Jersey Airtel Limited's (JAL) response to Jersey Competition Regulatory Authority (JCRA) Case T-012: Business Connectivity Market Review (BCMR): Remedies, published 17/02/2022

1st April 2022

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JAL firmly believes that the JCRA's intended proposal as per 'T-012: Business Connectivity Market Review: Remedies' will have insignificant benefit for JAL awaiting eagerly for BCMR outcome to reduce reliance on Microwave (MW) to provide service to Jersey's retail consumers.

For the reasons set out below in this response, JAL has some concerns regarding JCRA's proposal for 'Business Connectivity Market Review: Remedies'. Therefore, JAL requests JCRA to understand the issues explained along with evidence in this letter to improve the remedial measures further enabling more competition and choice for consumers.

As a provider of critical infrastructure JAL is continuing to play a vital role in keeping people seamlessly connected to their friends and family, as well as enabling remote working / learning for our customers, leading to customer data consumption growing exponentially and quality access to high-speed internet data is now a necessity for all the customers.

JAL considers that the JCRA's proposed price review will not achieve the intended objective i.e., for a challenger provider like JAL to make available the right product mix at a reasonable and a justified price to help with more competition and choice for consumers.

JCRA will appreciate that technology is evolving faster than ever as evident from the fact that 6G trials have commenced in labs when 5G hasn't even arrived in Jersey yet, plus the lifecycle for technology is getting shorter. Therefore, for a challenger like JAL to continue to invest in costly newer technology, it's imperative for JCRA to create a framework ensuring fairly priced access to lease lines and fibre connectivity.

Here are the further answers to the specific questions below in blue.

Question 1: Do you agree with the Authority's proposals for the approach to remedies? If you do not agree you should provide all of your analysis and assessment.

JAL agrees with the authority's approach to remedies, however, JAL strongly feels that JCRA's proposed action to be taken under these identified remedies will fall short of promoting effective competition in market.

Whilst JAL appreciates JCRA drawing it's proposed approach to remedies basis The EU's Electronic Communications Code ('EECC'), however, JCRA's proposed remedies do not follow the strategy adopted by EU Regulators for 2021-25 basis EECC's guidelines. JAL would like to draw JCRA's attention to following two points mentioned on Page 5 & 9 respectively in **BEREC (Body of European Regulators for Electronic Communications) strategy 2021 – 2025** (link):

- Page 5 - In a broader perspective, new connectivity technologies may emerge in this 2021 – 2025 time frame to serve new needs either for the general public or for tailor-made solutions dedicated to business users in their respective sectors. Common to all new wireless connectivity technologies, whether 5G, Wi-Fi or something else, is dependence on the availability of fibre backhaul.

- Page 9 - BEREC will also continue, within the scope of its competence, to follow the development of 5G actively and closely. Fixed network coverage and access options will influence 5G, as high-capacity quality fibre backhaul availability is necessary for the deployment of the new standard. Depending on the assessment of competitive conditions, wholesale access to fibre backhaul connectivity of cell sites needs to be ensured (and regulated, where necessary) to prevent potential problems in terms of lack of coverage and refusal of access to bottleneck facilities, in particular in less competitive geographic areas. Duct and pole access and dark fibre may also become increasingly relevant.

JAL's analysis and assessment of each remedy:

1. Refusal to supply:
   - JCRA should consider tailor-made leased line products exclusively for the telecom industry at the same price as the UK mainland where 5G is launched. It's established worldwide that 5G use cases require ultra-low latency and very high throughput, which can't be achieved without 'wired backhaul' products.
   - These products should include a wide range of granular speeds from 100Mbps to 10Gbps (or more). This will ensure a level platform which will be future proof catering to evolution of future technologies such as 5G and beyond.
   - JCRA should have a timetable for a regular price review of leased line products.

2. Price & Non-price discrimination:
   - Regarding 'Migration Service', JAL recommends that JT should remove all the barrier in terms of one-time connection / disconnection / upgrade / downgrade fee for migration of services. This will help and encourage OLOs to switch to right mix of new products efficiently and smoothly.

3. Excessive pricing:
   - JCRA should consider prices of leased lines from Jersey based lease line suppliers other than JT, whose prices are considerably lower than JTs'.
   - JCRA needs to establish fact-based reason behind JT's local competitors selling back haul products at much lower price than JT's without having economies of scale.
   - JAL firmly believes that JCRA's 'retail minus 27%~32%' price proposal needs to be improved much further considering the vital dependency JAL has on reasonably priced backhaul solutions to survive and remain competitive in local market!
   - We believe that leased line prices should be reviewed more frequently like the UK. E.g.: In UK, leased line prices were reviewed 5 times and reduced by 200% since 2013. Please refer to this link for more details: (openreach 2022)

JAL has provided more reasoning, analysis and assessment regarding the above mentioned proposed three remedies in answers to Question 2, 5, 6 & 7.

