



Review of Non-Price Terms for Wholesale Leased Line and Bitstream Products

Initial Notice

Direction to JT (Jersey) Limited

Document No: CICRA 12/43

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Jersey Competition Regulatory Authority,
2nd Floor, Salisbury House,
1-9 Union Street, St Helier,
Jersey JE2 3RF

A. Introduction

1. The Jersey Competition Regulatory Authority (*JCRA*) commissioned Frontier Economics (*Frontier*) to conduct a review of JT (Jersey) Limited (*JT*)’s wholesale (carrier service) business. A redacted version of the report by Frontier Economics (*Frontier Report*) is published together with this Initial Notice.
2. The aim of the review was to build on the findings of the Regulaid Report¹, taking into account any recent developments in the market and regulatory framework. It focused on particular aspects of JT’s wholesale (carrier service) business, including the structure and positioning of JT’s Carrier Service unit, JT’s current wholesale services portfolio, and the incentive structure in place for JT to deliver high quality and timely services to other licenced operators (*OLOs*).
3. Frontier’s review took account of a wide range of information sources, in particular a series of stakeholder meetings and follow-up correspondence, desk-based research and a review of the available precedent regarding approaches taken in similar jurisdictions.
4. The Frontier Report sets out Frontier’s findings and recommendations from the review. Frontier identified a number of factors that it believes contribute to inefficiencies occurring in the wholesale telecommunications market in Jersey.
5. This Initial Notice focuses on three non-price terms identified by Frontier as sources of inefficiencies; provisioning times, repair times and the compensation scheme, in respect of both the wholesale leased line² service and the wholesale bitstream³ service.⁴
6. This document summarises the issues involved, and sets out a direction to JT under Condition 34.1 of the Class III licence issued by the JCRA (*Licence*) under Article 14(1) of *Telecommunications (Jersey) Law 2002 (Law)*. It constitutes the Initial Notice of the direction under Article 11(1) of the Law.

¹ Regulaid, Review of Jersey Telecom Ltd’s regulatory accounts and access provisions, 29 June 2009.

² A leased line is a communication service that provides dedicated transmission capacity between fixed locations, which can be used to carry voice and data traffic. Many organisations use leased lines to provide a wide variety telecommunications services, such as access to the internet, private voice and data networks, backup and disaster recovery and remote monitoring.

³ Bitstream services can be configured in a number of ways. However, in general, bitstream services enable operators to aggregate traffic from multiple end-users in a single ‘bitstream’ without having to build out their networks to the level of local exchanges and purchase and install Digital Subscriber Line Access Multiplexer (*DSLAM*)/ Multi-Service Access Node (*MSAN*)s. The incumbent provides a Digital Subscriber Line (*DSL*) to the end user through its own DSLAM/MSAN.

⁴ Unless explicitly stated, any reference to leased line(s) or bitstream services, are references to wholesale services and in the case of leased lines, reference is to on-island wholesale leased lines.

B. Legal Background & Regulatory Framework

7. Article 16 of the Law provides that the JCRA may include in licences such conditions as it considers necessary to carry out its functions. The Law specifically provides that licences can include:
 - conditions for the prevention or reduction of anti-competitive behaviour; and
 - conditions allowing the JCRA to make determinations.
8. In April 2010, following a review of the markets for telecoms services in Jersey⁵, the JCRA made the following decision with respect to significant market power (**SMP**) in markets relevant to this Initial Notice:
 - ***On-island Wholesale Leased Lines: JT has SMP in this market;***
 - ***Wholesale Broadband Services Provided on a Fixed Line Network: JT has SMP in this market.***
9. Condition 34.1 of the Licence is designed to protect fair competition in the markets in which JT operates, and states that the Licensee shall:
 - “a) not abuse any position of Significant Market Power and/or established position in any telecommunications market;*
 - b) not engage in any practice or enter into any arrangement that has the object or the likely effect of preventing, restricting or distorting competition in the establishment, operation and maintenance of Licensed Telecommunication Systems or the provision of Telecommunication Services; and*
 - 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 Licenced Telecommunication Systems or the provision of Telecommunication Services.”*
10. This condition allows the JCRA to give directions to JT, including in relation to the non-price terms governing the sale and supply of both wholesale leased lines and wholesale broadband services in a way and for a time that it deems appropriate, if (i) JT has SMP in the relevant market in which those services are supplied, and (ii) such directions have the purpose of preventing any practice or arrangement that has the object or effect of preventing, restricting or distorting competition in the provision of wholesale leased lines or wholesale broadband (or bitstream) services.

