



BUSINESS CONNECTIVITY MARKET REVIEW (“BCMR”): REMEDIES – NON-STATUTORY DRAFT DECISION – T-012

SURE (JERSEY) LIMITED –RESPONSE

Executive Summary

1. Sure (Jersey) Limited (“Sure”) is pleased to respond to the Jersey Competition and Regulatory Authority’s (“the Authority”) non-statutory Draft Decision regarding remedies for the Business Connectivity Market. We are grateful for the opportunity to provide feedback on the Authority’s proposals.
2. We would like to commend the Authority for its positive engagement and transparency throughout this market review process. We hope that the Authority’s approach will serve as an example to other regulators in comparator jurisdictions that historically have not taken such a thorough and transparent approach.
3. We are broadly supportive of the Authority’s ‘enhanced remedy’ proposals and appreciate the Authority’s attempts to be resourceful in how it addresses market failures. We agree that its proposed remedies, such as increased economic space and an established Statement of Requirements (“SoR”) process, will likely have a positive impact on service-based competition.
4. Furthermore, we strongly support the Authority’s decision to direct JT (Jersey) Limited (“JT”) to explore the technical and commercial viability of fixed number portability (“FNP”). In our view, FNP will enable Other Licenced Operators (“OLOs”) to compete more effectively for Enterprise customers in Jersey, especially for larger customer-facing organisations that need to retain their contact telephone numbers and business customers looking for a ‘one-stop-shop’ provider. Whilst FNP sits outside of the scope of this market review, we urge the Authority to engage with JT and OLOs to support the delivery of a suitable FNP solution¹.

¹ We note that FNP was not included in JT’s 2022/23 Wholesale Roadmap, published 16 March 2022, despite JT having already received the Authority’s request to engage with OLOs on the subject. We have also not yet had any formal or informal engagement from JT regarding FNP.

5. However, we do not believe that these enhanced remedies alone can truly address the market failures present in the Jersey retail and wholesale leased line markets.
6. We are disappointed that the Authority has seemingly felt the need to 'wave the white flag' on a dark fibre access ("DFA") remedy for the wholesale leased line market. Whilst we understand the reasoning behind retaining DFA as a future regulatory option, we are unconvinced that the Authority's proposed approach will deliver market certainty, generate new market outcomes, or enable the development of a DFA product in the long run (and the benefits this produces). Specifically, we believe the following concerns need to be addressed:
 - I. The regulatory framework followed by the Authority dictates that access remedies should be imposed on the basis of the 'ladder of investment principle', whereby sustainable competition and greater innovation is achieved by moving access seekers to 'higher rungs on the ladder' – that is, moving from service-based competition to facility-based competition (including DFA). Furthermore, the outcomes associated with facility-based competition are the outcomes desired by the Authority for this and subsequent review periods. Yet, this principle is notably absent in the Authority's proposals. In our view, this is rather incongruous.
 - II. We do not agree that simply retaining the concept of DFA as a 'future regulatory option' is a suitable deterrent or backstop, nor will it deliver certainty. The barriers to implementation experienced by the Authority today will undoubtedly remain, absent further exploration of the technical and commercial viability of a DFA solution (if anything, barriers are likely to become greater as the review period progresses). Even if it were to be an effective deterrent, it is currently unclear how, when and on what terms the Authority's proposed 'DFA backstop' would be invoked. Absent further development in the short run, for example via a trial or detailed investigation by the Authority, it is highly unlikely that wholesale customers would be willing or able to adopt a DFA remedy at short notice, should either JT fail to meet its obligations or effective competition is not established.
7. We recognise the risks associated with hurriedly implementing a DFA remedy at this stage and appreciate the need for the Authority to carefully manage its limited resources. The Authority has explained this well and we are grateful for their careful analysis and explanation. Given little to no progress has been made in agreeing the scope of a DFA remedy, we therefore acknowledge that the time is not yet right to implement DFA across the entire wholesale leased line market.
8. However, we believe there to be pragmatic middle ground that will both address our key concerns and ensures that dark fibre is not prematurely introduced to the wholesale leased line market. We

propose that the Authority directs JT and OLOs to conduct a DFA trial in the mobile backhaul segment over the course of this review period (ideally during the early stages of it). This trial would be driven by JT and the OLOs, but the framework of engagement and timescales would be dictated by the Authority. The benefits of such a trial are twofold:

- I. It would reduce the barriers to implementation currently encountered by the Authority and industry, for example long implementation timescales and transition complexity, thus allowing speedier and more efficient imposition should it be required; and
- II. It would allow the Authority and industry to fully understand the technical and commercial viability of a DFA solution and decide, based on evidence, whether wider deployment is worthwhile.

