

# **JERSEY COMPETITION REGULATORY AUTHORITY**

**6th Floor, Union House, Union Street, St Helier, Jersey, Channel Islands, JE2 3RF**  
**Telephone: +44 1534 514990 Facsimile: +44 1534 514991 [www.jcra.je](http://www.jcra.je)**

## **Consultation Document 2004/2**

### **JCRA Consultation on Price Control of Jersey Telecom Limited**

In March 2003 the JCRA agreed a Price Freeze with Jersey Telecom Limited (“JT”) pending a full review of the telecommunications market in Jersey. In line with their Strategic Plan (2003 – 2005), the JCRA commissioned a report from the telecommunications consultancy, Coleago, on the pricing structure of JT Limited. This report is now presented for public consultation. It is hoped that it will help to form the basis on which the development of the local telecommunications market can proceed, which will bring with it lower prices for consumers, both business and residential.

Price control is a commonly used by Regulatory Authorities in many jurisdictions to manage the migration of a former monopoly into a competitive environment. and in most jurisdictions the system of control is continually reviewed. It is hoped, in time, that sufficient competition will enable the market to operate without price regulation. Until then, price control allows the regulator to minimise the potential for price increases. However, this strategy has to be carefully managed.

The approach taken in the project has been to adapt international “best practice” for regulatory process to the specific needs of the Jersey market. This adaptation took into account a number of factors including the legal framework in Jersey, the development of the market and competition on the Island and the need to minimise regulatory compliance costs given the limited resources available in a small market. The consultants also looked at similar markets in other jurisdictions, especially those with small markets. Due consideration was also given to the monopoly on both Fixed and Mobile telecommunications services enjoyed until comparatively recently by JT.

The Coleago report looks at both retail and wholesale pricing for mobile and fixed telephony services. Although leased lines and broadband services are not included in this report, that should not be taken as an indication that these products will not be regulated in the future. This report also makes recommendations on pricing in relation to JT’s Reference Interconnection Offer (“RIO”), which forms the basis of the interconnection agreements between JT and other licensed operators. The non-pricing aspects of the RIO have already been the subject of separate consultations (JCRA Consultation 2003-2 and JCRA Consultation 2004-1).

The main areas covered in the consultants report are:

- Cost of Capital
- Price Control of the Fixed Line retail market
- Price Control of the Fixed Line interconnect market
- Price Control of the Mobile retail market
- Price Control of the Mobile interconnect market

In order to assess these sectors, the report examined the market structure and the relationship of the Jersey market to other markets in order to establish suitable comparators and derive benchmarks for price comparison.

The report was not made in isolation. Drafts have been made available to JT from time to time. JT's input has been helpful and vital in relation to the provision of information. It should be stressed, however, that this report is not a report by JT, indeed it is fair to point out that JT has raised a number of concerns.

This consultation gives all parties the opportunity to comment on the reports findings and to determine whether or not the Jersey market is substantially different in this respect. However, some relevant data in the parts of the report addressing this matter has been withdrawn at JT's request on the basis of commercial confidentiality.

JT assert that the local environment demands a "Special Case" approach to the Cost of Capital calculations. JT also raised doubts regarding the validity of the benchmarking used by the consultants with regard to the Mobile market, claiming that it was too simplistic and failed to consider sufficiently the local market conditions and subscriber calling patterns. However, JT themselves often use the UK and EU market pricing as a comparator, for example, with relation to National and International call charges.

Finally, we should caution that JT has expressed concern that the high level accounting data used in the financial considerations may draw the reader to make the wrong conclusions on their overall profitability.

The JCRA invites consultees to comment on this report and in particular to the questions listed below. Respondents are also invited to comment on JT's observations.

The [Coleago report](#) is available from the offices of the JCRA or it may be downloaded from the JCRA web site.

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## **Introduction**

The JCRA has reviewed the report and has suggested a number of questions on which respondents may wish to comment.

To assist consultees the headings below refer to those found within the report together with the relevant page number.

### **1. Executive Summary**

#### **1.1 Summary of Proposals (Page 1)**

This section summarizes the areas of the Jersey telecommunications market reviewed in this report.