⁵ JCRA, *Response to the Consultation Paper 2009 – T3, “Review of the Telecommunication Market in Jersey” and Decision on the Holding of Significant Market Power in Various Telecommunications Markets*, 21 April 2010.

C. Non-Price Regulation of Wholesale Leased Line and Wholesale Bitstream Services in other jurisdictions

11. Leased line and bitstream services are regulated in many international jurisdictions. The following section provides some background on the non-price regulation of wholesale leased lines and wholesale bitstream services in Guernsey and the European Union.

a. Guernsey

12. In 2007 the Office of Utility Regulation (*OUR*), as it was known at the time (now the Guernsey Competition & Regulatory Authority), engaged Regulaid, a telecommunications consultancy, to review the wholesale business of Cable & Wireless Guernsey Limited (*C&WG*), the incumbent fixed line operator in Guernsey.⁶
13. Regulaid recommended a number of changes to the way C&WG provided wholesale fixed line telecommunications services in Guernsey. Included in these were recommendations (for leased lines and bitstream products) on provisioning times, compensation for not meeting agreed service levels, fault repair times and compensation for delays in fault repairs.

Service Provision

Leased lines

14. Regulaid benchmarked C&WG's timeframes for provisioning wholesale leased lines against those offered by JT, Belgacom, eircom and KPN (the incumbent operators in Jersey, Belgium, Ireland and the Netherlands respectively) and concluded that C&WG should make substantial changes in its processes. These changes included:
- informing OLOs of the ready for service (RFS) date at the same time as an order acknowledgement;
 - targets should be for 100% of orders, with the exception of orders that require the installation of new fibre;
 - delivering circuits of 2MB and under within in 10 business days; and
 - delivering circuits of over 2MB within 15 business days.

Bitstream

15. Regulaid concluded that C&WG provisioned its bitstream services on terms comparable to similar jurisdictions.

Fault Repair

Leased lines

16. Regulaid concluded that C&WG provided fault repair services for its leased line service on terms comparable to similar jurisdictions.

Bitstream

⁶ Regulaid, *Review of C&W Guernsey's Wholesale Business – A report to the Office of Utility Regulation, Guernsey*, 4 March 2008 (*Guernsey Regulaid Report*).

17. Regulaid concluded that C&WG provided fault repair services for its bitstream services on terms comparable to similar jurisdictions.

Compensation for not meeting agreed service levels

Leased lines – Provision

18. Regulaid had considerable concerns about the small size of the penalties levied on CW&G and noted that the structure gave an incentive for C&WG Retail to provide leased lines much quicker than C&WG Wholesale, and no incentive to deliver once the delivery date had been missed. It recommended that, in principle, penalties should be twice the daily recurring fee and should be initiated by C&WG. Regulaid stated that the recommended penalties would incentivise C&WG to improve performance and to meet SLAs.

Leased lines – Fault Repair

19. Regulaid had no direct concerns, but recommended that, in principle, penalties should be twice the daily recurring fee and should be initiated by C&WG. Regulaid stated that the recommended penalties would incentivise C&WG to improve performance and to meet SLAs.

Bitstream – Provision

20. Regulaid noted that penalty structure gave incentives for C&WG Retail to provide leased lines much quicker than C&WG Wholesale and no incentive to deliver once delivery date had been missed. Regulaid recommended that in principle penalties should be twice the daily recurring fee and should be initiated by C&WG. Regulaid stated that the recommended penalties would incentivise C&WG to improve performance and to meet SLAs.

