



Case T-083

Telecoms Market Review

Non-statutory Call for Information

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Contents

1	Overview	1
2	Background	2
	The legal and licensing framework	2
	The telecoms sector	3
	Government policy	4
	Current regulatory practice	5
3	Approach to the Review	6
	Principles and policy framework	6
	Market review framework and general methodology	6
4	Areas to consider in the Review	8
	Theme 1: Government telecoms policy framework and action plan	8
	Theme 2: Regulatory and economic policy	8
	Theme 3: Consumer policy	9
5	Call for information questions and next steps	10

1 Overview

- 1.1 The Jersey Competition Regulatory Authority (the **Authority**), administers and enforces the competition law within Jersey and is responsible for the economic regulation of the ports, post and telecommunications sectors. The Authority's mission is to help markets work efficiently in the interests of consumers, businesses and the wider Jersey economy by encouraging innovation, investment, value for money, choice and quality. This is to achieve the Authority's vision of healthy and sustainable markets in goods and services for Jersey.
- 1.2 This document is the Authority's non-statutory call for information for the telecoms market review (**the Review**). The Review is being taken forward within the context of the Telecommunications (Jersey) Law 2002 (**the Law**).¹ This empowers the Authority to license the provision of telecommunications systems in Jersey, and the Authority's primary duty is to ensure that telecommunications services are provided, so as to satisfy all current and prospective demand.
- 1.3 In the telecoms sector, the Authority carries out its functions with the goal of maintaining well-functioning markets, supporting both competition and investment in connectivity. Consumers rely on telecoms services to keep in contact with friends, loved ones, and the world around them. Moreover, in the workplace, telecoms services are of paramount importance in maintaining business competitiveness and productivity.
- 1.4 The Review will be overarching and the Authority's aim, on a forward looking basis, is to further develop a robust and enduring regulatory framework, enabling the Authority to continue to deliver effective regulation of telecoms.
- 1.5 Consistent with the Authority's approach to market reviews, the Authority is not making any policy proposals at this point. Instead, the Authority invites views on the main themes to be considered as part of the Review:
 - Theme 1: Government telecoms policy framework and action plan;
 - Theme 2: Regulatory and economic policy; and
 - Theme 3: Consumer policy.
- 1.6 The Authority is seeking responses to the questions set out at the end of this call for information by 2 February 2024. This will be followed by extensive stakeholder engagement to further inform the Review. Building on this, the Authority will publish a series of consultations over the course of the Review, before concluding the Review in 2025.
- 1.7 This document is organised as follows:
 - Background (chapter 2);
 - Approach to the Review (chapter 3);
 - Areas to consider in the Review (chapter 4); and
 - Call for information questions and next steps (chapter 5).

¹ [TELECOMMUNICATIONS \(JERSEY\) LAW 2002 \(jerseylaw.ie\)](https://www.jerseylaw.ie)

2 Background

2.1 This background chapter contains four subsections which cover in turn:

- The legal and licensing framework;
- The telecoms sector;
- Government policy; and
- Current regulatory practice.

The legal and licensing framework

2.2 Telecommunication services are regulated in Jersey under the Law. The primary duty of the Authority is to perform its functions in such a manner as it considers appropriate to ensure that (so far as in its view is reasonably practicable) 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.

2.3 The Law imposes duties 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;
- to promote efficiency, economy and effectiveness in commercial activities connected with telecommunications in Jersey; and
- it considers is best calculated to further the economic interests of Jersey.

2.4 Further, the Authority shall have regard to:

- whether services are accessible to and affordable by the maximum number of business and domestic users;
- whether there is innovation in services and their provision; and
- the provision of high quality and reliable services.

2.5 Article 9 of the Law provides that the Authority shall keep under review and gather information about the provision of telecommunications services in Jersey and elsewhere.

2.6 With respect to licensing, part 2 of the Law establishes the requirement for a telecoms operator to hold a licence, and part 5 sets out the powers the Authority has to grant a licence. There are three classes of licence for the telecoms sector in Jersey: Class I, Class II and Class III. These licences contain both a common set of conditions for all licensees and specific conditions per Class of licence, to align to the services which operators choose or are obliged to provide. In particular, the Class III Licence includes a Part which addresses conditions applicable to dominant operators.

