

JT's response to JCRA's Telecoms Market Review (T-083)

23rd April 2025

Non-Confidential

1. Introduction

- 1.1 JT (Jersey) Limited (“JT”) welcomes the opportunity to respond to the JCRA’s Telecoms Market Review draft decision T-083 (the “**Draft Decision**”). JT supports a forward-looking market review process that (1) ensures that regulation remains up to date with the dynamic nature of the telecommunications markets, (2) ensures that regulation is proportionate and (3) helps the JCRA focus its efforts on markets where competition appears to be not yet effective. This approach is important as it provides regulatory predictability and legal certainty to market players.
- 1.2 The JCRA has generally followed the European Union’s regulatory framework, the European Electronic Communications Code, but with important differences which we discuss in more detail below.
- 1.3 After defining the market, the next step is to assess if the market meets the three-criteria test when considering current and future market developments. If the three-criteria test is met, the market may be susceptible to *ex ante* regulation. The three-criteria test assesses the following market conditions:
 - the presence of high and non-transitory barriers to entry;
 - a market structure which does not tend towards effective competition within the relevant time horizon, having regard to the state of infrastructure-based and other types of competition behind the barriers to entry; and
 - the insufficiency of competition law alone to adequately address the market failure(s) concerned.
- 1.4 The JCRA uses the EU Modified Greenfield Approach, firstly defining the relevant retail markets and assessing if the underlying retail markets would be competitive without wholesale regulation. Under the Modified Greenfield Approach, SMP will be found in the retail markets if a firm would be able to act independently of customers or competitors absent intervention in an upstream wholesale market. The aim of this approach is therefore to determine whether intervention is required in upstream markets and the approach assumes that such interventions will be effective in remedying any competition problems in the downstream market. This is why the European Commission’s List of Relevant Markets has, since 2014, only identified wholesale markets as being susceptible to *ex ante* regulation despite requiring regulators to begin the analysis to determine

whether wholesale regulation is in fact required by examining competitive conditions in the corresponding retail market¹.

- 1.5 In Europe, the aim is to intervene as far upstream in the value chain as possible in order to encourage infrastructure competition. In Jersey, the Government has decided that the size of the market cannot support infrastructure competition in this way and that the JCRA should instead focus upon ensuring retail competition². This may affect the point in the value chain where the JCRA should intervene. In this case, for example, it means that the JCRA would not consider passive infrastructure access as a wholesale market remedy. Subject to the comments below, we consider that the JCRA's approach is consistent with both the European methodology and the Government's policy stance.
- 1.6 The JCRA's Draft Decision differs from the European approach in appearing to define retail as well as wholesale markets and finding that JT holds SMP in retail as well as wholesale markets whereas the European List of Relevant markets (that are susceptible to *ex ante* regulation) includes only the two wholesale markets and no retail markets. The reason for this is that, as already explained, the European Commission states that intervention in wholesale markets will be effective and that, in the presence of wholesale market regulation, the corresponding retail markets would not have entry barriers and will be tending towards competition. In other words, assuming regulation of wholesale markets, the retail market would not then meet the three-criteria test and so should not itself be considered susceptible to *ex ante* regulation.
- 1.7 We request that, in the final decision, the JCRA confirms that it takes the same view as the European Commission, namely that the wholesale remedies available are sufficient to remedy the competition problems identified by the Greenfield analysis and that, therefore, there is no requirement or justification to impose *ex ante* remedies in the corresponding retail markets and no intention to do so. This is particularly important when the Draft Decision also refers to other retail market remedies, such as Fixed Number Portability (FNP), which are unrelated to the

¹ This is explained clearly in the Staff Working Document for the 2014 List of Relevant Markets (page.19): 'The identification of a retail market (as part of the value chain) for the purposes of *ex ante* market analysis does not imply, where there is a finding of a lack of effective competition by a NRA, that regulatory remedies would be applied to a retail market. Regulatory controls on retail services can only be imposed where relevant wholesale measures would fail to achieve the objective of ensuring effective competition at retail level. Given the advances in competition that have been achieved thanks to regulation, this Recommendation identifies only relevant markets at the wholesale level. It is believed that their regulation can address a lack of effective competition at the wholesale level, which in turn is the cause of identified market failures in the related retail markets. By intervening only at the wholesale level, NRAs can ensure that as much of the value chain is subject to competition process as possible, thereby delivering best outcomes for end-users.'