Bitstream – Fault Repair

21. Regulaid noted that C&WG Retail had stronger incentives than C&WG Wholesale to provide leased lines in a prompt manner.
22. Following the Regulaid Report, the OUR directed C&WG to:
 - overhaul its process for the ordering and delivery of leased lines, including 100% of services to be provisioned within the agreed service levels and setting a stepwise process in which provisioning times for leased lines were progressively shortened until they matched the provisioning times recommended by Regulaid; and
 - implement a compensation scheme that increased the incentives for C&WG to deliver services in a more timely manner.

b. European Union (EU)

Leased Lines

23. In 2005, the European Commission (*EC*) issued a recommendation on the provision of leased lines in the EU⁷.
24. The recommendation addressed the non-price issues associated with the supply of wholesale leased lines. The recommendation noted that the lead times (provisioning time) for leased lines

⁷ European Commission, *Commission Recommendation on the provision of leased lines in the European Union, Part 1 – Major supply conditions for wholesale leased lines*, 21 January 2005.

varied significantly between EU member states and concluded that the considerable differences between member states could not be justified in terms of differing costs or conditions.

25. In its recommendation, the EC advised that operators providing leased line services under a non-discrimination obligation should provide wholesale leased line products under enforceable service level agreements within contracted delivery times. The contracted delivery times should be as short as possible and at least permit competing operators in retail markets to achieve best current practice delivery times⁸ in those markets.
26. Regarding financial penalties, the EC stated that such penalties should be sufficiently dissuasive to ensure timely delivery and national regulators should consider the losses and competitive disadvantages of untimely delivery of services. Additionally, damages should increase with the duration of delay in delivery. Thus, financial penalty schemes should provide an incentive for quick delivery in cases where a delay has already occurred.

Bitstream

27. The JCRA is not aware of the EC issuing a recent direction or commentary specific to non-price wholesale bitstream regulation. This is likely to be due, in part, to the fact that many EU jurisdictions, have competing infrastructure providers. Competing infrastructure providers are able to supply services independently of the incumbent (i.e. without reliance on active bitstream services supplied by the incumbent), thereby limiting the incumbent's ability to exercise any market power.
28. The constraint provided by competing providers may be direct or indirect. A direct constraint occurs when an alternative provider actively competes in the wholesale market by offering bitstream (or equivalent) services over its network to downstream suppliers.
29. Infrastructure-based competitors who do not currently offer wholesale access to their networks (i.e. providers who offer only retail broadband services) act as an indirect constraint on the incumbent in the wholesale market. For example, retail competition from an unbundled local loop (*LLU*) network operator or a cable hybrid fibre coaxial (*HFC*) network operator constrain the incumbent's ability to increase the price of wholesale bitstream services or offer unfavourable terms of supply.
30. In the event that the incumbent implemented less favourable conditions (price or non-price) on the purchase of wholesale bitstream access, OLOs purchasing the bitstream input would face increased costs in delivering retail broadband services, directly if the change is a price increase and indirectly if the change is to non-price terms.
31. If this cost increase were not absorbed by OLOs, there would be an increase in the retail price charged by OLOs using the bitstream input. A competing LLU or cable operator (who is effectively self-supplying a bitstream service) on the other hand, would not be subject to this increase in cost.
32. Accordingly, retail customers would be expected to migrate to the retail service provided by the competing infrastructure providers. In addition, if the competing infrastructure providers are able to offer their own competing bitstream service, the incumbent may also lose wholesale customers as they also migrate from the incumbent to a more competitive alternate provider.

⁸ Defined by the EC as the third lowest delivery time for retail leased lines in the EU.

33. In jurisdictions where competing infrastructure providers are present, this demand substitution at the retail level acts as an indirect constraint on the wholesale market. As such, the competitive pressures exerted by the alternate infrastructure providers reduce the need for regulatory oversight, direction or comment. By contrast, in Jersey, such competitive pressures are not present and OLOs remain reliant on JT for the provision of wholesale leased line services.

