2nd Floor Salisbury House, 1-9 Union Street, St Helier, Jersey
01534 514990 | www.jcra.je

Telecoms Guidance
Price Notification Framework

Purpose of this guidance

The Telecommunications (Jersey) Law 2002 (the **Law**) establishes a legislative framework for telecoms regulation in Jersey. The Jersey Competition Regulatory Authority (the **JCRA**) is responsible for administering and enforcing the Law and licences granted under the Law.

JT (Jersey) Limited (**JT**) is subject to Licence Condition 37.1 in its Class III Licence, which requires advance notification of certain price changes, new services and special offers. This obligation reflects JT's Significant Market Power (**SMP**) in certain telecoms markets and is intended to promote transparency and effective competition while also providing appropriate regulatory oversight.

The purpose of this guidance is to assist stakeholders in understanding:

- When a price notification is required under Licence Condition 37.1;
- Which products, services, price changes and promotions are covered;
- What information should be included in a price notification;
- Publication requirements relating to some price notifications;
- The operation of the 28-day notification period; and
- The JCRA's expectations regarding JT's compliance with Licence Condition 37.1.

These guidelines are general in nature and should not be relied upon as a substitute for the Telecommunications (Jersey) Law 2002, JT's Class III Licence, any JCRA decision or legal advice. They do not limit the JCRA's ability to exercise its powers or perform its functions under the Law, JT's Class III Licence or the Competition (Jersey) Law 2005.

All other telecoms guidelines can be found here: Guidance in Issue | JCRA

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1. Scope of the price notification obligation

Background

JT holds SMP in a number of telecommunications markets and is subject to additional licence obligations under Part IV of its Class III Licence.[1] These obligations include requirements relating to interconnection, access, fair competition and price notifications.

Licence Condition 37.1 requires JT to provide advance notice of certain price changes, new telecommunications services and special offers.

> 37.1 Where the Licensee intends to introduce:
>
> (a) within a relevant market in which the Licensee has been found to have Significant Market Power:
>
> (i) any changes to the price at which or the terms on which any Telecommunications Services are to be provided;
>
> (ii) any new Telecommunication Services; or
>
> (iii) a special offer to all or any of its customers for particular categories of such Telecommunication Services; or
>
> (b) any changes to the price at which, or the terms on which, any Telecommunications Services are provided where those Telecommunications Services are supplied using, or are otherwise dependent upon, Telecommunications Services provided by the Licensee in a relevant market in which the Licensee has been found to have Significant Market Power,
>
> it shall, at least twenty eight (28) days prior to their coming into effect or otherwise as required by Telecommunications (Jersey) Law:
>
> (i) provide full details of the same to the JCRA, including the price and the terms on which the same will be introduced and any proposed change to existing terms connected with the same; and
>
> (ii) where Condition 37.1(a) applies, publish the same.

[1] JT (Jersey) Limited | JCRA

The condition is intended to promote transparency, support effective competition and facilitate appropriate regulatory oversight. It also assists in ensuring that Other Licensed Operators (**OLOs**) receive timely information regarding relevant changes to products, services and pricing in affected markets.

Scope of the notification obligation

This sub-section sets out the JCRA's guidance on the scope of Licence Condition 37.1.

Notifications required under Licence Condition 37.1

Licence Condition 37.1(a) applies where JT intends to introduce:

- Changes to the price at which telecommunications services are provided;
- Changes to the terms on which telecommunications services are provided;
- New telecommunications services; or
- Special offers,

within a relevant market in which JT has been found to have SMP.

In such circumstances, JT must provide full details of the proposed change to the JCRA at least 28 days before it comes into effect. Notifications falling within the scope of Licence Condition 37.1(a) must also be published.

Licence Condition 37.1(b) applies where JT intends to introduce changes to the price or terms of a telecommunications service that relies upon telecommunications services supplied within a market in which JT has been found to have SMP.

In such circumstances, JT must provide full details of the proposed change to the JCRA at least 28 days before it comes into effect. Publication is not required under Licence Condition 37.1(b).

Licence Condition 37.1(b) will commonly apply to retail products and services that rely upon wholesale products supplied by JT in markets where JT has been found to have SMP. Such products and services must continue to comply with all applicable regulatory obligations, including, where relevant, margin squeeze requirements.

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Telecommunications services, prices and terms

Licence Condition 37.1 applies to changes in the prices or terms of telecommunications services, new telecommunications services and special offers relating to such services.

Accordingly, the notification obligation applies to telecommunications services provided by JT within, to or from the Bailiwick of Jersey. This may include telecommunications services supplied by JT in conjunction with third parties.

The notification obligation applies not only to changes in price, but also to changes in the terms on which telecommunications services are provided. This may include changes to contractual terms, eligibility requirements, service features, service levels, minimum contract periods or other material conditions of supply.

The JCRA would not normally expect notification of purely administrative or clerical changes that do not affect the provision of the telecommunications service, customers' rights or obligations, pricing, or the operation of the service.