- 2.7 JT (Jersey) Limited (**JT**) is the sole holder of a Class III Licence and is currently designated as having Significant Market Power (**SMP**) in respect of certain products and services.² The additional provisions which are applicable to JT include (but are not limited to) measures addressing the availability and associated terms of Other Licensed Operators (**OLO**) access to networks and services; the requirement not to show undue preference or to exercise unfair discrimination; the requirement not to unfairly cross subsidise, supported by accounting processes to demonstrate compliance; regulation of prices; and transparency around pricing and wholesale product offerings, including the publication of appropriate Reference Offers.
- 2.8 With respect to the OLOs, Clear Mobitel (Jersey) Limited, Home Net Limited (**Homenet**), Jersey Airtel Limited (**Airtel**), Newtel Limited and Sure (Jersey) Limited (**Sure**) hold a Class II Licence. Arqiva Limited, BT Jersey Limited, Gamma Telecom Holdings Limited, Jersey Electricity plc, Nitel Limited and World Mobile Networks Limited hold a Class I Licence.

The telecoms sector

- 2.9 The services offered by providers on island can be broadly summarised as two categories; fixed and mobile type services (with fixed currently including both retail and wholesale products and services).
- Retail fixed services include broadband and voice services delivered to retail and business consumers as well as leased line services, i.e. point to point connections, primarily used by businesses. These services are offered by multiple providers and are primarily reliant on regulated wholesale products and services supplied by JT.
 - Fixed wireless access solutions are offered; in the St Helier area, Homenet offer a limited coverage solution which utilises terrestrial wireless technology to connect customers. In addition, a small number of users have also taken up services from Starlink, using satellite communications.³
 - In the wholesale market; leased lines are offered by some providers with varying coverage, mainly focused around St Helier. JT is the sole provider with the capability of offering island-wide wholesale access. For certain wholesale products and services, JT is required to supply services to OLOs, which is subject to regulation by the Authority.
 - For mobile services, there are three active providers in the market offering services using their own mobile networks, Airtel, JT and Sure. As of publication of this document, the potential acquisition of Airtel by Sure, which is being considered by the Authority under its remit under the competition law, is on hold.
- 2.10 Based on the annual reports for the telecommunication sector, compiled by Statistics Jersey on behalf of the Authority, it is clear that the market is dynamic and continues to evolve based on

² SMP is generally held to be equivalent to the concept of dominance under competition law. In a competitive market, a firm has to concern itself with the possible reactions of competitors and customers. An undertaking enjoying a position of market power can behave independently of competitors, customers and ultimately consumers.

³ Note, Starlink are currently undertaking the licencing process with the Authority.

consumer demand, technology and other factors.⁴ For example, the 2022 report highlighted that:

- The use of traditional fixed line and mobile voice services continues to decline, though 2020 saw an increase against the trend, potentially driven by user behaviour during the COVID-19 pandemic;
- The use of mobile data is continuing to increase, likely driven by the consumption of 'Over the Top' (OTT) services such as social media, video streaming and communications; and
- Consumer demand continues to change, for example, 'bundled products', where consumers choose a supplier based on a range of different products and services for a single monthly cost.

2.11 All residents in Jersey now have access to broadband over fibre offering download speeds of up to 1Gbps, with the vast majority of subscribers taking up these fibre services (89% in 2022). Fixed wireless options – from Homenet – are also available in some areas, supporting download speeds of up to 20Mbps.

2.12 Given increasing reliance on the availability of internet-based services, for the majority of consumers, the associated cost of telecoms services is unavoidable. The 2021/22 Household Spending Survey showed the average Jersey household spends £14 a week on communication services (2% of total household spend).⁵ Reflecting this, in 2022, total revenues from Jersey subscribers and visitors to the island, were reported as £105 million.

2.13 Alongside financial aspects, sustainability is an increasing area of concern for the telecoms sector and providers are facing increasing pressure to fully consider long-term impacts.

Government policy

2.14 In 2018 the Government commissioned a Telecoms Strategy from Oxera. This was adopted and informed the Government's Telecoms Strategy Action Plan.⁶ This set out a series of actions for Government departments and associated bodies including the Authority. The Action Plan influences the Authority's activities and policy direction on an ongoing basis.

2.15 The focus of government policy continues to be on retail competition, relative to wholesale or network competition. The Authority has worked to support this with active controls in place for wholesale bitstream and line rental, as well as on wholesale leased lines.