#### **Fixed Retail Market**

***Q1: Is the mix of services outlined here to be the subject of price control the right one?***

#### **Fixed Interconnection Price Control (Page 2)**

***Q2: Do consultees agree that the approach outlined is sufficient to ensure consumer protection and lower prices?***

#### **Mobile Interconnection Price Control**

***Q3: Do consultees agree that competition alone is sufficient to ensure lower prices for consumers?***

### **2. Analysis of the Need for Price Control (Page 4)**

In this section the report explains the rationale behind the application of regulatory price control.

#### **2.2 Identifying Where Price Control is Needed – Market Analysis**

***Q4: Do consultees agree with the market definition?***

##### **2.2.2 Dominance (Page 6)**

***Q5: Do consultees agree that Jersey Telecom Limited is dominant in all sectors of the telecommunications market in Jersey?***

### **3. Costs (Page 8)**

The Cost of Capital is key to setting prices at competitive levels. This will be at a level such that efficient companies receive a return on capital employed equal to their cost of capital

#### **3.2 Cost of Capital (Page 9)**

The report considers a number of economic metrics to determine an appropriate Cost of Capital for Jersey Telecom Limited. It takes into consideration local factors and the approach adopted by European Regulatory Authorities.

***Q6: Do consultees agree the Cost of Capital for Jersey Telecom Limited determined in this section is consistent with the current economic situation in Jersey?***

### **4. Fixed Retail Markets (Page 14)**

#### **4.1 Structure of the Price Control**

##### **4.1.1 RPI-X Price Control**

When there is need for retail price control due to the lack of competition in the retail fixed markets, an RPI-X type price control is usually considered appropriate by Regulatory Authorities.

***Q7: Are consultees confident that RPI-X Price Control should apply to the Jersey Market?***

##### **4.1.3 Sub caps (Page 15)**

Sub caps are applied to specific market segments in order to protect some vulnerable demographic groups within the overall market.

***Q8: Do consultees agree with the proposal for sub-caps?***

##### **4.1.4 Implementation Issues (Page 16)**

A Reference Tariff is sometimes selected in order to track overall market price changes over a given period. This report considers this option.

***Q9: Do consultees agree with the principle of a Reference Tariff?***

#### **4.2 Setting the Level of X (Page 17)**

The X factor in RPI-X price controls is generally set in order to ensure that the prices of the operator are at a competitive level at the end of the price control period, with the competitive level being that which would lead to an efficient operator making a return on capital employed equal to its cost of capital. In this section the report considers the value to be assigned to X.

**Q10: Do consultees agree with the value assigned to X?**

## **5. Fixed Interconnection Markets (Page 22)**

### **5.1 Form of Price Control**

The need for price control stems not just from the fact that JT has market power, with JT by definition dominant in the termination markets, but also because these services are essential inputs for competitors. The report suggests that the Interconnect prices are fixed for a period by the JCRA.

**Q11: Do consultees agree with this approach?**

### **5.3 Conveyance Charges (Page 23)**

These are charges made by JT for the use of its network by Other Licensed Operators through the facilities offered by JT's RIO.

**Q12: Do consultees consider that there is justification for variable charges across time bands for wholesale traffic in the local market?**

### **5.4 Access Deficit Contributions (Page 24)**

The Access Deficit Charge has been used in the past where the incumbent operator has been required by the state to subsidize loss making social telecommunications provisions.

**Q13: Do consultees agree that, in line with other EU jurisdictions, there is no place for an Access Deficit Charge?**

## **6. Mobile Retail Markets (Page 26)**

**Q14: Do consultees consider that in the absence of competition that a price cap should be applied to mobile retail rates? Do consultees also consider that competition could be introduced into the Jersey market quickly enough to stimulate real competition and the lowering of consumer prices?**

## **7. Mobile Termination Market (Page 29)**

### **7.1 Price Control of Mobile Termination**

The report suggests a number of options for benchmarking the local Mobile Termination Market.

***Q15: Which benchmark do consultees consider to be the best to apply to the local market?***

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The JCRA looks forward to receiving replies from the industry, members of the business community and the general public. These comments may be supplied in hard copy or sent by email to [enquiries@jcra.je](mailto:enquiries@jcra.je).

The final submission date for comments is **7 April 2004**. Thereafter, the JCRA intends to move to take a final decision.

**Patrick McNutt**  
Chairman

**Charles Latham**  
Executive Director