At [Explanatory Note to the Recommendation on relevant markets.pdf](#)

² Draft Decision page 10 Box 1, paragraph 4

application of the SMP framework. Even if the JCRA concludes that implementation of FNP is desirable (which, for the reasons explained below, JT does not believe it is), this decision could not and should not be based upon a finding that JT has SMP (FNP implementation in other markets is not based on an SMP finding). This is clear from the fact that FNP and similar retail remedies are symmetric and are applied to all operators irrespective of whether or not they have SMP.

- 1.8 Similarly, in JT's view, the obligation under Condition 37 of its licence to publish retail price notifications in advance is an intervention in the retail market and not the wholesale market, and can only be justified if the JCRA demonstrates that the other wholesale market remedies are insufficient to overcome barriers to entry or ensure that the market is tending towards effective competition. The JCRA cannot apply these obligations or assume they are justified simply because it has found JT to have SMP in the wholesale market.
- 1.9 It is therefore important that the final decision confirms that (1) it is only the wholesale remedies that are adopted pursuant to a finding of SMP in the retail market under the Modified Greenfield Approach and (2) the JCRA considers these wholesale remedies will be sufficient to remedy SMP in the corresponding retail markets. Alternatively, the JCRA needs to explain why it considers the wholesale remedies would be insufficient and why other remedies are required. The Draft Decision does not do either of these things.
- 1.10 The JCRA Draft Decision findings for each market are summarised in Table 1.

Table 1: Outline summary of JCRA Draft Decision

Market	Stage	JCRA Draft Decision
Fixed Broadband	Market definition(s) & SMP	Retail and wholesale fixed broadband connectivity provided over any technology, and for any speed, within the Bailiwick of Jersey. JT has SMP in each of the defined markets.
	Remedies	Continuation of the existing wholesale access obligation, combined with a wholesale cost-based price control.
Fixed Voice	Market definition(s) & SMP	Retail and wholesale provision of voice services from a fixed location within the Bailiwick of Jersey. Wholesale voice call termination services on each operator's network. JT has SMP in each of the defined retail and wholesale markets. For fixed termination, each operator has SMP on their own network.
	Remedies	Continuation of the existing wholesale access obligation, combined with the continuation of Wholesale Line Rental (WLR). For fixed termination, to consider whether current policy requires updating or amendment.

Leased Lines	Market definition(s) & SMP	Retail and wholesale market for high quality dedicated capacity private circuits, comprising all bandwidths, used for connection between two fixed locations within the Bailiwick of Jersey. JT has SMP in each of the retail and wholesale markets.
	Remedies	Continuation of the existing wholesale access obligation, combined with a wholesale cost-based price control. Dark fibre maintained as a regulatory option.
Mobile services	Market definition(s) & SMP	Retail and wholesale mobile voice and data services provided over any mobile technology generation, within the Bailiwick of Jersey. Wholesale call termination services on each mobile operator's network.
	Remedies	No remedies proposed for mobile retail and wholesale services. For mobile termination, to consider whether current policy requires updating or amendment.

1.11 The rest of this response is structured as follows:

- JT's views on the JCRA's review and findings in each market; and
- answers to the Draft Decision questions.

2. Fixed Broadband

2.1 The JCRA reviewed the broadband market in 2019 (CICRA 19/01) and found that the geographic market was the Bailiwick of Jersey and the fixed broadband market definition was:

"Wholesale access to the Internet at a fixed location using an access network based on fibre or cable or using the 4G and ultimately 5G wireless access network via a fixed device in the whole Bailiwick of Jersey".

2.2 The Draft Decision comes to the same conclusion on the geographic market as it did in 2019, as both wholesale service offerings and prices are set on an island-wide basis. In addition, the JCRA finds that there are not separate markets for different speeds or different bundles which include a broadband service. JT agrees with this finding.

