



# Telecommunications (Jersey) Law 2002

## Case T-068: JT Statement of Requirements

### Initial Notice of proposed directions to JT (Jersey) Limited

Document No: JCRA 22/70

Date: 31 October 2022

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## 1. Executive summary

- 1.1 The Jersey Competition Regulatory Authority (the **Authority**), is issuing this statutory Initial Notice (**Initial Notice**) of its intention to exercise specified regulatory functions in relation to JT (Jersey) Limited (**JT**) to implement a refined approach to the Statement of Requirements process (**SoR**) which applies to JT.
- 1.2 The SoR process is the means by which JT's wholesale customers, Other Licensed Operators (**OLOs**) and JT's own retail division can request a new wholesale product, or a change to an existing JT wholesale product and/or service. It is best practice in other jurisdictions and regulated markets for the SMP operator to be subject to an obligation to provide a SoR process (under which OLOs formally submit a requirement for a new wholesale product or product variation).
- 1.3 Ahead of issuing this Initial Notice, the Authority has undertaken a non-statutory Consultation process and the outcome of this process is set out in:
  - JT Statement of Requirements: Non-statutory Final Decision. This set out the responses received to the Draft Decision and the Authority's final policy position on the refined SoR process; and
  - JT Statement of Requirements: Information Note. This document sets out the detail behind the refined SoR process.

Both these documents have been issued on the same date as this Initial Notice.

- 1.4 This document sets out the directions the Authority proposes to issue to JT to implement the refined approach to the SoR process, in accordance with the Class III licence issued to JT by the Authority under Article 14(1) of the Telecommunications (Jersey) Law 2002 (**Telecoms Law**).<sup>1</sup>
- 1.5 The directions in this Initial Notice will supersede some of the provisions of the Final Notice issued by the Authority (as part of the Channel Islands Competition and Regulatory Authority) in November 2019 (CICRA 19/53).<sup>2</sup>
- 1.6 This Initial Notice sets out the intention of the Authority to exercise specified regulatory functions. In due course, the Authority may issue a Final Notice or a fresh Initial Notice if responses are received, following the process outlined in Article 11 of the Telecoms Law.

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<sup>1</sup> See: <https://www.jerseylaw.je/laws/current/Pages/06.288.aspx>

<sup>2</sup> See: <https://www.jcra.je/media/598160/mobile-backhaul-market-final-notice-and-direction-to-jt.pdf>

## 2. Background

- 2.1 Telecommunications services are regulated in Jersey by way of the Telecoms Law. The primary duty of the Authority in such regulation is to ensure that telecommunications services are provided both within Jersey and between Jersey and the rest of the world, so as to ensure that all current and prospective demands for such services are satisfied, so far as is reasonably practicable.
- 2.2 Article 7 of the Telecoms Law contains a number of other specific duties imposed on the Authority, including the requirement to perform its functions in such a manner as to protect and further the short-term and long-term interests of users within Jersey and perform them by promoting competition among those engaged in commercial activities connected with telecommunications in Jersey.
- 2.3 Further, Article 7(3) requires that the Authority shall have regard to whether services are accessible to and affordable by the maximum number of businesses and domestic users, whether there is innovation in services, and whether services are of high quality and are reliable.
- 2.4 Articles 16(2) and (3) provide that under the licence the Authority has the power to give, and the licensee may be required to comply with, any direction given by the Authority in respect of anything to which the licence relates. These functions are 'specified regulatory functions, and therefore the exercise of such power requires the Authority to follow the procedure set out in Article 11 of the Telecoms Law.
- 2.5 JT (Jersey) Limited holds a Class III telecommunications licence in Jersey. The latest version of this licence was issued on 4 August 2021.<sup>3</sup>

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<sup>3</sup> See: <https://www.icra.je/media/598369/2021-08-04-jt-modified-class-iii-licence-redacted-signed.pdf>

### 3. Framework for the directions

3.1 Licence Condition 40 refers to 'Network Access', which states:

*“40.1 The Licensee shall, to the extent requested by another OLO, negotiate with that OLO with a view to concluding an agreement (or an amendment to an existing agreement) for Network Access.*

*40.2 Where an OLO reasonably requests in writing Network Access, the Licensee shall provide that Network Access. The Licensee shall also provide such Network Access as the JCRA may from time to time direct.*

*40.3 The provision of Network Access shall occur as soon as reasonably practicable and shall be provided on fair and reasonable terms, conditions and charges and on such terms, conditions and charges as the JCRA may from time to time direct.”*

3.2 This Condition establishes a framework and overarching obligations on JT to consider, negotiate and conclude Network Access agreements. The same Condition also provides for the Authority to issue Directions in respect of Network Access, and where necessary, the terms and conditions applicable to Network Access.

3.3 The Authority notes the use of the 'Network Access' condition is consistent with the previous Direction, issued in 2019 and referred to in paragraph 1.5, which the new Direction will supersede.

3.4 Reflecting the above framework, to give effect to the refined SoR process, the Authority has decided to issue the Direction to JT as set out in the Annex to this document.

## 4. Next steps

- 4.1 This Initial Notice is of an intended exercise by the Authority of specified regulatory functions, that is to give directions pursuant to Conditions 40 of the Licence. Written representation to the exercise of this specified regulatory function may be made by e-mail to [info@jcra.je](mailto:info@jcra.je) on or before 5pm on 30 November 2022.
- 4.2 If representations are received before the deadline regarding the proposed exercise of such functions, the Authority will consider them and will decide:
  - (a) not to exercise such functions or some of them;
  - (b) to issue a new Initial Notice; or
  - (c) to issue a Final Notice confirming the directions and determinations to JT.
- 4.3 If no responses are received before such time or if the directions are confirmed, the Final Notice will be made in December 2022. The directions will take effect from 1 January 2023.

## Annex: Proposed directions

### **DIRECTIONS**

JT holds Significant Market Power (**SMP**) in certain markets on Jersey, and Other Licensed Operators (**OLOs**) are reliant on access to the SMP operator's network and products to be able to provide services to their own (retail) customers. JT retains effective and complete control of the access product designs and what wholesale access products are available to wholesale customers in markets where it holds SMP.

To plan effectively and manage resource and commercial strategies, JT's wholesale customers should have greater clarity and certainty as to the SoR process, the information requirements, and timescales applicable to any new wholesale product or service request. Therefore, the Authority's proposed Direction will establish a refined SoR process, applicable to all OLOs, including JT's own retail divisions, in the markets in which JT has SMP.

In accordance with its powers under the Telecommunications (Jersey) Law 2002 (**Telecoms Law**) and the provisions of the licence granted to JT under the Telecoms Law and dated 4 August 2021 (**Licence**), the Authority has determined that the provisions of Part IV of the Licence apply as follows.

#### **DIRECTION 1: Implementation of an updated Statement of Requirements process**

This process outlined in JCRA 22/69 – JT Statement of Requirements: Information Note should be followed for all future requests for new products or product variation, including JT's own retail division. This process applies where JT has Significant Market Power (SMP).

The above direction, supersedes direction 2 of the Final Notice made by the Authority in November 2019 (CICRA 19/53).

These Directions shall come into effect from 1 January 2023.

**BY ORDER OF THE AUTHORITY**