D. Changes to the Non-Price Terms of Wholesale Leased Line and Bitstream Products

34. In its report, Frontier recommended changes to three non-price terms (provisioning times, repair times and compensation) offered by JT for wholesale leased lines and wholesale bitstream services. This section summarises these recommendations and provides the JCRA's view on each recommendation.

Provisioning Times

Leased Lines

35. *Frontier recommendation:*
- Provisioning times should be quoted for all lines (instead of the current 95% target); and
 - Any provisioning times where no line plant is currently available should be reduced to a maximum of 20 working days.
36. Frontier noted that Go Malta offer a delivery time of 20 working days, and Gibraltar Telecom offer 10 business days.
37. The JCRA agrees with Frontier's recommendations. As Frontier noted, the 95% target is statistically untestable and reducing the maximum provision time where no line plant is available to 20 days brings the provisioning times in line with comparable jurisdictions.
38. This is in line with the view that JT (Guernsey) Limited (Wave Telecom as it was known at the time) submitted in the OUR's consultation document reviewing Cable & Wireless Guernsey's (C&WG) Wholesale Business.
39. Wave stated:
- “(i)t is absolutely vital that changes are made to the leased line provisioning times to bring them into line with comparable operators and make them fit for the market and customer expectations.
- ...
- The introduction of a new target of installing 100% of circuits within the target times...will encourage C&WG to meet its targets and give OLOs some level of confidence that RFS [ready for service] dates may be met”⁹.

Bitstream Services

40. *Frontier recommendation:* Provisioning times of up to 10 working days are excessive and should be reduced to 5 working days, with a corresponding improvement in retail times.
41. Frontier observed that provisioning times for bitstream services tend to be completed more quickly for orders from JT Retail than those from OLOs. Accordingly, Frontier concluded that JT Wholesale has sufficient scope to provision bitstream services in a more timely manner.
42. Frontier observed that the provision of bitstream services for JT Retail tend to be completed more quickly than for OLOs, but made no comment on whether they consider discrimination to have

⁹ Wave Telecom, *Comments on OUR Document 08/09 Review of C&W Guernsey's Wholesale Business*, 25 April 2008, page 2, paragraph 2.1. (*Wave Submission – OUR Consultation Document*)

occurred.¹⁰ Regardless of whether or not it has occurred, given the variation between the provisioning times for JT Retail and OLOs, the JCRA is concerned that the provisioning times, as they currently stand, create an environment where discrimination may be possible.

43. As discrimination is difficult for the JCRA or OLOs to observe, enforcement is challenging. Rather than monitoring the provision times and punishing the behaviour after it has occurred, the JCRA considers it more appropriate to reduce the target provisioning time, thereby creating an environment where discrimination is less likely to occur in the first place.
44. As discriminatory behaviour has the effect of preventing, restricting or distorting competition in the downstream retail broadband market, it is under condition 34.1(c) of the Licence that the JCRA intends to implement Frontier's recommendation and concludes that the provision of bitstream services should be completed within 5 working days.

Repair Times

45. *Frontier recommendation:* JT should add the existing higher speed repair options for wholesale leased lines and bitstream services to its main SLA documentation.
46. Frontier noted in its report that JT stated that it already offers additional, faster response services, including a fast 24/7 two-hour response repair option that can either be added to the monthly subscription or paid for when used. JT maintains that details of that service have been provided to the OLOs by email and that the service is already in use.
47. Frontier's recommendation highlights a issue with the introduction of new services, or changes to existing services, in that there is no requirement for JT to maintain a single document, or set of documents that outlines the current terms and conditions of the wholesale products available for purchase from JT.
48. Condition 18.9 of the Licence states that within 3 months of the commencement of its licence, JT must have published a "statement setting out the minimum service levels for users and subscribers in respect of each category of Telecommunications Services it offers, any exceptions to these, and the compensation of refunds it will offer" where service levels are not met. The statement must also be submitted to the JCRA.
49. Licence Condition 33.1 states that JT must publish and provide the JCRA with full details of:
 - New prices for any Telecommunications Services, or prices for new Telecommunications Services to be introduced;
 - Any discounts to published prices; or
 - Special offers to all or any of JT's customers,

within 21 days prior to them coming into effect.