2.3 The Draft Decision defines the fixed broadband market as:-

- Retail fixed broadband connectivity provided over any technology, and for any speed, within the Bailiwick of Jersey.
- Wholesale fixed broadband connectivity provided over any technology, and for any speed, within the Bailiwick of Jersey.

- 2.4 These definitions differ from the European approach in making no distinction between ‘local’ connectivity and other forms of connectivity. In practice, this makes no difference to the outcomes within the Bailiwick of Jersey and JT has no objection to the JCRA’s approach.
- 2.5 In 2019, the JCRA found that JT had SMP in the wholesale broadband market, but it did not provide a conclusion on the retail market. However, under the Modified Greenfield Approach, the JCRA now determines that JT holds SMP in both the retail and wholesale fixed broadband market. Subject to the comments in paragraphs 1.4-1.9 above and the comments in response to question 3, JT does not seek to challenge this finding.

3. Fixed Voice Services

3.1 Market Definition

The JCRA reviewed the fixed voice services market in 2010 (T09J) and found there to be three markets, with JT holding SMP in all three:-

Market 1 – Access to the public telephone network at a fixed location for residential and non-residential customers.

Market 2 – Call origination on the public telephone network provided at a fixed location.

Market 3 – Call termination on individual public telephone networks provided at a fixed location.

3.2 The Draft Decision defines the fixed voice services market as:-

- Retail fixed voice services from a fixed location within the Bailiwick of Jersey.
- Wholesale provision of voice services from a fixed location within Bailiwick of Jersey.
- Wholesale voice call termination services on each operator's network.

3.3 JT considers that the market definitions in the Draft Decision are outdated and do not reflect market developments or the approach that is now adopted in most other European markets. Separate wholesale markets for voice services were removed from the European Commission's List of Relevant Markets in 2014. JT does not, however, seek to challenge the market for wholesale voice call termination on each operator's network.

3.4 The reasons that the rest of Europe has withdrawn these markets from regulatory consideration apply equally in Jersey. Firstly, customers no longer purchase voice calling services independently of broadband access services to any significant degree (Ofcom report just 4% of households purchase fixed voice services in this way in 2023), since the vast majority of customers purchase internet, TV and voice calling services as part of a single broadband access subscription. [X] Secondly, customers can substitute between fixed voice services and mobile voice services on a call-by-call basis, including within the home. Ofcom reports that only 12% of voice call minutes originated on a fixed line in 2023 with the vast majority of voice calls originate on a mobile device. [X] This is because consumers find it more convenient to call using a mobile, as the mobile device is kept on or close to the person, telephone numbers are stored on the mobile device and, in the majority of cases, such calls are regarded as "free" by the user because a bundle of minutes is usually included in their service package. Ofcom reports that 'out of bundle' calls (for which

charges might be levied but for which VOIP services such as WhatsApp are effective substitutes) accounted for just 3% of call revenues in 2023, down from 4% in 2022³.

- 3.5 Ofcom also reports that, in March 2021, 78% of households still have a landline with only 54% actually using it to make calls⁴. This trend is seen in JT's data with only [8<] of households using their landline to make calls in 2025. Ofcom's research found that, despite usage of landlines being higher in the older age category (65+), reliance on landline was driven more strongly by habit than by real need or dependence. Many of the participants in the 65+ age category claimed they could and would migrate if they had to.⁵
- 3.6 In the Draft Decision the JCRA states: *"technological change or other foreseeable developments are unlikely to significantly disrupt this market, or erode the barriers to entry. Indeed, technology innovation may be less likely in a declining market."* JT strongly disagrees with this statement – the mass adoption of mobile devices and the growth of fixed broadband has already disrupted the market for voice services at a fixed location and led most regulators to fundamentally reassess how they define the relevant wholesale or input market. As explained above, we think there is ample evidence (in terms of mobile substitution and bundling in Jersey) to lead the JCRA to the same conclusion, namely that the market for voice services at a fixed location will no longer satisfy the three-criteria test.
- 3.7 Given these constraints on the prices that JT could charge for fixed voice calling (the majority of customers purchase a bundle which includes minutes at no additional charge), we do not consider that, absent regulation, JT would be able to profitably impose an increase in the price of voice calls from a fixed location on its customers. We therefore do not agree that JT would hold SMP in a market for voice services from a fixed location in Jersey under a Modified Greenfield Approach.
- 3.8 In our view, the better approach, reflecting practice elsewhere in Europe, is for the JCRA to address any concerns about competition in voice services in the downstream retail market through the choice of remedies in the wholesale market for fixed broadband connectivity which it has defined. Wholesale Line Rental (WLR) was implemented in both Jersey and Guernsey in June 2015 (CICRA 14/36) and can be adopted by the JCRA as a remedy in response to a finding of SMP in the wholesale market for broadband connectivity (which we consider to be the relevant input market into the downstream market for voice services at a fixed location). As explained