9. Finally, we have some concerns about the proposed implementation of the refined Reference Offer and migration service. The Authority is proposing that JT and OLOs should collaborate to develop these remedies. JT does not have a commercial incentive to develop and implement these remedies and, as such, we have a low level of confidence that JT would engage meaningfully with OLOs. We are concerned that this will result in significant delays in the development and implementation of the refined Reference Offer and migration service. We urge the Authority to set out a clear timetable in which JT and OLOs must develop and implement these remedies.

10. We provide further explanation of our concerns below. First, we expand on our concerns about the absence of a developing DFA remedy and explain why we believe a DFA trial for mobile backhaul leased lines would be a pragmatic middle ground for this review period. Second, we will explain why it is the Authority that should set the implementation deadlines for its enhanced access remedies. Responses to the Authority's questions can be found in the annex.

Dark Fibre Access

12. The benefits of passive access, and specifically DFA, are well-established and particularly relevant for the wholesale leased line market in Jersey². As acknowledged by the Authority in its October 2020 Draft Decision, DFA opens more of the value chain to competition, placing greater control over cost of provision (and therefore pricing), efficiency, product differentiation, innovation, and resilience in the hands of rivals (as opposed to it sitting with the incumbent). It allows operators to innovate, both in technical specification of services and in pricing and commercial structures offered to meet individual (retail or wholesale) customer needs. The outcome? A significantly more dynamic and resilient³ retail leased line market that delivers greater dynamic and static efficiency, and where the need for ongoing regulatory intervention is diminished over time. These are the very outcomes desired by the Authority for this and subsequent review periods.
13. [X]. [X]. [X] control of the end-customer pricing and service management is ultimately dictated by JT's wholesale product portfolio. DFA overcomes these limitations by giving OLOs greater control over the cost of provision, service management and network routing diversity.
14. In our view, it is almost a truism that DFA is the only approach to truly address the market failures present in the Jersey wholesale leased line market and deliver the products and services increasingly demanded by customers. Strikingly, the Authority does not dispute the existence of these benefits in its Remedies Draft Decision. Rather, it simply states that implementation of DFA would be "non-trivial" and its 'resources could be better used elsewhere.'
15. Nevertheless, we also recognise that the implementation of a DFA remedy is not without complexity. Implementing DFA in a proportionate and effective manner requires difficult questions to be answered and evidence to be collated, assessed, and understood. For example, there are technical considerations that must be understood and agreed, such as the availability of suitably equipped accommodation (e.g., with appropriate temperate control and power services – generally already provided in exchange-based environments), necessary for co-location purposes. Similarly, there are process and commercial considerations, such as the price of DFA, the processes for ordering, provision, maintenance, and migration onto DFA, a framework for establishing and charging excess construction charges ("ECCs").

² We have already provided an explanation of the welfare and efficiency benefits of DFA in our response to the Authority's October 2020 Draft Decision, dated 15th January 2021.

³ The use of active wholesale leased lines means that there can be duplication in electronics, with both JT and the wholesale customer attaching electronic equipment in order to deliver and monitor the relevant wholesale and retail services. Two sets of electronics also cause more potential points of failure and could increase latency.

16. None of these technical or commercial considerations have yet been addressed, let alone resolved. Given the Authority's proposed timescales for delivering a Final Decision – expected to be published in May or June 2022 – it will not be practicable to address, negotiate and finalise a suitable DFA remedy in time. Hurriedly implementing a DFA remedy at this stage would be risky and would almost certainly result in a remedy that neither meets the needs of wholesale customers or the market. We therefore acknowledge that the time is not yet be right to implement DFA across the entire wholesale leased line market.
17. However, we are disappointed by the Authority's proposed way forward for DFA. The Authority is seemingly abandoning the prospect of a DFA remedy altogether, and in doing so appears to resign itself to nothing more than service-based competition in the wholesale leased lines market. Given the benefits summarised above⁴, we believe that the Authority and industry ought to be taking a ladder of investment approach (see below) and working towards a position whereby implementation of DFA is feasible.
18. Whilst we acknowledge that the *concept* of a DFA remedy has been retained as a future regulatory option (or backstop), this could be considered little more than symbolic. The Authority has not put forward any kind of roadmap for developing DFA from a concept to a suitable remedy. Absent a clear and coherent roadmap for developing DFA, the commercial and technical challenges referenced above will remain unaddressed, and thus will not act as an effective regulatory backstop (see below).