50. However, JT is not required to maintain an up-to-date document detailing the price and non-price conditions for wholesale service, creating uncertainty around the services available and the terms under which the services are available.

¹⁰ Frontier Economics, *Review of Jersey Telecom's wholesale (carrier services) business*, section 4.3.6. June 2012. (**Frontier Report**)

51. The Frontier report recommended that the JCRA should modify Licence Condition 33 and its application. As part of a review of this condition, the JCRA will consider implementing a requirement, whereby JT must update all relevant documentation (RIO, wholesale agreements, etc.) to ensure an up-to-date set of documentation is available for access by OLOs and the JCRA.

Compensation

52. *Frontier recommendation:* Compensation levels in JT's service level agreement (*SLA*) should increase to several times the monthly fee for a month's delay.
53. Frontier noted that JT's levels of compensation broadly relate to prices charged for the services and do not include an adequate compensation for the commercial harm that can be caused by late provisioning or faults. Nor do the levels of compensation create a strong incentive for JT to rectify the problems quickly. Accordingly, Frontier considered the compensation levels should rise more rapidly as the duration of the delay increases, towards a level of around five times the monthly fee after a month's delay.
54. Frontier did note, however, that JT's current compensation levels compare well with other small island telecommunications operators.
55. The JCRA recognised that JT's monopoly position in the wholesale provision of leased lines and fixed line broadband, coupled with the absence of a competing infrastructure provider, creates an environment where OLOs rely entirely the wholesale arm of JT for timely provision and acceptable service delivery of wholesale services in order to compete effectively with the retail arm of JT.
56. Frontier observed that provisioning for bitstream services tend to be completed more quickly for orders from JT Retail than those from OLOs. As noted earlier in this document, Frontier recommended reducing the provisioning time for bitstream services in order to "improve the service for end customers and **reduce any scope for discrimination** to an acceptable level (**emphasis added**)."¹¹
57. However, shortening provisioning and fault repair times in order to reduce the ability of incumbents to deliver services to their internal retail arm more promptly than for OLOs (while still meeting the SLA) achieves little if the compensation provided to OLOs for exceeding the provision/repair times does not sufficiently incentivise the incumbent to ensure the new timeframes are met.
58. In large jurisdictions, vertically integrated operators are generally subject to some form of separation in order to mitigate, or eliminate, the ability of the network/wholesale arm to discriminate in favour of its own retail arm over other retail competitors. However, the case for such measures in a jurisdiction the size of Jersey is not straightforward. Without separation, there are few options available that reduce, or eliminate, the ability of the vertically integrated operator to discriminate in favour of its retail arm. In jurisdictions where separation is not enforced, vertically integrated operators have greater ability to discriminate in favour of their retail operation than is the case for operators subject to separation. Accordingly, controls need to be tightened such that the incentives to do so are minimised or eliminated. In addition, the

¹¹ Frontier Report, section 4.3.6. June 2012.

compensation provided to OLOs needs to reflect the stronger incentives of an integrated operator to discriminate.

59. This point is indirectly addressed by Frontier¹², Regulaid¹³ and the EC¹⁴ when discussing the appropriate compensation levels when SLAs are not met. Frontier concludes that “compensation levels should increase ... towards a level of say five times the monthly fee after a month’s delay”¹⁵. In its report for the OUR, Regulaid also highlight this point, stating that “C&WG should pay twice the daily recurring fee to the OLOs”¹⁶ and rationalise this by stating “Penalty levels should be increased significantly to give C&WG an extra spur to achieving a better performance...”¹⁷. The EC in its recommendation stated that compensation needs to be sufficiently dissuasive to promote timely delivery and national regulators should consider the losses and competitive disadvantages of untimely delivery of services.
60. In recognition of the greater scope for discrimination and the monopoly position that JT holds in the provision of wholesale telecommunications services, the JCRA’s view is that this situation should be reflected in the compensation provided to OLOs when the agreed service levels are not met.
61. The JCRA has concluded that JT should be required to offer a compensation framework that progressively increases the amount payable to OLOs over time and provides a maximum compensation of 400% of the monthly recurring charge for the relevant service.