³ <https://www.ofcom.org.uk/phones-and-broadband/service-quality/communications-market-report-2024-interactive-data/>

⁴ Ofcom, 2020. Technology Tracker 2020, pages 110 and 117. [Accessed 21 March 2021]

⁵ Ofcom, 2020. Declining call and changing behaviour research 2020, Section 4.2, page 15

below, the main issue today is not that retail competitors wish to provide voice-only services at a fixed location to their customers in Jersey (because, as noted above, demand for such services is minimal and declining further) but that they wish to provide broadband only services without the voice component.

- 3.9 As discussed by the JCRA in the Draft Decision⁶, WLR is currently tied to the demand for wholesale broadband services due to the configuration of JT's provisioning systems and consumers are currently required to have both a landline and a broadband service provisioned together. JT recognise that an increasing number of consumers no longer want to have a landline (due to ease of mobile substitution referred to above) and would prefer to only purchase broadband and that JT's retail competitors may wish to meet this demand by obtaining a broadband line only wholesale product. This was discussed in a recent interview with the JCRA's CEO⁷.
- 3.10 To respond to these developments, JT is already considering developing a broadband line only retail service⁸ which, will require changes to the wholesale service JT supplies under its obligations as an SMP operator in the wholesale market for broadband connectivity. We note that BT stopped providing new WLR at the end of 2023 and will withdraw its WLR product at the end of 2025.⁹ The Draft Decision encourages JT to design a broadband line only service and JT confirms that it will take this forward in its product development plans whilst in the meantime complying with its obligations to supply a WLR service.
- 3.11 Both broadband and landline share the underlying infrastructure and the costs are recovered over both products. It is therefore important to recognise that removal of the requirement for landline will not substantially reduce the cost of the infrastructure required for the broadband service. The network elements to provide fixed voice, that would not be used in a broadband only service, are minimal and JT would still have a requirement to provide fixed voice services to other customers and therefore could not remove call equipment from its network. In addition, if consumers move to a broadband only service, the cost of providing the fixed voice service will then be shared by fewer users. The cost of each service, if purchased on its own, will be very close to that of the joint service. As stated in the Draft Decision, the wholesale broadband price control will be progressed during 2025, as the current control is due to expire at the end of September 2026, and JT will work with the JCRA on updating the cost model.

⁶ Draft Decision Box 3, page 24

⁷ <https://vimeo.com/1063090811/b48df88f4a?share=copy>

⁹ [Letter from Openreach to Ofcom: WLR and ISDN2/30 voluntary commitment](#)

4. Leased Lines

4.1 The JCRA reviewed the leased line market in 2010 (T09J) and again in 2021 (21/18)¹⁰ coming to the same conclusion that the geographic market was the Bailiwick of Jersey and that JT had SMP in the on-island wholesale leased lines market.