The notification obligation also applies to the introduction of new telecommunications services, irrespective of whether the service replaces an existing service or constitutes a new offering.

Special offers and promotions

The JCRA notes that Licence Condition 37.1 makes no distinction between prices, discounts or special offers that JT may offer to new customers or to existing customers.

Accordingly, prices, discounts and special offers provided solely to existing customers are subject to the notification requirements.

The JCRA also notes that Licence Condition 37.1 makes no distinction between prices, discounts or special offers offered directly by JT or offered on JT's behalf through third parties.

For example, where JT provides a subsidy to a third-party retailer and that subsidy is passed on to customers in the form of a discount or special offer as an inducement to purchase JT services, the notification obligation applies.

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Discounts captured by Licence Condition 37.1 may include traditional price reductions, the provision of additional services for the same price, or increases in the capacity of an existing service without any corresponding increase in price.

The offer does not have to apply directly to the telecommunications service itself, provided it is offered as an inducement to purchase a telecommunications service within the scope of Licence Condition 37.1.

For example, where customers are offered gift vouchers, event tickets, free or discounted devices, or other items of value as an inducement to purchase a telecommunications service, the notification obligation applies.

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2. Notification requirements

This section sets out the JCRA's guidance regarding the operation of the notification period, the content of notifications and the associated publication requirements.

The notification period

The JCRA notes that Licence Condition 37.1 does not contain a specific definition of "days". Accordingly, the requirement to provide notice at least 28 days in advance should be interpreted as 28 calendar days.

The notification period will begin on the day after notification is provided and will end at midnight on the twenty-eighth day thereafter.

The JCRA considers that Licence Condition 37.1 is intended to promote transparency and support non-discrimination between JT and OLOs. Allowing JT to market a new product or price, or to sign customers up to the same during the notification period, would undermine those objectives. There is little value in providing OLOs with advance notice of a new product or price if substantial numbers of customers are already committed to JT before the notification period has expired.

The notification period should therefore operate as a standstill period, during which JT should not:

- Market the new product, service, price or offer to customers; or
- Enter into agreements with customers for the new product, service, price or offer.

Content of notifications

The price notifications to be published and/or notified should set out the following information. This list is non-exhaustive and there may be other information that should be included in the notification and/or publication:

- The type and nature of the product that is being offered, including any significant differences between a new product and any existing product for which the new product may be a replacement.
- If a new price is being introduced, the actual price level. "Price" should be interpreted as including both the headline price and the actual price payable by

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the retail customer or OLO, taking account of any discounts or additional charges. The existing price should also be provided to enable comparison.

- The total length of time for which the price will be available, or is likely to be applied, including any intended or likely extension to initial periods.
- The ordering process for any proposed new or amended wholesale product, including the delivery timescales on receipt of an order and any applicable or potential constraints.

Publication of notifications

For the avoidance of doubt, JT is not required to disclose commercially sensitive or confidential information in any published price notification. Where necessary, to ensure transparent and efficient compliance processes, JT should provide the JCRA with all information relevant to a price notification, including confidential information.

Notifications should be provided to the JCRA by email.

Where publication is required, the information should be published on a password-protected area of JT's website, to which the JCRA and all OLOs, whether or not they are existing customers of JT, must be granted access on request.

All OLOs should be able to subscribe to email updates that alert subscribers whenever the password-protected area of the website is updated.

Published notifications should remain available in the password-protected area of JT's website for a minimum period of three years from the date of publication.

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3. Compliance, monitoring and complaints

JT is responsible for developing its own processes and systems and taking the measures necessary to assure itself of compliance with all relevant requirements and obligations.

The following sets out an overview approach to compliance. It is non-exhaustive and there may be other mechanisms and processes that JT can employ to ensure that it is compliant with Licence Condition 37.1:

- In the first instance, JT should ensure that it has appropriate compliance processes in place. This may take the form of governance arrangements for all price notifications, such that each type of notification is correctly identified and follows the appropriate process.
- In addition, applying a form of regulatory quality assurance to each notification would support JT's compliance processes. For example, ensuring that the notification contains all relevant information and, where necessary, additional information relating to costs, demand or other relevant matters, and that such information is complete and accurate.
- For notifications relating to new or amended wholesale products and services in markets where JT holds SMP, and for retail products and services that rely upon wholesale inputs supplied by JT in markets where JT holds SMP, the JCRA would expect those notifications to contain a statement of compliance.

The JCRA may review notifications and information provided in connection with notifications for consistency with Licence Condition 37.1 and other relevant regulatory obligations.

In the event of a complaint from an OLO or other stakeholder, the JCRA may review the matter under the relevant licence condition or under the Competition (Jersey) Law 2005, as appropriate. Whether the JCRA undertakes such a review will depend on the nature of the complaint, the information provided by the complainant and any other relevant circumstances.

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