¹² Frontier Report, page 43.

¹³ Guernsey Regulaid Report (see footnote [6] above).

¹⁴ European Commission, *Commission Recommendation on the provision of leased lines in the European Union, Part 1 – Major supply conditions for wholesale leased lines*, 21 January 2005.

¹⁵ Frontier Report, section 4.3.6, page 43.

¹⁶ Guernsey Regulaid Report, section 8.3, page 50.

¹⁷ Guernsey Regulaid Report, section 8.3, page 50.

E. Directions

62. The JCRA issues the following directions to JT under Condition 34.1(c) of JT's Licence:

- **Provisioning Times (Leased Lines)**

Change Schedule 5, Paragraph 1 of JT's On-Island Leased Lines Wholesale Private Circuits Agreement to read follows:

1. Service Levels

1.1. JT will use its reasonable endeavours to provide the Services at the following Service Levels:

1.1.1. to achieve the SDD provided to the Telco at the time of FOC in 100% of cases except for Orders delayed by a CNR or Force Majeure event;

1.1.2. to fulfil Orders for 100% of On Island Services up to and including 2 Mbit/s within a Provisioning Interval of 10 Working Days where there is suitable existing Line Plant, or 15 Working Days should Line Plant be required, except for Orders delayed by a CNR or Force Majeure event;

1.1.3. to fulfil Orders for 100% of On Island Services above 2 Mbit/s, excluding Corporate Connect, 2 Gbit/s and 4 Gbit/s Fibre Channel Services, within a Provisioning Interval of 15 Working Days where there is suitable existing Line Plant, or 20 Working Days should Line Plant be required, except for Orders delayed by a CNR or Force Majeure event;

1.1.4. to fulfil Orders for 100% of Corporate Connect Services, within a Provisioning Interval of 20 Working Days, except for Orders delayed by a CNR or Force Majeure event;

1.1.5. fulfil Orders for 100% of 2 Gbit/s and 4Gbit/s Fibre Channel Services, within a Provisioning Interval of 20 Working Days, except for Orders delayed by a CNR or Force Majeure event

1.1.6. to fulfil Orders for 100% of Off Island Services up to and including 2 Mbit/s within a Provisioning Interval of the longest of either JT or the lead time of the other provider, if longer, except for Orders delayed by a CNR or Force Majeure event;

1.1.7. to fulfil Orders for 100% of Off Island Services above 2 Mbit/s within a Provisioning Interval of the longest of either JT or the lead time of the other provider, if longer, except for Orders delayed by a CNR or Force Majeure event;

1.1.8. at Fault Rate of less than 10% per annum;

1.1.9. at a monthly Availability of % where:

$$\text{Availability} = (\text{Minutes/month} - \text{Total TTR for priority 1 Faults}) \times 100$$

Minutes/month

1.1.10. to resolve Faults at the TTRs set out in Schedule 6.

- **Provisioning Times (Bitstream)**

Change paragraph 1, Schedule 5 – Service Levels of JT’s Wholesale Broadband Agreement to read as follows:

1. Service Levels

JT will use its reasonable endeavours to provide the Services at the following Service Levels.

1.1 All End User Services

PROVISION OF NEW SERVICE (All End User Services)	
Installation type	Target Lead-Time (1)
<i>New Service/Upgrade/Take-Over</i>	<i>5/5/5 Working Days</i>
<i>Engineering visit and additional network line plant required</i>	<i>By quote</i>
<i>(1) Target Lead-Time is an “up to” number of Working Days except for Take Over Lead-Time which is actual Working Days.</i>	
<i>The Target Lead-Time is used to calculate the target SDD and commences from the date of receipt of a Valid Order in all cases, and may be varied from time to time by JT in order to meet operational requirements.</i>	