4.2 In 2021, the market definition was:-

“High capacity and quality dedicated private circuits based on wireless technology, fibre or copper cables and used by Other Licensed Operators, including mobile network operators, for connection between two fixed locations within the whole Bailiwick of Jersey. The wholesale leased lines market includes:

- *Both Advanced Interface (AI) and Traditional Interface (TI) protocols;*
- *All speeds or bandwidths measured in megabits per second (Mbps) or gigabits per second (Gbps);*
- *Circuits used for the purpose of mobile backhaul, i.e. where one end of the circuit is at a mobile base station;*
- *Circuits supplied by a licensed operator to itself for onward supply to the retail market; and*
- *“Dark fibre circuits”, i.e. fibre optic circuits that are not “lit” to provide a specific access speed or bandwidth and which are then lit by the customer of that circuit for any purpose.”*

4.3 In 2021, the JCRA found that the retail market did not fulfil the three-criteria test and so was not susceptible to *ex ante* regulation because wholesale access allowed rivals to enter the market ensuring low barriers to entry. The JCRA now determines, using the Modified Greenfield Approach, that JT holds SMP in both the retail and wholesale market. Our response to this has already been explained in paragraphs 1.6-1.8 above. It may be that the JCRA considers it necessary to find that JT has SMP in the retail market for leased lines in order to support its proposal to change from a retail minus to cost plus pricing methodology. We do not consider that this is either necessary or appropriate. The JCRA can consider appropriate wholesale remedies whilst also concluding that, in the presence of such remedies, the retail market would no longer fulfil the three-criteria test. This is the conclusion which we believe the JCRA ought to come to in its final decision.

¹⁰ [business-connectivity-market-review-final-decision-market-definition-and-significant-market-power-assessment.pdf](https://www.jt.com.je/business-connectivity-market-review-final-decision-market-definition-and-significant-market-power-assessment.pdf)

- 4.4 The JCRA should then, separately, consider whether changes to the existing wholesale remedy are necessary in order to support this conclusion. The Draft Decision states that on the basis that JT's market share is increasing, there should be a change to the wholesale remedy from retail minus to cost plus. However, in order to conclude that the current wholesale remedy is not effective, the JCRA needs to undertake a more detailed and extensive assessment. JT has been running a programme to retire 2 Mbps TI leased lines and has seen consolidation in the market but not growth¹¹. It is not sufficient to infer from short term movements in market shares that a market is no longer trending towards effective competition. This conclusion would also be at odds with its comment *"there has been no material change in the market since the 2022 BCMR"*¹².

¹¹ [X]

¹² Draft Decision – 6.15

5. JT's response to the Draft Decision Questions

Question 1. Do you agree with the Authority's Draft Decision for fixed broadband set out in Chapter 4 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.

JT agrees with the market definitions for the wholesale and retail broadband markets.

JT does not dispute the SMP finding under the Modified Greenfield Approach where, absent wholesale remedies, JT would hold SMP in the retail market. However, the JCRA's assessment of SMP is misapplied. Regardless of the market share held by JT, the JCRA should conclude that (1) with wholesale remedies in place barriers to entry are removed and all retail providers can compete effectively and (2) the three-criteria test will not be met. Because the three-criteria test is not met, the retail market is not a market that is susceptible to *ex ante* regulation. For the avoidance of doubt, the JCRA should make an additional finding to this effect in its final decision or explain why it is unable to identify wholesale remedies that would be effective and why, therefore, additional intervention directly in the retail market is required. In JT's view there is no basis for the JCRA concluding, contrary to almost every other regulator in Europe today, that wholesale remedies will be ineffective or that direct intervention in the retail market is required or justified.

Question 2. What are your views on the Authority's proposals with respect to JT's SMP obligations set out in Box 2 of this Draft Decision?

Box 2 of the Draft Decision discusses what the JCRA calls 'wider policy considerations' with respect to obligations on JT. Licence Condition 37 imposes a price notification obligation on JT in advance of implementation of new products, prices and promotions in markets where it holds SMP. This notification was imposed to provide the JCRA and retail competitors with advanced notice of price changes/promotions when JT had SMP in retail markets where wholesale remedies were not imposed. It is an extremely intrusive remedy, with potentially perverse incentives, for the reasons explained below.

