



MEDIA STATEMENT

26th October 2020

Competition Authority publishes Business Connectivity Market Review consultation

The Jersey Competition Regulatory Authority (the Authority) has published a consultation document as part of its review of business connectivity services in the Island, which consists primarily of leased lines. The proposals within the document are designed to promote competition, availability, choice, price, quality, resilience and value-for-money for business consumers.

Leased lines play an important role in business communications and are used to support a wide variety of applications in both the public and private sectors. They are dedicated private circuits that provide a high level of network privacy, security and resilience to crucial areas of the economy including finance, health, communications (in particular mobile backhaul) and government.

Data shows that there were 1,005 leased lines in use in Jersey in 2019, worth £11.8m in annual revenue. JT is the largest provider of leased line services through its Island-wide fibre network, which it also sells wholesale to other telecommunication companies who want to retail the product to their customers.

The last Business Connectivity Market Review (BMCR) was conducted in 2014 and the Authority believes it is appropriate to conduct a new study, given developments in markets and changes in technology since then. A call for information was published last year, and the Authority also conducted interviews with businesses using leased line services to reach its initial assessment and proposals, which are designed to promote competition, availability, choice, price, quality, resilience and value-for-money for business consumers.

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At the same time the Authority acknowledges the investment by JT in the Island-wide fibre network and is therefore proposing a fair and proportionate remedy to balance JT's significant market power (SMP) with its need to achieve a return on its investment.

One of the most significant proposals is to open up access to so-called 'dark fibre', which is cabling that has been installed but is not currently being used or fibre that can be re-used by other licensed operators by installing their own technical solutions at either end of fibre connections. The recommendation is based on the Authority's forward-looking approach, which has not only analysed the current market but what the future demand is likely to be, potentially avoiding the need for regulatory intervention in the market at a later date. The proposals outlined in the consultation document, which is published today, are consistent with the Authority's legal duties, with Government of Jersey telecoms policy, and important in furthering the interests of consumers.

Tim Ringsdore, CEO of the Jersey Competition Regulatory Authority said, "This review is both appropriate and necessary. Economically and reputationally, Jersey relies on competitive and resilient business connectivity. Leased line services in Jersey are more expensive than other small jurisdictions, and significantly more so than similar services in the UK. There is a risk that JT could abuse its position of significant market power and while we are not suggesting the company would do that, it is our role to mitigate that risk. There are significant benefits from requiring JT to provide dark fibre access to other telcos, but also risks that JT would not be able to recover the cost of its investment in its network. Our proposals take this into account by suggesting an appropriately calibrated price control mechanism.

"A more competitive retail market, through the introduction of dark fibre, is likely to lead to innovation of products and rebalancing of prices.

"The document we have published today is the next step in a process we follow, that is consistent with international best practice. I would like to thank everyone who has co-operated with and contributed to that process so far and look forward to receiving views on these proposals."

The proposals are published on the Authority's website www.jcra.je. An independent report by SPC Network, has been published alongside the consultation that provides more detail

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on dark fibre, including technical considerations, international precedent and potential remedy design.

The deadline for responses is January 2021 with the consultation process being completed by next winter. **Ends**

ISSUED BY ORCHID

Allan Watts

T: 01534 888994 E: allan@orchid.je

FOR MORE INFORMATION CONTACT

Tim Ringsdore, CEO JCRA

T: 01534 514900 E: Tim.Ringsdore@jcra.je

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Notes to Editors

Government Policy for Telecommunications

In 2018 the Government of Jersey commissioned Oxera to develop a telecoms strategy for the Island.

Consistent with Oxera's recommendations, the Government of Jersey has decided that service level, or retail, competition should be promoted "as the most effective way of delivering the benefits of next generation connectivity to consumers and businesses". This means "wholesale access seekers get access to wholesale products, which allow access seekers to compete on differentiated retail services".

The government's Telecoms Strategy action plan requires the Authority to, inter alia:

- As appropriate, direct JT to offer fibre wholesale products to allow for differentiated retail services; and
- Ensure fair, reasonable and non-discriminatory access to backhaul for mobile sites for all mobile providers.

Demand for leased line services

Since 2014, demand for leased lines has grown, driven by demand from businesses, consumers and Other Licensed Operators for backhaul. The JCRA forecasts that this trend will continue in Jersey. This mirrors findings in other comparable markets: Ofcom research shows the amount of mobile data used in the UK is growing, increasing by 50% p.a., on average, between 2012 and 2017 with this trend expected to keep growing.

Competition problems identified in the wholesale leased line market

The Authority's preliminary opinion is, absent effective regulation, JT would have the incentive and the ability to use its dominant position in the relevant market to harm customers and limit competition in the market. There are three specific competition issues:

1. Refusal to supply: JT could refuse to allow OLOs access to its network and so foreclose the downstream retail market to competition;

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2. Price and non-price discrimination: Even if JT were to allow access, it could set price and non-price terms for OLOs that make it hard for those OLOs to compete effectively with JT's downstream business;
3. Excessive pricing: JT could set a price for wholesale access that is above the competitive level and on which it can earn monopoly rents thereby reducing consumer welfare in the market.

Definitions:

Leased line

A permanently connected communications link between two premises dedicated to a customer's exclusive use.

Dark Fibre

A dedicated fibre optic path where the circuit provider has no active electronics attached at either end. The access seeker is able to attach their own active equipment directly to the ends of the fibre path and "light" it at whatever speed they choose and in whatever configuration they choose, within the limitations of what is technically feasible for that particular fibre.

Mobile Backhaul

The part of a telecommunications network that connects the main body of the network with smaller subnetworks, usually by high capacity lines capable of transmitting data at very fast speeds.