The Ladder of Investment

19. We agree with the Authority's general approach to remedies. The European Electronic Communications Code ("EECC") provides an excellent framework for defining and assessing economic markets, along with a comprehensive set of remedies designed to prevent abuse of a dominant position. Following the approaches adopted by other European national regulatory authorities ("NRAs") also gives operators relative certainty about the outcomes such remedies ought to deliver.
20. However, in addition to the behavioural remedies set out in Articles 69 to 77, the EECC also requires that NRAs 'take the utmost account of any regulatory best practice adopted by BEREC⁵'. This includes regulatory best practice set out in Common Positions, such as the 'Common Position on Best Practice

⁴ These are set out in more detail in the Authority's October 2020 Draft Decision and in our 15th January 2021 response.

⁵ The Body of European Regulators for Electronic Communications

in Remedies in the Market for Wholesale Access at a Fixed Location’ – BoR (12) 127 (“the Common Position”).

21. The Common Position states that ‘NRAs imposition of remedies should be based on the ladder of investment principle’ (“LOI”), whereby facility-based competition is encouraged at the deepest level (or highest rung on the ladder) wherever reasonable and proportionate to do so. This is because the full benefits of competition, some of which are summarised above, can only be achieved in the longer-run by facility-based competition. The basic idea behind the LOI principle is to gradually offer market entrants different levels of access to the incumbent’s network. Entrants will initially obtain access to lit fibre services (which require little investment). However, as the entrant’s customer base expands through service-based competition, it will be expected to invest in its own network elements in order to gradually bypass more and more of the incumbent’s network – that is, to climb the LOI⁶.
22. At present, there is no mechanism for OLOs to climb the LOI in Jersey precisely because no ‘ladder’ exists. OLOs simply have access to lit fibre via JT active wholesale products, with no way of gradually bypassing JT’s network in order to provide facility-based competition (in order to do this, OLOs currently need to build out their own network, counter to the States of Jersey ‘Telecoms Strategy for Jersey’ policy). Given the States of Jersey’s policy position of promoting retail competition rather than network competition, we believe the introduction of DFA is the only way to enable OLOs to climb the LOI. Failing to adopt a DFA remedy (or have a roadmap for future implementation) therefore deprives OLOs, and corresponding retail leased line customers, of the benefits of effective facility-based competition because there is no other way of achieving it.
23. The LOI principle, as recommended by regulatory best practice and adopted in other EU jurisdictions, remains notably absent in the Authority’s proposals. We urge the Authority to review and amend its proposals to better support OLOs to climb of the LOI in a manner consistent with regulatory best practice and the States of Jersey ‘Telecoms Strategy for Jersey’. As set out above, this would entail the implementation of a DFA remedy when appropriate to do so.

DFA as a ‘regulatory backstop’

24. The Authority has proposed retain DFA as a potential future regulatory option, to be adopted where JT, or the remedies themselves, are not meeting the relevant obligations or stimulating effective

⁶ It would be superfluous to provide the Authority with an in-depth explanation of the ladder of investment. The Authority clearly has a good understanding of the principle and provides a reasonable summary in paragraph 8.18 of its October 2020 Draft Decision.

competition⁷. Whilst we understand and appreciate the Authority's desire to keep DFA on the table, in practice this approach will not be effective. This is because the barriers to implementation experienced by the Authority today will undoubtedly remain, absent further exploration of the technical and commercial viability of a DFA solution.

25. The Authority has explained that the reason for shifting focus to existing remedies is due to the non-trivial nature of DFA implementation and the significant effect this would likely have on the Authority's work programme. For example, the Authority cites protracted implementation timescales as a key risk associated with introduction of a DFA remedy. But the Authority has not explained how this barrier will diminish over time in order to allow future implementation, should it be required. Rather, implementation of a DFA remedy will likely become even more remote as the review period progresses, with proximity to the end of the review period likely to be seen as an additional barrier to implementation⁸.
26. For example, should after 3 years of a 5-year review period the Authority deem JT to have failed to meet its regulatory obligations, will the Authority still impose a DFA remedy? What happens if, as the Authority predicts, establishing and implementing an appropriate DFA remedy takes longer than the remaining duration of the review period? We are doubtful that, in such a scenario, the Authority would adopt the DFA backstop. This will be especially true should the late imposition of a DFA remedy risk pre-empting the outcome of any subsequent review.
27. As a consequence, we cannot agree that simply retaining the concept of DFA as a 'future regulatory option' is a suitable deterrent or backstop. Absent further exploration of the technical and commercial viability of a DFA solution, it is impossible to comprehend how the factors that are prohibitive today will no longer be prohibitive in the future. JT will be well aware of this fact, and thus it is unlikely that its incentives will be impacted by the risk of a future DFA requirement.
28. In our view, both the Authority and operators need to take steps in the short run to better understand and overcome these technical and commercial challenges. As above, we believe that the

