prices for telecommunication services in which JT is dominant, or (iii) special offers to customers of telecommunication services in which JT has been found to be dominant. As detailed in the JCRA's Decision Paper and Direction 2004-1, JT is dominant in the provision of both fixed-line and mobile telecommunications services in Jersey.

During the past year, JT repeatedly has failed to comply with these mandatory notification and publication requirements:

- On 1 April 2006, JT introduced, in breach of the prior notification and publication requirements in Condition 33.1, an offer whereby customers that signed-up to an 18 month mobile telephone contract and not a 12 month contract would receive a greater price discount on an upgraded handset. The JCRA subsequently informed JT that this offer should have been notified and published under Condition 33.1.
- During the summer of 2006, JT offered a number of free tickets to *Jersey Live 2006* to its mobile customers. As stated on JT's website: *'750 tickets will be available through a special mobile promotion. Any customer who is renewing an existing post-paid contract or signing up to a new post-paid contract will receive one free ticket.'* JT subsequently admitted to the JCRA that it failed to comply with the Condition 33.1 requirements with respect to this promotion, and gave an assurance to the JCRA that JT would henceforth seek to comply with Condition 33.1.
- Despite JT's assurance, it once again failed to comply with the Condition 33.1 requirements with respect to its 'house proud' promotion, under which customers signing up to any JT mobile or broadband contract qualified for free vouchers redeemable at select merchants. Contrary to Condition 33.1's requirements, JT neither published this special offer in advance, nor provided details of it to the JCRA.
- On 31 October 2006, after the JCRA had contacted JT concerning the reduced upload speed in its proposed new broadband products portfolio, JT informed the JCRA that it had decided to change its proposed offering by increasing the upload data speed in its retail residential and wholesale broadband products. As a result of this change, the

JCRA informed JT on the same day that Condition 33.1 requires it to publish a new notice specifying the services affected by these changes. Although JT published a notice of this change on 3 November 2006, it failed to follow Condition 33.1's requirement that it wait at least 21 days before introducing the services affected by the change.

- Finally, in early November 2006 JT introduced what it characterized as an 'offer' to its existing fixed line and post-paid mobile telephone customers of two months free line rental in exchange for the customer signing up for JT's direct debit billing system. JT's brochure specified that this offer was open until 31 January 2007. Although Condition 33.1 applies to special offers and discounts JT intends to introduce to all or any of its fixed or mobile customers, JT did not follow the required Licence procedures with respect to this offer.

Such actions represent repeated failures by JT to comply with a condition of its Telecommunications Licence. Specifically, the publication and notification requirements set forth in Condition 33.1 are intended to give customers prior notice of JT's price changes and special offers, and to give the JCRA the opportunity to assess whether such changes are consistent with other obligations contained in JT's Licence. Despite the JCRA's repeated past reminders to comply with Condition 33.1, and assurances by JT of its intention to comply, JT has continued to fail to observe these requirements.

This Initial Notice and the proposed direction take no view on the value of any JT programme or offer. It solely seeks to oblige JT to provide in advance, both to its customers and to the JCRA, the information about its programmes and offers that both the Law and its Telecommunications Licence require it to disclose.

The proposed direction will require JT to comply in full with the Condition 33.1 requirements with respect to any new prices, discounts, or special offers it intends to introduce. The proposed direction also is intended to ensure that JT establishes and maintains the necessary compliance policies and procedures to avoid further infringements of Condition 33.1. If issued, failure by JT to comply with this direction could provide grounds for the JCRA to take further enforcement action under the Law.

Copies of this notice and the proposed direction are available for inspection 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.

The proposed direction will take effect on **14 December 2006**, unless the JCRA receives representations or objections about the proposal prior to that date, in which case the effective date will be specified in any final notice issued by the JCRA under Article 11(4) of the Law.

Written representations or objections to the exercise of this specified regulatory function may 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 **14 December 2006**.

13 November 2006

By Order of the Board of the JCRA