REPAIR OF EXISTING SERVICE (All End User Services)	
Type of Fault	Target Time to Repair (TTR)
<i>Service Affecting – Superior Service</i>	<i>2 Working Days</i>
<i>Service Affecting – Standard Service</i>	<i>3 Working Days</i>
<i>Service Interrupting</i>	<i>No target specified</i>

- **Compensation (Leased Lines)**

Change Schedule 5, Paragraph 2 of JT's On-island Leased Lines Wholesale Private Circuits Agreement to read as follows:

2.1 Service credits for On Island Services will apply as follows:

Service Level		Service Credit
<i>Issue of FOC</i>		<i>£50 per late occurrence</i>
<i>Failure to achieve the target SDD</i>	<i>1-2 working days</i>	<i>5% of one month's Recurring Charges for the On island Service concerned</i>
	<i>2 - 4 working days</i>	<i>15% of one month's Recurring Charges for the On island Service concerned</i>
	<i>4 - 6 working days</i>	<i>30% of one month's Recurring Charges for the On island Service concerned</i>
	<i>6 - 8 working days</i>	<i>60% of one month's Recurring Charges for the On island Service concerned</i>
	<i>8 - 10 working days</i>	<i>120% of one month's Recurring Charges for the On island Service concerned</i>
	<i>10 - 20 working days</i>	<i>240% of one month's Recurring Charges for the On island Service concerned</i>
	<i>Every further calendar month (charged on a pro-rata basis)</i>	<i>400% of one month's Recurring Charges for the On island Service concerned</i>

REPAIR OF EXISTING ON ISLAND SERVICE	
Response time	
Response time	Service Credit: % of monthly Recurring Charge
<i>8 - 10 Working Hours</i>	<i>20%</i>
<i>10 - 12 Working Hours</i>	<i>25%</i>
<i>12 - 14 Working Hours</i>	<i>30%</i>
<i>14 - 20 Working Hours</i>	<i>50%</i>
<i>20 - 30 Working Hours</i>	<i>75%</i>
<i>30 - 50 Working Hours</i>	<i>100%</i>
<i>50 - 100 Working Hours</i>	<i>200%</i>
<i>100 - 150 Working Hours</i>	<i>300%</i>
<i>Every further calendar month (charged on a pro-rata basis)</i>	<i>400%</i>

Repair time (TTR)		
<i>Fault Priority</i>	<i>Repair time</i>	<i>Service Credit: % of monthly Recurring Charge</i>
1	9-15 Working Hours	20%
	16 - 24 Working Hours	25%
	24 - 32 Working Hours	30%
	32 - 40 Working Hours	50%
	40 - 50 Working Hours	100%
	50 - 60 Working Hours	200%
	Every further calendar month (charged on a pro-rata basis)	400%
2	9 - 15 Working Hours	10%
	16 - 24 Working Hours	20%
	24 - 32 Working Hours	25%
	32 - 40 Working Hours	30%
	40 - 50 Working Hours	50%
	50 - 60 Working Hours	100%
	60 - 70 Working Hours	200%
Every further calendar month (charged on a pro-rata basis)	400%	
3	9 - 15 Working Hours	5%
	16 - 24 Working Hours	10%
	24 - 32 Working Hours	20%
	32 - 40 Working Hours	25%
	40 - 47 Working Hours	30%
	47 - 60 Working Hours	50%
	60 - 70 Working Hours	100%
	70 - 80 Working Hours	200%
	Every further calendar month (charged on a pro-rata basis)	400%

2.2. Service Credit Limits

2.2.1. Service Credits will be payable if the criteria stated in 2.1 above are met subject to a maximum payment as follows:

2.2.1.1. Response time: maximum of 400% of one month's Recurring Charge for the Service concerned;

2.2.1.2. Repair time: maximum of 400% of one month's Recurring Charge for the Service concerned;

2.3. The Service Levels and Service Credits stated in this schedule 5 only apply to those Wholesale Private Circuits or any part(s) of those Wholesale Private Circuits that are provided over JT's network. Wholesale Private Circuits or any part(s) of Wholesale Private Circuits provided over any other telecommunications operator's network are excluded.