2.16 Another key related aspect is telecoms security. The Government plans to amend the Law to align Jersey's approach to telecoms security with the United Kingdom.⁷ This will mean providers will be required to have measures in place to identify and reduce the risks of security compromises, as well as reporting requirements. The Authority's role will be to make sure telecoms providers comply with their security duties and alongside this Review, a key focus for the Authority will be on implementing regulatory requirements associated with the upcoming legal framework.

⁴ The 2022 report and previous years are available at: [Telecoms market statistics \(jcra.je\)](https://www.jcra.je/telecoms-market-statistics)

⁵ [Household Spending 2021/2022 \(gov.je\)](https://www.gov.je/household-spending-2021-2022)

⁶ See: [Telecoms Strategy for Jersey \(gov.je\)](https://www.gov.je/telecoms-strategy) and [Telecoms Strategy Action Plan \(gov.je\)](https://www.gov.je/telecoms-strategy-action-plan)

⁷ [Telecoms Security Framework - Green paper consultation \(gov.je\)](https://www.gov.je/telecoms-security-framework-green-paper-consultation)

- 2.17 Further Government policies that influence telecoms are the Digital Economy Strategy⁸ and the Delivery Framework for Sustainable Economic Development 2023 to 2026.⁹ These documents set out the broader framework within which the telecoms sector will operate in the future.
- 2.18 The Authority expects that the outcomes of this Review will serve to influence future Government policy, accordingly the Authority will work closely with key stakeholders in Government to maintain alignment. The influence of Government policy is further discussed in Chapter 4.

Current regulatory practice

- 2.19 The Authority's general approach to economic regulation in the telecoms sector is framed by its duties. The Authority carries out its functions in a way that seeks to maintain well-functioning markets. In practice, this involves a wide range of regulatory activity, which encompasses both competition and regulatory policy, but often also relates to technical, consumer and social policy.
- 2.20 In terms of the fixed telecoms sector, JT holds SMP in certain markets in Jersey, and OLOs are reliant on access to JT's network and products to be able to provide services to their own (retail) customers. The Authority has therefore conducted several stand-alone market reviews relating to a series of fixed telecoms products and services, e.g., the business connectivity market review (covering leased lines and backhaul).
- 2.21 Each of these market reviews is designed to give effect to economic regulation of certain wholesale markets, toward competition in corresponding retail markets. This policy approach is consistent with the Government's policy framework. A full list and description of each market review and existing Authority regulation is available on the publications page of the Authority's website.¹⁰
- 2.22 The mobile sector in Jersey is characterised by competition across the wider 'value chain', whereby mobile operators self-supply mobile network and wholesale services, and compete in the retail segments of the mobile sector. Therefore, the Authority does not currently directly economically regulate mobile access, pricing and/or mobile services generally.
- 2.23 Alongside these areas the Authority is involved in the regulation of spectrum and numbering and works closely with the UK communications regulator, Ofcom, in its regulation of these.¹¹ The Authority's primary duty is to ensure these important resources are responsibly allocated and managed, informing Ofcom's licensing decisions.

⁸ [Digital Economy Strategy - Green paper consultation \(gov.je\)](#)

⁹ [Delivery Framework for Sustainable Economic Development 2023-26.pdf \(gov.je\)](#)

¹⁰ See: [Publications \(jcra.je\)](#)

¹¹ The licensing of spectrum in Jersey, as in the UK, is carried out by Ofcom, under powers provided by the Wireless Telegraphy Act 2006 and the Communications Act 2003 (referred to as WT Licences). Certain parts of this legislation have been extended to Jersey by the Communications (Jersey) Order 2003, the Wireless Telegraphy (Jersey) Order 2006. As a matter of custom and practice, Jersey is a member of the UK National Telephone Numbering Plan (NTNP), whereby geographic numbers and mobile numbers are distinguished by their prefix code, for Jersey this is 01534.

3 Approach to the Review

- 3.1 The Review is guided by the Authority's regulatory principles and will be carried out based on an established methodology, adapted to reflect current market influences. This chapter sets out the:
- Principles and policy framework; and
 - Market review framework and general methodology.