⁷ Business Connectivity Market Review: Remedies - Non-statutory Draft Decision - para. 6.32

⁸ This is also the case due to 'the replacement effect'. Whilst promoting competition through access regulation can act as transitory entry assistance for market entrants (thus increasing service-based competition), it can also act as a barrier to investment in its own infrastructure. This is because the profits enjoyed from service-based competition also act as an opportunity cost to facility-based entry. If the cost of service-based entry continues to decline (and associated profits from service-based competition increase), then OLOs will have less of an incentive to invest in greater levels of access – see Cave, M. (2006), *Encouraging infrastructure competition via the ladder of investment*, *Telecommunications Policy* 30, 223-237.

best way to achieve this would be for JT and the OLOs to undertake a DFA trial in the mobile backhaul segment during the early stages of the upcoming review period.

DFA trial for mobile backhaul

29. The Authority and OLOs appear to be stuck in somewhat of a DFA vicious circle. Market-wide development and deployment of DFA is neither practical nor proportionate at this stage. Yet, unless steps are taken to meaningfully explore the technical and commercial challenges of DFA, we are concerned the numerous benefits of facility-based competition will never be realised.
30. For example, in its structured industry engagement the Authority asked Sure ‘how, and to what extent Sure would use DFA to support its commercial strategy’. Without information on, inter alia, the price of DFA (i.e., the cost per kilometre), the SLAs for DFA provisioning lead times, the process and lead times for resolving faults, the extent to which Sure active equipment can be placed in all relevant JT locations, it is impossible for OLOs to compare a future DFA remedy to existing wholesale access remedies. [30]. As explained to the Authority in our 5th November 2021 engagement session, we and the other OLOs find ourselves in a ‘chicken and egg position’.
31. We believe there to be pragmatic middle ground that will both address our concerns and ensure that DFA is not prematurely introduced to the wholesale leased line market. We propose that the Authority directs JT, and invites OLOs, to conduct a DFA trial in the mobile backhaul segment during the early stages of this review period. The purpose of the trial would be to allow the Authority, JT and the OLOs to fully understand the technical and commercial viability of a DFA solution in the wholesale leased line market. The outcomes and learnings from this trial will enable stakeholders to decide whether wider deployment is worthwhile.
32. A trial in the early stages of this review period will also give weight to the Authority’s DFA regulatory backstop by removing some of the unknowns or barriers to implementation faced today. This in turn will make the DFA regulatory backstop a more powerful deterrent for JT.
33. We believe that the mobile backhaul segment of the wholesale leased lines market provides a suitable environment for trialling DFA. Firstly, unlike the stagnant demand from business customers for leased lines, demand for mobile backhaul leased lines is likely to increase over this review period (both from a capacity and circuit volume perspective). This will primarily be driven by the rollout of

5G services in Jersey⁹, where 5G-enabled base stations are likely to need significantly more backhaul capacity than existing 4G-enabled base stations, and where anticipated cell site densification will drive demand for more leased lines. Given the expected increase in demand in this segment, the well-established flexibility and efficiency savings that DFA could theoretically deliver for mobile backhaul, and the fact that OLOs are in agreement that DFA would be useful in the mobile backhaul segment¹⁰, we believe the mobile backhaul segment (or indeed a subset of it) would be a suitable trial environment.

34. Furthermore, JT has already allocated internal resource to addressing mobile backhaul connectivity in 2022 and 2023¹¹. According to its Wholesale Roadmap for 2022 and 2023, JT expects to engage with OLOs to develop and implement a new active mobile backhaul leased line. This engagement is scheduled to take place throughout H2 2022 and the entirety of 2023. In our view, this time and resource could be better spent exploring the benefits and viability of DFA in the mobile backhaul segment through a DFA trial. Given OLOs would already need to engage with JT to develop an active mobile backhaul product, it is conceivable that such resource could simply be reallocated to exploring the technical and commercial challenges of DFA.