2.4. The total Service Credits payable in respect of any one Service in any one calendar month shall not exceed the Recurring Charges for that Service in any circumstance.

2.5. Service Credits shall not be payable for failure to meet Service Levels in any of the circumstances described in Clause 7.9 of this Agreement.

- **Compensation (Bitstream)**

Change paragraphs 1.2 and 2.1 of Schedule 5 – Service Levels of JT’s Wholesale Broadband Agreement to read as follows:

<i>PROVISION OF NEW SERVICE</i>	
<i>Service Level</i>	<i>Service Credit</i>
<i>Order confirmation issuance interval ordered - CP Broadband Interconnect Service or CP Fibre Broadband Interconnect Service Broadband Interconnect Service</i>	<i>GBP 50 per late occurrence</i>
<i>Order confirmation issuance interval ordered - DSL or Fibre Broadband Service</i>	<i>GBP 5 per late occurrence</i>
<i>Working Days Delay after RFS</i>	
<i>1-2</i>	<i>10% of the monthly rental charge *</i>
<i>2-5</i>	<i>20% of the monthly rental charge *</i>
<i>5-10</i>	<i>40% of the monthly rental charge *</i>
<i>10-20</i>	<i>100% of the monthly rental charge *</i>
<i>20-30</i>	<i>200% of the monthly rental charge *</i>
<i>For every further calendar month (charged on a pro-rata basis)</i>	<i>An additional 400% of the monthly rental charge *</i>
<i>* Percentage refers to the total compensation to be paid for the delay and is NOT per Working Day.</i>	

REPAIR OF EXISTING SERVICE (All End User Services) Service Affecting Faults Outage duration in excess of the TTR	
Service Level	Service Credit
<i>Order confirmation issuance interval ordered - CP Broadband Interconnect Service or CP Fibre Broadband Interconnect Service Broadband Interconnect Service</i>	<i>GBP 50 per late occurrence</i>
<i>Order confirmation issuance interval ordered - DSL or Fibre Broadband Service</i>	<i>GBP 5 per late occurrence</i>
Working Days Delay after TTR	
<i>1-2</i>	<i>10% of the monthly rental charge **</i>
<i>2-5</i>	<i>20% of the monthly rental charge **</i>
<i>5-10</i>	<i>40% of the monthly rental charge **</i>
<i>10-20</i>	<i>100% of the monthly rental charge **</i>
<i>20-30</i>	<i>200% of the monthly rental charge **</i>
<i>For every further calendar month (charged on a pro-rata basis)</i>	<i>An additional 400% of the monthly rental charge **</i>
<i>For the avoidance of doubt for the purposes of calculation of the Service Credit due under this section, the period of Outage will include any time for Unplanned Maintenance or Emergency Maintenance, as set out in Schedule 6</i>	
<i>** Percentage refers to the total compensation to be paid for the delay and is NOT per Working Day.</i>	

2. Service Credits

2.1. The total Service Credits payable in respect of any one Service in any one calendar month shall not exceed the service credits outlined in 1.2 (above) for that Service in any circumstance.

F. Period for written representations or objections

63. The direction will take effect on Tuesday, 23 October 2012, unless representations or objections are received in relation to this Initial Notice, in which case the relevant date will be set out in a Final Notice published under Article 11(4) of the Law.
64. Any written representations or objections in respect of this Initial Notice may be made by 9am on Monday, 22 October 2012 to the JCRA at the following address:

Jersey Competition Regulatory Authority
2nd Floor, Salisbury House,
1-9 Union Street,
St. Helier, Jersey
JE2 3RF

or by e-mail to info@cjra.je.

65. In accordance with the JCRA's policy, non-confidential responses to the Initial Notice will be made available on the JCRA's website (www.cjra.je). Any material that is confidential should be put in a separate annex and clearly marked so that it can be kept confidential.

21 September 2012

By Order of the JCRA Board