Further, JAL will like to redraw JCRA's attention to following problem statements and factual challenges to explain why JCRA needs to do more across all the proposed remedies:

A. JCRA will appreciate that extortionate cost of leased lines in Jersey prohibits JAL from using leased lines as a preferred medium of transmission in Jersey, This has been shared regularly via response to previous related consultations since 2018-2019 and presented in two CICRA led 5G summits. It is anti-competitive to force JAL to rely on MW for the majority of its sites.

B. JCRA needs to question and understand that why JAL has more than 70% of it's mobile masts on MW whilst the incumbent has no more than 10-15% or perhaps none of its mobile masts using MW for transmission / backhaul. Why is incumbent using 'wired leased line backhaul products' for all of their mobile masts? Therefore, there is dire need for JCRA to follow JAL's recommendations outlined in this document to address this local imbalance comparison between JAL and incumbent.

C. MW backhaul has many limitations such as –limited capacity, non-resilient connectivity, and not ideal for 5G and evolved technologies.

D. JCRA needs to factor in that JAL's network despite being the challenger in local market, has the highest data volume. JAL's customers consume 60%+ data more than JT's and Sure's respectively. The below table with staggering stats from last officially published report should provoke more empathy towards JAL's problem and challenges before any decision is made on BCMR remedies resulting in negligible benefit for JAL and its customers.

Telecom Statistics 2020 for Jersey	
Operator	Data Volume (Million Gbytes)
JT	2.58
Sure	2.69
Airtel	4.29

E. JCRA needs to acknowledge and address that current pricing of JT for '<1Gbps leased line products' is hugely disproportionate w.r.t the speeds.

Having shared above the problem statements, analysis and assessment, JAL recommends following strongly to JCRA for effective implementation of the three remedies:

i. JCRA needs to improve their 'retail minus 27%~32%' price proposal.. Please refer to answers to Question 6 & 7 for more analysis and details.

ii. JAL strongly recommends to JCRA to address this disproportionate pricing for 10Mbps, 100Mbps and 500Mbps as JAL has majority of 100Mbps leased lines from JT.

Question 2: Do you agree with the Authority's proposals for the set of regulations to be imposed on JT to address refusal to supply? If you do not agree you should provide all of your analysis and assessment.

JAL partially agrees with Authority's proposals for the set of regulations to be imposed on JT to address refusal to supply, however, JAL strongly recommends to JCRA to incorporate the following important points for effective addressal of 'refusal to supply':

A. JAL strongly recommends that JT should supply more granular products in terms of speed in its wholesale private portfolio:
   - Between 100Mbps and 1Gbps, granularity should be 250Mbps, and
   - for >1Gbps, it should be 500Mbps.

This will give JAL more flexibility in choosing the right product for individual sites as both traffic pattern and backhaul product requirement keeps changing. JCRA needs to understand that leased line bandwidths are chosen in proportion to data traffic requirements. This granularity will also assist efficiently in managing current traffic requirement effectively and meeting minimum 5G rollout obligations/expectations which is expected to be rolled in 2023. Please note that 'over provisioning and under provisioning' of leased lines will lead to inefficient operations.

B. During and post the pandemic, we are seeing consumer demand for data services accelerating at astronomical pace and the 'new technology cycle' is getting shorter, therefore, we strongly advocate that Business Connectivity Market Review (BCMR) should be reviewed within one year to supply 'dark fibre' as an option for backhaul. And, BCMR regarding price review of all products should be done every two years.

JAL is disappointed to note that JCRA has excluded 'dark fibre backhaul solution' as a possible remedy citing resource and licensing constraints. Since JAL couldn't find and understand the underlying reasons behind this decision from the document, therefore, JAL requests JCRA to explain the background to JAL and clarify timescales to look at dark fibre remedy in event of JT failing to meet the expectations.

Question 3: Do you agree with the Authority's proposals for the introduction of a refined approach to reference offers for leased lines? If you do not agree you should provide all of your analysis and assessment.

JAL appreciates and agrees with the Authority's proposal for the introduction of a refined approach to reference offers for leased lines.

Question 4: Do you agree with the Authority's proposals for the set of regulations to be imposed on JT to address price and non-price discrimination? If you do not agree you should provide all of your analysis and assessment.