35. The mobile backhaul segment also provides JT and OLOs with a variety of scenarios in which to test implementation and transition to DFA. For example, Sure currently uses [~~3~~] JT wholesale leased lines, [~~3~~] on-net fibre access network leased lines, and [~~3~~] radio backhaul circuits to connect its mobile base stations in Jersey. Should the commercial and technical drivers be suitable, Sure would be willing migrate its [~~3~~] JT wholesale leased lines and a portion of its [~~3~~] radio backhaul circuits for DFA during the trial. Airtel is likely to be equally amenable to taking part in the trial. This would enable JT and the OLOs to observe and address any technical challenges faced by OLOs migrating not just from JT active products, but also new market entrants and OLOs migrating to DFA from other technologies. For example, JT exchanges may be able to provide suitable accommodation and co-location to existing wholesale leased line customers, but will they be able to facilitate additional demand for accommodation and co-location from new entrants and OLOs that have not historically needed exchange space (as they were using a different backhaul technology).

36. A key concern regarding implementation of DFA was the significant resource burden this would place on the Authority. Our proposed trial would be predominately driven by JT and the OLOs. Whilst the

⁹ The Authority is currently in the early stages of restarting its spectrum award process. We expect the spectrum award/allocation process to have been completed by Q4 2022, with relevant 5G spectrum licences issued at some point in H1 2023.

¹⁰ For example, see Airtel-Vodafone's response to the Authority's October 2020 Draft Decision – response to Question 10.

¹¹ See JT Wholesale Roadmap Q1 2022, published 16 March 2022.

Authority would need to initially work with industry to agree a framework for engagement – setting clear processes, timeframes, and commitments for the project. – this ought not to be significant. This early engagement would simply be to ensure that the key building blocks of the trial are made available to OLOs in a non-discriminatory, fair, and timely manner. Thereafter the resource burden on the Authority ought to be significantly reduced. The risks, including any elongated timescales, are much lower with a trial, as participants can simply resume using prevailing methods for connectivity, in the unlikely event that the trial proved to be unsuccessful.

37. Whilst this trial could conceivably be conducted on a purely commercial basis via a formal access request from an OLO, we continue to have a low level of confidence that JT would engage in a meaningful way in relation to any requests that we submit for the development of wholesale services on its network, even when formally submitted under JT’s Licence Condition 40 (Network Access). This low level of confidence has been driven by our bad experiences when requesting provision of Wholesale Line Rental (“WLR”) and lower speed broadband services via a Bitstream solution – both of which took a number of years to develop and implement.

38. We therefore ask the Authority to include in its Final Decision a formal direction on JT to conduct a DFA trial. The framework for engagement and timescales (i.e., how, and when the trial should be undertaken) for the trial can be agreed via a consultation at a later date (as allowed by the EECC). For example, the Authority could consult on the specifics of a DFA trial between the publication of the Final Decision in June 2022 and the implementation deadline for new remedies in October 2022.

Implementation of the refined reference offer and migration service

39. The Authority proposes to require JT to publish a ‘refined reference offer’ and develop a migration service for its active wholesale services. We welcome the proposed implementation of both remedies and agree that, in combination with increased economic space and a robust SoR process, they will likely have a positive impact on service-based competition.

40. However, we are concerned about the way in which the Authority has proposed to implement these obligations. In both instances, JT will either be ‘encouraged to engage with wholesale customers’ to develop and then implement the new requirements¹², or face no concrete timescales for implementation. Similarly, the Authority has not set out a specification for how the migration service

¹² Business Connectivity Market Review: Remedies - Non-statutory Draft Decision - para. 6.25 and

should operate, the cost of using it, nor the migration SLAs. It is expected that both the refined reference offer and migration service will require a large amount of discussion between JT and OLOs.

41. As set out above in relation to DFA, JT does not have a commercial incentive to develop and implement these remedies and, as such, we have a low level of confidence that JT would engage meaningfully with OLOs. This lack of confidence is amplified by JT's poor track record when it comes to timely delivery of new forms of access (see paragraph 37 above). We are therefore concerned that placing the onus on JT to develop these remedies will result in significant delays in the development and implementation of the refined reference offer and migration service.

42. We urge the Authority to set out a clear timetable for implementation in its Final Decision. This timetable should provide deadlines by which JT and OLOs must develop, agree, and implement these remedies.

Q1. 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.