Wholesale remedies are now, and under the current text of the Draft Decision, will in future be in place to ensure effective competition downstream. JT publish reference offers for WLR, Wholesale Broadband and Wholesale Leased Lines and these agreements provide details of the wholesale pricing, as well as provide for notice of price and product changes. The wholesale leased line and wholesale broadband reference offers provide "at least 28 days' notice" and the WLR reference offer provides 30 days' notice

of changes to wholesale prices. In the UK, Ofcom imposed a 28 day notification period on BT¹³ to notify communications providers (CPs) of changes to wholesale prices and terms and conditions.

Since wholesale inputs are available on these terms, we consider there is no longer any justification to require JT to give market competitors advanced notice of new retail prices/promotions. In order to find otherwise, the JCRA would need to demonstrate that retail competitors with access to appropriate wholesale inputs (and with wholesale prices that would enable them to earn an appropriate margin) are nonetheless unable to compete effectively with JT without advance notice of changes to JT's retail tariffs. The JCRA would also need to be satisfied that the advanced retail price notification obligation did not weaken JT's incentives to reduce its own prices in order to gain customers whilst competitors decided how to respond. If JT anticipates that any price change can be immediately matched by all its competitors, then the incentive to take the lead in any price competition is undermined or removed altogether.

JT's objection is to informing retail competitors of its plans in advance. JT does, however, understand and accept that it can be required to notify the JCRA in advance of implementing new prices/promotions to allow the JCRA to ensure that there is no margin squeeze present between the upstream wholesale input price and the downstream retail price. This aligns with the decisions made by other national regulators when wholesale remedies are sufficient to allow retailers to compete in the market. JT would agree to a 28-calendar day notification period for both wholesale and retail price changes to the JCRA.

Regulatory Financial Reporting

JT produces annual financial statements in line with the Regulatory Financial Reporting Final Notice¹⁴ and regulatory reporting template (Case T-080). These financial reports provide transparency to the JCRA and are in line with regulatory best practice. In the Regulatory Financial Reporting Final Notice, the JCRA states that its *"approach is consistent with the best practice and the Law; the focus of reporting needs to be on markets where JT has been found to have SMP."* We would expect that future reporting would continue to align to markets where wholesale regulation is in place i.e. Wholesale Broadband, Wholesale Leased Lines and Wholesale Line Rental. We therefore ask the JCRA to make it clear in the final decision that the retail SMP findings under the Modified Greenfield Approach do not imply additional regulatory reporting requirements.

¹³ [Statement: Wholesale Broadband Access Market Review 2018](#)

¹⁴ [T-080 - Regulatory Financial Reporting | JCRA](#)

JT currently reports on separate markets for wholesale broadband access and wholesale voice access. JT proposes that the JCRA considers reviewing the regulatory financial statements in line with JT's development of an access service that can provide broadband only, voice only or both services.

Question 3. Do you agree with the Authority's Draft Decision for fixed voice set out in Chapter 5 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.

JT considers that the market definitions are outdated and do not reflect market developments or the approach that is now adopted in most other European markets. Separate wholesale markets for voice services were removed from the European Commission's List of Relevant Markets in 2014. JT does not agree that the market for voice services at a fixed location fulfils the three-criteria test or that it is susceptible to ex ante regulation. We therefore do not agree with the finding that JT has SMP in such a retail market and consider that a wholesale obligation to provide a voice-only service is best addressed when defining remedies for the wholesale broadband connectivity market. Provided JT is required, by virtue of the SMP finding in the wholesale broadband connectivity market, to supply a wholesale product that enables retail competitors to offer voice services at fixed locations, then there is no basis for making a further finding of SMP in a discrete retail market for voice calls from a fixed location.

JT agrees it has SMP in the wholesale market for voice call termination but note that revenues for this service are negligible.

In terms of remedies, the Draft Decision encourages JT to design a broadband line only service which will undoubtedly be a development that will disrupt the WLR market and which JT is already exploring in response to customer interest¹⁵. WLR is currently tied to the demand for wholesale broadband services due to the configuration of JT's provisioning systems requiring a landline to be provisioned with a broadband service. As already noted, both the broadband and landline share the underlying infrastructure, and the costs are recovered over both products. Removal of the requirement for a landline will not substantially reduce the cost of the infrastructure required for the broadband service. The elements to provide fixed voice that would not be used in a broadband only service is minimal and

¹⁵ JT's retail business has submitted a request under the Statement of Requirements process for a broadband only product to be developed. This request is currently on hold and will be taken forward as part of JT's broadband refresh project which is currently in the request for information (RFI) stage with potential vendors.