JAL appreciates that the Authority will carry out an audit of JT's accounting and cost allocation practices in 2022 to establish a fact-based 'retail minus price control'. JAL agrees with the Authority's proposals for the set of regulations to be imposed on JT to address price and non-price discrimination.

Question 5: Do you agree with the Authority's proposals for the introduction of a migration service? If you do not agree you should provide all of your analysis and assessment.

JAL agrees with the Authority's proposals for the introduction of a migration service and strongly recommends that JT should remove all the barriers in terms of one-time connection/disconnection/upgrade/downgrade fee while migration of services. This will help OLOs to switch to right mix of new products efficiently and smoothly.

It seems JT is trying to compensate for loss of revenue due to imposition of 'retail minus price' control by JCRA, therefore, JAL requests JCRA to understand and establish fact-based need for JT to charge one-time connection / disconnection / upgrade / downgrade fee for migration of service.

Also, JAL suggests that JT should supply more granular products in terms of speed in its wholesale private circuits portfolio:

- Between '100Mbps and 1Gbps', granularity should be 250Mbps, and
- for '>1Gbps', it should be 500Mbps.

This will give JAL more flexibility in choosing the right product for individual sites as both traffic pattern and backhaul product requirement keeps changing. JCRA needs to understand that leased line bandwidths are chosen in proportion to data traffic requirements.

This granularity will also assist efficiently in managing current traffic requirement effectively and meeting minimum 5G rollout obligations/expectations which is expected to be rolled in 2023. Please note that 'over provisioning and under provisioning' of leased lines will lead to inefficient operations.

Question 6: Do you agree with the Authority's proposals for the set of regulations to be imposed on JT to address excessive pricing? If you do not agree you should provide all of your analysis and assessment.

JAL partially agrees with the Authority's proposal for the set of regulations to be imposed on JT to address excessive pricing, however, before making the final decision, JCRA should consider prices of leased lines from Jersey based lease line suppliers other than JT, whose prices are considerably lower than JTs'.

The much lower price from other suppliers implies that it is financially viable for JT to reduce the prices, even lower than these local suppliers considering the economies of scale JT has.

Price comparison table below shows huge disparity that exists in Jersey for different services / products when compared to local competitors and UK:

Annual Price (£)									
Service	**JT- Jersey (LC33) - Current Wholesale price**	**Proposed - retail minus 27%**	**Proposed - retail minus 32%**	**UK Price (as per openreach)**	**difference (retail minus 27% vs UK)**	**difference (retail minus 32% vs UK)**	**Newtel**	**difference (retail minus 27% vs Newtel)**	**difference (retail minus 32% vs Newtel)**
10 Mbps	3360	3066	2856						
100 Mbps	7440	6789	6324						
500Mbps	8740	7975	7429						
1 Gbps	10860	9910	9231	3012	229%	206%	6000	65%	54%
2Gbps	21226	19368	18042						
4Gbps	30758	28067	26145						
8Gbps	48800	44530	41480						
10Gbps	48800	44530	41480	11148	299%	272%			

JAL strongly believes that proposed remedy to the excessive pricing is inadequate.

The current proposed price reduction (27% - 32%) in wholesale price will still not make leased lines a financially viable solution for an operator like us to continue to meet the challenge of exponentially increasing data usage and upcoming technologies such as 5G roll out.

JAL sincerely hopes that JCRA will reconsider their proposal to address the excessive pricing.

Question 7: Do you agree with the Authority's proposals for the recalibration of the retail minus control? If you do not agree you should provide all of your analysis and assessment.

Having explained the huge price disparity in answer to Question 6, JAL strongly recommends to JCRA that retail minus approach should be recalibrated significantly compared to proposed 27% to 32%, factoring in following points:

a. The price comparison with other local backhaul service provider.

b. The price comparison with the jurisdiction like the UK where 5G is live.

c. The vital role backhauls play in current and newer telecom network technology setup.

d. To meet exponentially rising customer demand for 'cost effective high-speed wireless data'

For the reasons, analysis & assessment responses shared above, JAL considers that these inputs will assist the JCRA in understanding the problems and challenges JAL is facing to remain competitive and be able to survive in such a tough competitive market.

JAL hopes that JCRA will improve the proposed remedies which will help in addressing the current extortionate price of wholesale leased lines to enable a pro-competitive environment which will encourage JAL to re-introduce popular 4G home broadband products and continue to innovate the right product mix at competitive price which would benefit all consumers in Jersey.

JAL expects an empathetic response and engagement from the JCRA to the concerns raised in this letter.

Jersey Airtel Limited
1st April 2022