

Jersey Airtel Limited's (JAL's) representation via email to Jersey Competition Regulatory Authority's (JCRA's) Initial Notice regarding 'Case T-080 Regulatory Financial Reporting' published 20/02/2024.

1.0 Executive Summary:

- 1.1 JAL anticipates that all the foundational concerns and inputs outlined in the 'Executive Summary' and 'JAL's Representations' sections will be taken into consideration during the deliberations leading to the improvements in a 'transparent, comprehensive, granular, and detailed Regulatory Financial Reporting' as part of "Case T-080" which aims to enable JCRA to facilitate 'efficient and effective competition' for the long-term sustainability of the telecom sector in Jersey.
- 1.2 JAL firmly believes that JCRA has missed an opportunity to align the "T-080: Regulatory Financial Reporting" to include granular costs and incomes associated with 'inter-island connectivity between Jersey & Guernsey', 'off-island connectivity', 'internet service provider (ISP) feed', and 'service provider (SP) interconnect'. These are crucial enablers in providing telecom services as JAL is critically dependent on these to 'compete effectively'. Therefore, JAL is hopeful that JCRA will have a in depth engagement with JT to make the 'regulatory financial reporting' more 'transparent, comprehensive, granular, and detailed' before the first set of template is finalised so that the objective of the "Case: T-080" exercise which is to provide transparency to end users of the wholesale service is achieved.

2.0 JAL's Representations:

- 2.1 If JCRA decides not to consider JT's Other Line of Businesses (LOBs) income from wholesale services like 'SP interconnect', 'ISP / IP feed', 'Off-Island leased lines', 'Inter-Island leased line between Jersey & Guernsey', and rather group them under a generic category like 'Wholesale Residual', then the objective of "Case: T-080" to provide transparency will not be achieved, as all these wholesale services regardless of SMP / non-SMP, listed above in this point highlight the commonality of infrastructure, and the potential for expenses to be shown without corresponding income, which could lead to an inaccurate representation of costs and revenues associated with these wholesale LOBs.
- 2.2 Despite JAL consistently educating and requesting JCRA since 2014-15 about the critical need to regulate the prohibitive pricing of wholesale services regardless of SMP / non-SMP such as 'ISP / IP Feed / Internet Feed', 'Off-Island leased lines', 'Inter-Island leased line between Jersey & Guernsey' and 'SP Interconnect' in Jersey, it is surprising that JCRA did not consider to look at granular costs and incomes associated with these wholesale services mentioned above in their "Case T-080: Regulatory Financial Reporting" decision published on 20th February 2024. JAL hopes that JCRA grasps that JAL cannot operate its 'mobile and fibre broadband services' without these crucial wholesale services: 'ISP / IP Feed / Internet Feed services' and 'SP Interconnect'.
- 2.3 JAL expresses disappointment in JCRA's decision to group all essential wholesale LOBs from section 2.1 under the generic label 'Wholesale Residual'. This oversight fails to recognise the critical nature of these services, especially given JCRA's acknowledgment of the widespread adoption of high-speed broadband in "Case T-083: Telecoms Market Review". With the majority of Jersey residents now using fibre broadband, JAL, as a challenger telco, is compelled to secure additional capacity for 'ISP / IP Feed (Internet Feed)' and 'SP Interconnect' to uphold service quality. This is crucial for ensuring reliable access to OTT streaming, online gaming, and video calling services, etc. The lack of attention to these factors contributes to JAL's ongoing 'loss-making margin', a concern repeatedly raised with JCRA in previous correspondences.

- 2.4 The omission of reporting of granular costs and incomes associated with '*ISP / IP Feed / Internet Feed*' and '*SP interconnect*' from "T-080" regulatory consideration by JCRA represents a significant oversight for the reasons explained below that requires immediate attention and rectification.

The reasons for the indispensability of '*ISP / IP Feed (Internet Feed)*' for JAL are following:

- a) Internet Connectivity and Content Delivery for End Users: Mobile and fibre broadband services rely on internet connectivity to provide end-users with access to various online services, websites, applications, and content. The '*Internet / IP feed (ISP)*' ensures a reliable and high-capacity connection to the broader internet. The '*Internet / IP feed (ISP)*' ensures that JAL can deliver services such as streaming, online gaming, and other data-intensive applications seamlessly to their customers.
- b) Data Transmission and Communication along with Global Connectivity: Mobile and fibre broadband networks facilitate the transmission of data between the JAL's infrastructure and end-user devices. The '*Internet / IP feed (ISP)*' acts as a gateway for data to flow in and out of the JAL's network, enabling communication with the global internet, allowing users of the mobile and fibre broadband services to access content and services hosted anywhere on the internet.
- c) Support for Business Services: In addition to consumer services, JAL often offer services to businesses which includes dedicated internet access, cloud connectivity, and other business-critical applications that require a robust '*Internet / IP feed (ISP)*'.