As set out in paragraphs 19 – 23, we agree with the Authority’s decision to follow the EECC framework in its general approach to remedies. However, we note that the Authority has not taken account of the regulatory best practice adopted by BEREC (as required by the EECC), and specifically does not appear to implement remedies based on a ‘ladder of investment’ approach. In our view, and as detailed in the response above, we believe that the Authority should impose remedies on a ‘ladder of investment’ basis and should adjust its approach to ensure OLOs have a mechanism for obtaining ‘deeper’ access to JT’s network in a manner that is proportionate (i.e., by providing access to a dark fibre remedy).

The outcomes associated with facility-based competition (dark fibre) are the outcomes desired by the Authority for this and subsequent review periods. Dark fibre opens more of the value chain to competition, placing greater control over costs, pricing, efficiency, product differentiation, innovation, and resilience in the hands of OLOs, rather than just JT. We do not believe it would be possible to achieve these outcomes through continued service-based competition.

Q2. 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.

We are broadly supportive of the Authority’s proposed suite of remedies and appreciate the Authority’s attempts to be resourceful in how it addresses market failures. We agree that its proposed remedies will likely have a positive impact on *service-based competition*.

However, we are disappointed by, and do not agree with, the Authority’s proposal to seemingly abandoning the prospect of a dark fibre remedy altogether. In our view, doing so would mean that nothing more than service-based competition could be established in the wholesale leased lines market. We do not agree that this is the best way forward. Whilst there are short-term challenges for implementing a dark fibre access remedy, we do not believe that these challenges outweigh the significant benefits to both OLOs and end-users.

In our view, dark fibre access should continue to be actively considered by the Authority, JT and OLOs, and not simply utilised as a conceptual regulatory backstop (which alone is an ineffective remedy). We believe a pragmatic middle-ground would be for the Authority to direct JT and the OLOs to conduct a DFA trial in the mobile backhaul segment during the early stages of this review

period. Considering the technical and commercial viability of a dark fibre remedy in a trial environment ensures that progress can be made towards implementation without requiring significant intervention by the Authority. It also allows consideration of the relevant challenges in a less risky environment - risks of elongated timescales or unsuccessful outcomes are much lower with a trial as participants can simply resume using prevailing methods for connectivity.

Performing this trial in the early stages of the upcoming review period will:

1. Provide OLOs with a ladder of investment towards achieving facility-based competition, without the need to invest heavily in alternative infrastructure, and deliver the significant benefits of sustainable facility-based competition;
2. Ensure that the Authority's dark fibre regulatory backstop/deterrent remains effective and has a material impact on JT's incentives as an incumbent operator (we would suggest that the Authority's proposed conceptual backstop would not achieve this); and
3. Allow JT and the OLOs to progress from the ongoing dark fibre vicious circle and explore whether dark fibre access in the wholesale leased line market is technically and economically viable.

See paragraphs 13 – 39 for more information.

Q3. 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.

As set out in paragraphs 40 – 43, we welcome the proposed implementation of a refined reference offer and agree that it will likely have a positive impact on service-based competition.

However, we do not agree that JT should be in control of engagement and timescales for delivering this remedy. The Authority proposes that JT will be 'encouraged to engage with wholesale customers' to develop and then implement the new requirement. Based on our experience with JT on recent WLR and Bitstream access requests, we have a low level of confidence that JT would engage meaningfully with OLOs to develop a refined reference offer.

We propose that the Authority should set out a clear timetable for implementation of a refined reference offer in its Final Decision.

Q4. 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.

We are broadly supportive of the Authority’s proposed suite of remedies and appreciate the Authority’s attempts to be resourceful in how it addresses market failures. We agree that its proposed remedies will likely have a positive impact on *service-based competition*.

Q5. 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.

As set out in paragraphs 39 – 42, we welcome the proposed implementation of a migration service and agree that it will likely have a positive impact on service-based competition.

However, we are concerned that the Authority has not set out any specific timescales for delivery of this migration service. Absent regulatory intervention, JT does not have a commercial incentive to develop and implement these remedies and we therefore have a low level of confidence that JT would engage meaningfully with OLOs to develop this migration service.

We ask the Authority to set out a clear timetable for implementation of a migration service in its Final Decision.

Q6. 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.

We are broadly supportive of the Authority’s proposed suite of remedies and appreciate the Authority’s attempts to be resourceful in how it addresses market failures. We agree that its proposed remedies will likely have a positive impact on *service-based competition*.

Q7. 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

We are broadly supportive of the Authority’s proposed suite of remedies and appreciate the Authority’s attempts to be resourceful in how it addresses market failures. We agree that its proposed remedies will likely have a positive impact on *service-based competition*.