Principles and policy framework

- 3.2 In addition to the legislative and licensing framework, from a regulatory and policy perspective the Authority has a strategic goal to “*Deliver effective supervision of regulated sectors*”, with respect to telecoms, the Authority's Strategic Plan¹² states:

“Secure, resilient and good value telecommunications services are vital for Jersey consumers, citizens, businesses and the economy. Our objective is to encourage sustainable competition, which will deliver innovation, value for money and service development for the benefit of consumers”

- 3.3 The Authority's approach to the Review will also be framed by the Strategic Plan and the overarching objectives of effective regulatory supervision and sustainable competition. Further, the Authority's work on the Review will also be informed by, and sit alongside, the Government's telecoms policy framework and wider policy.
- 3.4 The current position and policy framework are set out in the Telecoms Law and the Government's Telecoms Strategy issued in 2018, accompanied by a Telecoms Strategy Action Plan. This sets out a broader policy framework within which the Authority's policy is taken forward, for example, the promotion of retail competition relative to wholesale or network competition.
- 3.5 As set out in more detail in chapter 4, there are a series of recurring strategic issues and policy themes that have arisen in the course of the Authority's work on telecoms regulation. The Authority's view is that many, if not all, of these should be addressed within a wider market review framework, rather than multiple and separate projects. This is to ensure they are considered jointly and across the full range of services, consumer segments and potential market impacts. This is consistent with best practice, where market reviews are used to ensure regulation is forward-looking and appropriately framed.

Market review framework and general methodology

- 3.6 Market reviews generally involve three analytical stages:
- Stage 1: The identification and definition of the relevant markets (the market definition stage);

¹² [Strategic Plan](#)

- Stage 2: The assessment of competition in each market, particularly whether the relevant market is effectively competitive or whether an operator has significant market power (the market analysis stage); and
- Stage 3: The assessment of appropriate regulatory obligations in markets where an operator has been found to have significant market power (the remedies stage).

3.7 This Review will be taken forward in stages, the first step being the release of this call for information. Following consideration of responses to this call for information and initial stakeholder engagement, stages 1 and 2 (market definition and market analysis) will be addressed, before consideration is then given, where necessary, to an appropriate set of remedies (stage 3). This will see the work progressed over the course of 2024 with the Review currently scheduled to complete in 2025.

3.8 Given the wide-ranging nature of the Review, necessarily encompassing different market sectors and segments, and a variety of policy issues, the Authority is also minded-to further structure the Review according to market sectors.¹³ For example, the first phase of the Review will address fixed telecoms, the second phase would then focus on mobile telecoms. The final phase of the Review would then consolidate work on the previous two phases, while also focusing on consumer policy.

3.9 Consistent with the Authority’s published approach to Consultations, the Review will follow the non-statutory steps (the issuing of a Draft and Final Decision), and where required the statutory steps (the issuing of Initial and Final Notices).¹⁴

3.10 Table 1 provides an overview of the call for information timetable. Further detail on the Authority’s timetable for the Review will be shared in due course.

Table 1: Call for information timetable

Scope	Activity	Timing
Call for information	Consultation opens	30 November 2023
	Consultation closes	2 February 2024
Stakeholder engagement	Structured engagement	February to March 2024

¹³ The Authority is aware of the likely inter-dependencies between market sectors and related consumer policy issues; structuring the Review according to market sector does not preclude, and is not intended to pre-judge, effective relevant market definitions and the assessment of SMP.

¹⁴ [Regulatory Consultation Process](#)

4 Areas to consider in the Review

4.1 This chapter sets out the three overarching themes which will frame the Review:

- Theme 1: Government telecoms policy framework and action plan;
- Theme 2: Regulatory and economic policy; and
- Theme 3: Consumer policy.

Theme 1: Government telecoms policy framework and action plan

4.2 The first theme relates to the Government’s Telecoms Strategy Action Plan, and any ongoing matters of telecoms policy. For example, the Government’s Action Plan refers to Maintaining Clear Policy and Transparent Regulation, this includes the “modernisation of the licensing regime and obligations”, and the “development of a (telecoms) social policy” consistent with the operation of a competitive telecoms market.

4.3 More generally, the Government’s Strategy Action Plan will provide a reference point for the Review. The Review will develop alongside Government work and take account of both developing and final Government policy in telecoms related areas. This will further facilitate consistency in regulatory and Government telecoms policy, helping to ensure continued policy stability and market certainty.

4.4 The Review will also take into account recently published Government strategies, for example the Digital Economy Strategy and the Delivery Framework for Sustainable Economic Development 2023 to 2026. These documents set out the broader framework within which the telecoms sector will operate.