The reasons for the vitality of '*SP Interconnect*' for JAL are following:

- a) Network Connectivity & Interoperability: The '*SP (Service Provider) interconnect*' provides the physical and logical connection between JAL's infrastructure and the wholesale fibre network. It enables the flow of data and communication between the two networks. The '*SP interconnect*' plays a role in maintaining the quality of service for the telecom operator's customers by ensuring reliable and high-quality services.
- b) Traffic Exchange and Capacity Expansion: Apart from '*SP interconnect*' providing a scalable point for capacity expansion, it facilitates the exchange of traffic between JAL's network and the wholesale fibre network. This includes voice, data, and other communication services that need to be transmitted between the operator and the broader network.

The '*Internet / IP feed (ISP)*' and '*SP Interconnect*' serve as a foundational element, ensuring reliable, high-capacity, and global connectivity for a mobile and fibre broadband service provider like JAL. This crucial component enables the delivery of a diverse range of services to customers.

- 2.4 Furthermore, absent granular reporting of costs and incomes associated with '*ISP / IP Feed / Internet Feed*' and '*SP interconnect*' services' in "T-080" regulatory consideration, how JCRA will validate that any kind of 'SMP' / Non-SMP' is free of any unfair advantages due to common ownership of various wholesale accesses in Jersey for the following reasons:

- a) In a shared infrastructure scenario, there is a risk of resulting in regulated prices being higher than they should be. This will harm competition by limiting consumer choices as JAL has already shared enough analysis and examples with JCRA in this regard, for example: JAL's '*loss making margin*' or '*declining 4G broadband*' base or '*customer complaint*'.

- b) If the incumbent telecommunication service provider i.e., JT has any shared infrastructure between 'wholesale accesses' and 'retail accesses', including any infrastructure sharing between the products too such as 'bitstream fibre access' or 'on-island leased lines access' or 'SP interconnect access' or 'any access to connect to IP feed/ISP', therefore, such complex shared infrastructure can create opportunities for cross-subsidisation, for example: costs incurred for wholesale services may be inappropriately allocated to retail services, or from on-island leased line product to broadband product to justify higher wholesale prices which may not always be detected or prevented.

2.5 Therefore, to prevent any unfair advantages due to ownership of various wholesale accesses grouped under '*Wholesale Residual*', JCRA should categorise '*Wholesale Residual*' into the following categories:

- a) SP Interconnect;
- b) ISP / IP Internet feed;
- c) Off-Island leased lines; and
- d) Inter-Island leased line between Jersey & Guernsey.

In respect of each of above LOB, JT should be instructed to report to the JCRA in accordance with the following reporting directions:

- i) Costs by market - including operating costs (Opex), internal transfer charges, and various forms of capital costs, i.e. annual depreciation, Net Book Value (NBV), Gross Book Value (GBV), and Mean Capital Employed (MCE).
- ii) Income Statement by market – in the form of a P&L (profit and loss) account.
- iii) Volumes and unit costs / revenues - average unit revenue, and average unit costs for wholesale fixed access products, with average unit costs calculated as the 'Fully Allocated Cost' divided by the relevant volumes.
- iv) Reconciliation - for revenues, efficiencies, costs, returns and year-end capital employed to JT's Statutory Accounts.

2.6 In summary, since much of the incumbent JT's telecom infrastructure including all types of wholesale accesses is shared, failure to account for the granular revenues and costs could lead to an inaccurate portrayal of financials.

JAL emphasises critical dependence on all types of wholesale accesses clubbed under '*Wholesale Residual*' which are deemed indispensable for delivering reliable and high-quality services to customers, especially given the increasing demand for high-speed data connectivity solutions.

JAL's advocates for more comprehensive reporting, consideration of granular costs, and measures to prevent unfair advantages and cross-subsidisation as explained above in this document to avoid potential implications for competition and consumer welfare in the telecom sector, specifically in Jersey.