

STATES OF JERSEY



JERSEY TELECOM LIMITED: SPECIAL TARIFFS FOR SENIOR CITIZENS

**Presented to the States on 15th March 2005
by the Economic Development Committee**

STATES GREFFE

REPORT

1. Introduction

The States agreed in P.167/2004 on 12th October 2004 to charge the Economic Development Committee (“EDC”) –

- (a) to consult with the Jersey Competition Regulatory Authority on the subject of reduced tariffs for senior citizens and, if necessary, to give the Authority written directions to bring into effect any changes to the licence of public telecommunication operators that may be necessary to facilitate, for the time being, the provision of the reduced tariffs;
- (b) to consult with the Jersey Competition Regulatory Authority on the general subject of cross-subsidisation for vulnerable groups and the role of such cross-subsidisation within competition policy, and to report back to the States within 6 months.

The Committee has now received the advice from the Jersey Competition Regulatory Authority (“JCRA”), which is reproduced in full below.

2. Response

In deciding whether it is necessary to take any action, there are a number of matters within the JCRA’s response that the Committee must consider –

1. That Jersey Telecom (“JT”) have acted in accordance with their licence conditions.
2. Whether to provide an OAP tariff is for the EDC to decide under its responsibility to set social policy, it is not a matter for competition policy.
3. For the special tariff to be reinstated, the EDC would have to give written directions to the JCRA, who would in turn amend JT’s licence conditions to require them to offer reduced rates for all OAPs.
4. Regulatory intervention to require JT to offer a special OPA tariff may be unprecedented in the regulation of telecommunication operators.
5. Cross-subsidies run counter to the obligations in JT’s licence, which are designed to ensure that JT’s costs are allocated to the businesses that incur them. These obligations are intended to ensure that JT’s competitors do not suffer an anti-competitive disadvantage.

The overriding principle of the Telecommunications (Jersey) Law 2002 is to establish an open, regulated telecommunications market in Jersey where Jersey Telecom is one of a number of competing operators. The primary duty of the JCRA under the Law is to procure the provision of reasonably demanded telecommunication services. The expectation is that competition would make the market more efficient and prices to the consumer would reduce. Evidence of the success of this approach can be seen in reduced telephone call rates, the cost of daytime and evening calls from local landlines to U.K. and Isle of Man landlines having been reduced by 10% in November 2004 and, more recently, with Jersey Telecom announcing its intention to cut the cost of national calls by more than 20%.

The guidance on social policy that the Committee has given states (R.C.43/2002) –

“In considering licence applications and in setting conditions for such licences, the JCRA should have due regard for –

- **the States’ strategic objectives to “*minimise social deprivation through ensuring that adequate assistance is given to those in greatest need*” and “*to make better provision for those with disability*”;**

- **the provision of basic telephony for:**
 - **those who are particularly likely to need to summon assistance in their homes or elsewhere due to disability, age or other factors;**
 - **those requiring special facilities because of physical, mental or other challenges in using telecommunications services;**
 - **public access for the purpose of summoning emergency services.”**

The Committee and the Authority are of the opinion that the proposed new Low Use Tariff complies with this guidance and will be available to all households on low incomes.

The Committee acknowledges that they have the authority to direct the JCRA to require operators to provide special rates for OAPs, however it would be discriminatory to require such a service from just one operator and the condition would have to be imposed on all operators, current and future. The question of funding would also have to be addressed, would the operators be required to cross-subsidise the special tariff with profits made in other parts of the business, or would the States of Jersey pay for the provision of such a service?

In the current financial situation in which the States finds themselves, if funding were made available, it would require reduced funding from another area of States expenditure. If operators were asked to cover the cost by cross-subsidising the service, this would run counter to existing licence conditions and complicate the regulator’s role in establishing the true cost of providing services. Cross-subsidisation would create a significant barrier to opening the telecommunications market to competition, would not be in the best interest of the wider community and would frustrate the aims of the States to create an efficient telecommunications market with lower prices.

The Committee is also aware that regulatory intervention to require operators to offer a special OAP tariff may be unprecedented in the regulation of telecommunication operators. It would also be harmful to the process of regulation if Government were to give directions to the regulator when decisions were made which did not suit political agendas. The JCRA was established as an independent regulator and it is important to allow it to perform its function unfettered, especially with the Competition (Jersey) Law 2005 about to be introduced. It would be extremely harmful to the Authority and to our open economy if the States were seen to intervene in regulatory matters by giving directions to achieve a specific outcome.

3. Conclusion

In the light of the professional advice received from the JCRA and the background to this matter, the Committee has decided not to direct the JCRA to amend the current licence of Jersey Telecom to offer a special tariff specifically to OAPs as a class.

In coming to this decision, the Committee is mindful of the following –

- the actions of Jersey Telecom are in accordance with their licence conditions,
- the absence of any evidence that OAPs have by definition low incomes,
- the aims of the States in approving the Telecommunications (Jersey) Law 2002;
- the benefit to the wider community of Jersey;
- the need to uphold the credibility of our regulatory regime.

4. Letter from the JCRA reproduced in full

The advice received by the Committee in response to the directions given by the States is –

- “(a) There is currently no provision in JT’s licence which would prohibit it from replacing its special tariff for OAPs by its proposed low-user tariff. Regulatory action to prevent JT from doing so would therefore only be possible following a modification to JT’s licence enabling such action to be taken.

- (b) The question of whether telecommunications operators should be required to offer reduced prices to those with limited means, and whether OAPs as a class should benefit from reduced prices, are matters which fall within social policy, as opposed to competition policy. On matters of social policy, it is clearly important that any action which the JCRA were to take is consistent with the States’ policy, and that the JCRA liaises with the States before taking any action to implement that policy. (Since a policy requiring operators to offer reduced tariffs to OAPs would, as far as the JCRA is aware, be a new States social policy, such a policy would normally be implemented through an EDC direction to the JCRA.)

From a preliminary review by the JCRA of the websites of ‘incumbent’ telecommunications operators in Guernsey (Cable & Wireless), the U.K. (British Telecom), Ireland (Eircom), the Netherlands (KPN), Malta (Malta Telecom) and Belgium (Belgacom), it appears that none of them offer a special tariff to OAPs as a class, although some offer low user tariffs or reduced tariffs to those on low incomes (including OAPs who are eligible under those schemes). This is presumably because the levels of usage, or levels of income, are thought to be fairer (or otherwise more appropriate) criteria to qualify for lower tariffs than age alone. In the absence of any evidence that OAPs in Jersey by definition have limited financial means, or low telephone usage, it seems that any regulatory intervention to require JT to offer a special tariff to OAPs without further qualification may be unprecedented by comparison with other jurisdictions (although the JCRA would be happy to carry out further comparative research on this issue if the EDC wishes it to do so).

On the specific question on cross-subsidies raised in your letter (i.e. a financing of costs incurred in one business through profits generated by another business) cross-subsidies would run counter to the obligations in JT’s licence which are designed to ensure that JT’s costs are allocated to the businesses which incur them. These obligations are intended to ensure that JT’s competitors do not suffer an anti-competitive disadvantage”.