Theme 2: Regulatory and economic policy

4.5 The second of the themes encompasses several recurring policy issues and other matters likely requiring consideration. These range from a review of other telecoms regulatory frameworks in the United Kingdom, European Union and possibly elsewhere. For example, how regulatory frameworks in different – and comparable – jurisdictions might have changed and how this might relate to the regulatory framework in Jersey.

4.6 Relatedly, the Authority will consider and analyse the development and future structure of the telecoms market in Jersey (retail and wholesale), the future treatment of wholesale line rental, a consideration of the framework for price notifications (under Licence Condition 37), (fixed) number portability and other potential matters. Other matters would likely include consideration of a cost-based charging regime for all wholesale regulated products and services, the nature of core network connectivity on-island, and how this relates to off-island connectivity.

4.7 The consideration of a series of recurring and/or emerging regulatory policy issues will help to ensure that the Authority determines a refined and forward-looking regulatory framework, with less ad-hoc regulatory intervention. This will give effect to a more consistent and robust regulatory policy framework, providing increased transparency and regulatory certainty (for operators, consumers and all other stakeholders).

- 4.8 Within this context, the Review will seek to affirm the Authority’s understanding of respective markets, and to consider and review current SMP designations (including how these may need to be amended), along with the licensing structures in place for the various telecoms providers.

Theme 3: Consumer policy

- 4.9 The last of the themes relates to consumer protection and outcomes. This includes stand-alone consumer related issues like contract terms, compensation schemes, ‘universal service’, price comparisons and the ability to switch services (and supplier). In addition, consumer outcomes will of course inform the approach to the Review, to the extent that any proposed policy framework and related remedies, are framed in the context of effective regulatory supervision and sustainable competition, and improving consumer outcomes.
- 4.10 This theme builds on previous work carried out by the Authority. A key reference point is the Telecoms Retail Pricing Market Study.¹⁵ This highlighted that while Jersey’s telecoms services are broadly competitive from a price benchmarking perspective, a key focus of regulators in other jurisdictions has been on consumer protection. For example, Ofcom has a significant focus on consumer fairness (and regulatory framework), which sets out a suite of measures centred around consumer experience, including contractual terms and compensation. The Telecoms Retail Pricing Market Study noted that further work would be carried out on consumer protection - an ambition that will be met through this Review.
- 4.11 As work is progressed on each of the above themes, consideration will of course be given to technological and other developments and how these might impact regulation and consumer policy. This would include, for example, different technical delivery options for telecoms services; the development and growth in alternative solutions, e.g., internet-based systems like Microsoft Teams and WhatsApp; and, the potential impact of legislative requirements, not least security, on both telecoms suppliers and consumers.

¹⁵ [Telecoms Retail Pricing Market Study](#)

5 Call for information questions and next steps

- 5.1 The Authority invites written views and comments on the questions raised in box 1 below, to be made by 5pm on 2 February 2024. Responses can be submitted by email to info@jcra.je or alternatively in writing to:

Jersey Competition Regulatory Authority
2nd Floor Salisbury House
1-9 Union Street
St Helier
Jersey
JE2 3RF

- 5.2 All responses should be clearly marked: “Telecoms Market Review – Call for Information”. The Authority’s normal practice is to publish responses to consultations on its website. It should be clearly marked if any part of a response is held to be commercially confidential and a redacted version also supplied for publication.

Box 1: Call for information questions

Question 1. *Do you agree that a holistic review of the telecoms sector is timely and an appropriate way to frame current and future regulation? If not, please explain why, with supporting information.*

Question 2. *Do you agree with the proposed scope of the Review as set out in the call for information? If not, please explain what changes you think should be made, with supporting information.*

Question 3. *Do you think the phased approach, and indicative timeline for the Review, is appropriate? If not, please explain what changes you think should be made, with supporting information.*

Question 4. *Do you have any other comments in response to this call for information? If so, please provide your views with supporting evidence.*

- 5.3 The Authority’s approach to consultations was set out in an Information Note in July 2018.¹⁶ The first stage is a non-statutory process. This call for information is the first step in this process and will be followed by extensive stakeholder engagement. The Authority intends to publish further consultations on the future regulation of telecommunications services during the Review in 2024, to be followed by a Final Decision on policy and proposed remedies in late 2024/early 2025.
- 5.4 The second stage of the process is the statutory process, which is required when carrying out certain specified regulatory functions, such as implementing changes in licence conditions for telecommunications service operators. The Authority intends to implement the required statutory processes in 2025.

¹⁶ See footnote 14