JT would still have a requirement to provide WLR and therefore could not remove call equipment from its network. In addition, the cost of the voice service will then be shared by fewer end users. The cost of each service, if bought on its own, will be very close to that of the joint service.

The JCRA should allow JT to create products that best suit the retail market and the JCRA should recognise that corresponding wholesale products enable effective competition and thereby remedy SMP. The new product will likely take the form of a fibre access service with the option of adding broadband and/or voice services.

The wholesale broadband price control is set on the basis of the fibre port used to deliver both the broadband and voice service. Therefore, a wholesale price control has been indirectly set for WLR. As the current control is due to expire at the end of September 2026, JT will work with the JCRA on updating the cost model.

Question 4. What are your views on Fixed Number Portability and the Authority's proposals set out in Box 4 of this Draft Decision?

JT refers to its comments in paragraph 1.7 above.

The wholesale line rental (WLR) product introduced by JT in 2015 includes the geographic telephone number, thus allowing single line customers to effectively port their service (and number) to another service provider. We therefore assume that any interest that has been expressed for Fixed Number Portability (FNP) must relate to multiline voice.

The JCRA considered FNP in 2017 and at that time the cost versus the benefit was prohibitive. We consider the cost benefit analysis has worsened since then and will likely continue to worsen in future. Firstly, fixed call volumes are declining at an ever-increasing rate (JT's fixed call origination volumes dropped by 15.2% between 2023 and 2024. Ofcom report fixed origination volumes falling by 25% year on year¹⁶. JT's fixed termination volumes are dropping at a similar rate per year.

Secondly, customer behaviour and technology is moving people away from making calls to fixed numbers. Businesses in general are moving away from inbound calls, with many not advertising a

¹⁶ [Telecommunications Market Data Update - Ofcom](#)

telephone number¹⁷ as they encourage customers to interact with them through different means. Customer preference is changing, and many organisations are now interacting through online chat, apps, email, webforms and portals. [X]

In the enterprise segment, behaviours and the use of other communication tools changed during the Covid pandemic and the move to flexible working. Microsoft Teams and other more interactive communication methods have been widely adopted alongside the increased use of mobiles for business calls. The majority of outgoing calls are made from mobile due to the ease of use and frequently dialled numbers are stored in the phone as well as the fact that mobile service plans include a free call allowance, making it effectively free to call from the user's perspective.

In addition, businesses no longer rely on printed literature or directories and can make changes to their websites/social media accounts almost instantly, allowing contact details/telephone numbers to be changed, thereby removing the perceived barrier. Consumers can easily check contact details by carrying out a quick Google search, thereby finding a phone number instantly.

Vendors are not including legacy services such as FNP in their new equipment. JT experienced this first hand during the procurement of its new network, specifically related to fixed non-geographic number translation services. The low volume of demand together with the fact that the features are not included in the standard build make it uneconomical to continue to provide and therefore JT will be withdrawing fixed number translation options later this year. In the same manner, the implementation costs of multi-line FNP would require additional components or licence functionality that is outside of the scope of JT's new network deployment. The development costs would be disproportionate given the steep decline in calls to fixed numbers and the costs would clearly outweigh the benefits. The costs of FNP deployment would reach across all operators and not solely JT because FNP is a symmetric service, i.e. all operators numbers would need the porting functionality.

JT received one request for FNP under the Statement of Requirements process however, the request was incomplete and subsequently returned to the requester for further information, which has not been received despite further follow up requests. (see confidential appendix)

¹⁷ JT no longer publishes a phone number on its website, although the number can be found via a google search. Banks are moving contact online [Support Centre | Help, Support & Live Chat](#)

Question 5. Do you agree with the Authority's Draft Decision for leased lines set out in Chapter 6 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.

