Jersey Airtel Limited's (JAL) response to Jersey Competition Regulatory Authority's (JCRA) Case T-012: Business Connectivity Market Review: Remedies – Final Decision and Initial Notice, published 30th May 2022.

30th June 2022

Via email to: *tim.ringsdore@jcra.je*; *peter.hetherington@jcra.je* & *info@jcra.je*

JAL appreciates JCRA's extensive review of Jersey's 'Business Connectivity Market' including the detailed analysis, however, requests JCRA to re-evaluate some of the key important points which have not been factored in whilst making the final decision leading to initial notice. JAL would appreciate if JCRA can consider the points explained below before the BCMR decision is implemented via the final notice.

1. In section 3 regarding approach to remedies:

    a. JCRA didn't factor in 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. See below table with stats from last published JCRA's report.

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

    b. JCRA didn't factor in the challenges associated with microwave technology. JAL could explore newer radio link technology such as E-band to support higher capacity for 5G, however, these high frequency E-bands have the following limitations:

        i. The frequent adverse atmospheric effects such as wind and rain in Channel Islands can attenuate the signal and limit its range.

        ii. E-band microwave links will require larger antennas, which may not comply with the planning rules.

    Therefore, request JCRA to consider holistic feasibility of deploying radio/microwave links for 5G, factoring in its low range and stringent planning guidelines.

    c. Regarding 5G spectrum award process, JAL disagrees with JCRA's view regarding reduction in cost of business connectivity in their latest '5G: Statement of Intent' published on 28th June 2022. JCRA's proposed BCMR remedies will have negligible impact on easing 'cost of doing business' in Jersey.

    d. Regarding the 5G spectrum award process, JAL disagrees with JCRA's view regarding the potential development of a 'mobile backhaul product' in their latest '5G: Statement of Intent' published on 28th June 2022. JAL has been consistently demanding that potential development of a 'mobile backhaul product' should be a definitive remedy with clear timescales prescribed for JT and agreed with OLOs.

2. In section 4 regarding remedies to address refusal to supply:

   a. In 4.10, JAL noted that JCRA welcomed Sure's suggestion regarding 'dark fibre access trial'. JAL requests JCRA to direct JT to organise workshop with OLOs to discuss and agree for a 'dark fibre access trial'.

   b. In 4.12, with reference to 'dark fibre access trial' and since 5G spectrum award process has started, JCRA needs to facilitate more flexible options for backhaul access for 5G. Dark fibre is a suitable solution for VHB services. JAL requests JCRA to factor in the start of requirement process in BCMR decision.

   c. In 4.13, JAL appreciates the efforts put in by JCRA to encourage all OLOs to engage with JT to develop mobile backhaul products to meet future market developments, however, JCRA needs to put in a structured monitoring with defined timescales to track progress of such engagements and intervene, if needed, to ensure positive outcomes.

   d. In 4.15, JAL disagrees with JCRA's view regarding next 'BCMR review' timescale of 5 years. Considering the pace at which technologies are evolving and data traffic is growing, it is requested to reduce this timescale to at least 2 years to begin with and maybe after first two reviews, authority can look to set a 3 or 5 year timescale. JAL requests JCRA to look at the UK example i.e. In the UK, leased line prices were reviewed 5 times and reduced by 200% since 2013. Please refer to this link for more details: ***(Openreach 2022)***.

3. In section 5 regarding remedies to address price and non-price discrimination:

   a. In 5.7, JAL is keen to note and understand any interventions JCRA may take to reduce the price of business connectivity basis the outcome of the upcoming audit of JT's process and controls. During the audit, JCRA should ensure that cost calculation should be compared with the combined revenue of fibre backhaul and fibre broadband, and not just the fibre backhaul alone.

4. In section 6 regarding remedies to address excessive pricing:

   a. In 6.15, JAL believes that reducing the price will help to achieve the economies of scale for any supplier and do not think that it will be a risk to recover supplier's incurred costs basis below:

      i. JT has island wide fibre presence and technically fibre offers huge capacity. Therefore, by offering this existing infrastructure across the island on a reduced price will help supplier to generate more revenue and earn more profit through economies of scale.
      ii. JAL believes that if a supplier applies CVP (cost, volume, and profit) principle, then selling larger volume at lower price will generate more profit resulting in a win-win situation for both suppliers and consumers.
      iii. For example, currently an OLO is taking six leased lines at average price of £10,000 per leased line, supplier might be getting £1X as a profit, but if the same OLO takes 20 leased lines at a half price i.e., £5000 per leased line, supplier may get at least £2X as a profit considering no additional capital expenses will be incurred at supplier's end to invest into as fibre infrastructure is a one-time investment.
      iv. Request JCRA to consider and correlate example explained above with BT's Openreach via links shared below. BT Openreach has gradually and continuously decreasing its prices ***(Openreach 2022)*** for leased lines in last 5 years and still generating more revenue for ethernet services in these 5 years ***(Statista).***

   b. In 6.15, JCRA didn't analyse or mention that within Jersey how the other OLOs are providing leased lines at 36% lower rate than JT's new proposed pricing.

c. In 6.16 with reference to revenue-based comparison made between JT and BT, it would be better to compare the operating profit margin by considering the COGS (cost of goods sold) and operating costs. It is possible that despite having a low revenue, JT is generating more profit margin as compared to BT. JCRA should consider that in same jurisdiction, smaller OLOs than JT are providing leased lines at 36% lower rate than JT's new proposed pricing. Therefore, JAL firmly believes that still there is scope of further improving the 'retail minus' price without posing any risk to recovers JT's incurred costs.

d. In 6.19, the decision regarding 'retail minus 31%' price effectively gives a reduction of only 13.75% in current wholesale price. This nominal reduction in price will not make a viable business case for any OLO like JAL to migrate its backhaul to fibre, and won't ease 'cost of doing business' in Jersey.

For the reasons, analysis & assessment responses shared above, JAL considers that these inputs will assist the JCRA in improving the BCMR remedies facilitating greater competition which in turn should deliver increased choice and lower end user prices, with related benefits for the wider Jersey economy.

Jersey Airtel Limited
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