The JCRA's 2021-22 review of the business connectivity market found that the retail market did not fulfil the three-criteria test and so was not susceptible to *ex ante* regulation as wholesale access allowed rivals to enter the market ensuring low barriers to entry. The JCRA now determines, using the Modified Greenfield Approach, that JT holds SMP in both the retail and wholesale leased lines market. JT does not disagree with a finding of retail SMP using the Modified Greenfield Approach. However, we explain in paragraph 4.3 that the JCRA's SMP assessment¹⁸ appears to be misdirected. As explained, the JCRA does not and should not conclude that JT would have SMP in the retail market for leased lines in order to support a change in approach from retail minus to cost plus pricing of wholesale inputs. Rather, the JCRA should only find that JT has SMP in the retail market if it considers that there are no wholesale remedies sufficient to ensure that retail competitors can overcome entry barriers and that the market will tend towards effective competition. Any changes to wholesale remedies should therefore be justified on their merits and on the basis that they are required to ensure effective competition downstream - and not because the JCRA has adopted a different analytical approach to the SMP assessment itself.

JT's position on the merits or otherwise of moving from retail minus to cost plus will be provided once the JCRA explains (presumably in a separate draft decision on remedies) why it is necessary in its view in order to ensure that the retail market trends towards effective competition and why it is not already doing so with retail minus pricing given that the Draft Decision also states *The Authority notes that competitors have gained market share, and the number of competitive wholesale connections is steadily increasing.*¹⁹

¹⁸ Draft Decision – 6.17-6.18

¹⁹ Draft Decision – paragraphs 6.17 – 6.18

Question 6. With respect to dark fibre, do you agree that this should be maintained as a regulatory option? If yes, please provide evidence and information on the circumstances in which dark fibre might become necessary?

In order to assess whether dark fibre should be considered further the JCRA would need to assess whether this intervention is necessary and proportionate, and consistent with the Government's policy of promoting competition in the downstream rather than upstream markets. The JCRA would need to demonstrate that the current wholesale access remedies are not sufficient to ensure the market is tending towards effective competition. Ofcom introduced dark fibre as a remedy in the UK market to promote competition and investment in fibre networks. By allowing other telecom providers access to BT's existing fibre infrastructure, Ofcom aimed to reduce the UK's dependency on BT Openreach and stimulate infrastructure competition. The Jersey Government's policy is to promote retail competition and therefore there is no infrastructure competition problem to resolve.

Question 7. As set out in Box 5 the Authority is giving consideration to data centres, what are your views on data centre availability and connectivity in Jersey?

The JCRA's call for information, gathered data from licenced telecom operators but did not gather information from other providers who also provided data centre facilities. As well as JT and Sure, there were other players in the market however, we understand that Logicalis and C5 are no longer providing data centre services. The JCRA states that it is mindful of the rights of data centre providers to commercially manage their own facilities but at the same time giving the ability of other licenced operators access to facilities necessary for effective competition. Access to JT data centres is available through existing wholesale access products, in the same way as access is provided to other buildings on Jersey.

If the JCRA wishes to explore the data centre market it must first go through a market definition exercise and consider the scope of the market identifying the direct and indirect competition constraints faced by the market participants. For example, is the market access to private and public cloud, as well as private data centres? The JCRA then must explore the geographic scope of the market, is it just Jersey or is the market wider? JT's initial view is that the geographic market is wider than Jersey, with many Jersey businesses using cloud solutions from the likes of AWS, Microsoft Azure, etc., which are hosted outside of Jersey and which are direct substitutes to local data centres. If the JCRA decides that a data centre market analysis meet its prioritisation principles, we would be interested in that analysis. We are not aware of any other national regulator that is considering data centre regulation.

Question 8. Do you agree with the Authority's Draft Decision for mobile services set out in Chapter 7 of this Draft Decision? If you do not agree with any aspect of this, you should provide all of your analysis and assessment.

The Jersey mobile market has previously been found to be fully competitive, with SMP found only in relation to the access to call termination on the operator's network on which the call is terminated, JT agrees that this continues and has no comments to make on the JCRA's analysis.

Confidential Appendix [✂]