



The Guernsey Competition and Regulatory Authority (**GCRA**) hereby gives notice to Sure (Guernsey) Limited (**Sure**) that it proposes to issue the following direction (Proposed Direction) to Sure.

Sure may make written representations or objections in respect of the Proposed Direction to the GCRA before 4 p.m. on 29 May 2024. Any such representations should be provided to the GCRA electronically at info@gcra.gg.

[Proposed] Direction to Sure (Guernsey) Limited

Background

As part of its Business Connectivity Market Review (**BCMR**) completed in 2015, the Guernsey Competition and Regulatory Authority (**GCRA**) published a Wholesale On-island Leased Line Price Control (**2015 Price Control**), which directed Sure to comply with the determinations specified.¹

In July 2022, the GCRA wrote to Sure (Guernsey) Limited ("**Sure**") requesting certified wholesale and retail leased lines data, to demonstrate compliance with the Price Control, in respect of the following periods:

1. 1 January 2021 to 30 June 2021;
2. 1 July 2021 to 31 December 2021; and
3. 1 January 2022 to 31 July 2022.

The GCRA subsequently engaged in correspondence with Sure to obtain the requested information. In early 2023 the GCRA's analysis of that data provisionally found that Sure's pricing of its leased line products did not comply with the conditions of the Price Control in relation to six wholesale leased lines products for each of the three periods under review.

¹ <https://www.gcra.gg/media/2088/t1097gj-price-control-for-wholesale-on-island-leased-lines-guernsey-final-decision.pdf>

The GCRA provisionally found that there was a total overcharge for the three periods of **£113,817**: an average overcharge of per period **£37,939**. The GCRA published a Proposed Decision² on 13 July 2023 which directed Sure to reimburse all its leased line customers that were subject to the overcharges for leased line products identified in **Table 1**. The Proposed Direction also directed Sure to provide evidence to the GCRA which confirmed that those payments had been made.

Table 1: PROPOSED DIRECTION - Wholesale Leased Lines Non-Compliance: Overcharge Values

| Period | No. of Non-Compliant W/S Leased Lines Products | Overcharge Value (£) |
|---|--|----------------------|
| 1 Jan 2021 to 30 Jun 2021 | 6 | 43,346 |
| 1 July 2021 to 31 Dec 2021 | 6 | 28,034 |
| 1 Jan 2022 to 31 Jul 2022 | 6 | 42,437 |
| TOTAL OVERCHARGE FOR THE THREE PERIODS | | 113,817 |
| AVERAGE OVERCHARGE FOR THE THREE PERIODS | | 37,939 |

Sure submitted representations in response to the Proposed Direction as a result of which the GCRA has reviewed and revised the overcharge calculations. The revisions made to the overcharge value were based on three general adjustments:

- Wholesale leased lines volumes adjustments:
 - The number of circuits to be considered in compliance calculations
 - The types of circuits used in overcharge calculations
- The removal of non-chargeable customers
- The correction of a miscalculation

The GCRA did not accept Sure’s representation on the compliance checking methodology as it pertains to the treatment of retail discounts. The GCRA therefore did not adjust the overcharge value based on this representation.

²<https://www.gcra.gg/media/598588/t1644g-proposed-direction-to-sure-guernsey-limited.pdf>

The revised overcharged values are identified in **Table 2**.

Table 2: SECOND PROPOSED DIRECTION - Wholesale Leased Lines Non-Compliance: Overcharge Values

| Period | No. of Non-Compliant W/S Leased Lines Products | Overcharge Value (£) |
|--|--|----------------------|
| 1 Jan 2021 to 30 Jun 2021 | 6 | 34,849.97 |
| 1 July 2021 to 31 Dec 2021 | 6 | 36,059.84 |
| 1 Jan 2022 to 31 Jul 2022 | 6 | 44,450.96 |
| TOTAL OVERCHARGE FOR THE PERIOD 01 JAN 2021 TO 31 JULY 2022 | | 115,360.78 |
| AVERAGE OVERCHARGE FOR THE THREE PERIODS | | 38,453.59 |

Table 3 below presents a summary of the refunds due to wholesale leased line customers.

Table 3: Summary of Refunds Due

| Wholesale leased line customer account: | 1 Jan - 30 Jun 2021 | 1 Jul - 31 Dec 2021 | 1 Jan - 31 Jul 2022 | Total |
|--|---------------------|---------------------|---------------------|-------------------|
| C5 IT Services (Guernsey) Ltd | 869.85 | 368.13 | 58.29 | |
| C5 IT Services (Guernsey) Ltd DataCentre | 330.12 | 335.12 | 398.49 | 2,360.00 |
| Guernsey Airtel Ltd | 2,733.81 | 2,832.90 | 3,060.57 | 8,627.28 |
| JT Global Ltd | 2,232.08 | 2,264.77 | 2,684.13 | |
| JT Group Limited - Ex-Newtel Services | 2,241.23 | 2,993.56 | 5,819.28 | |
| JT Group Limited BSSS Re-sale Services | 13,124.40 | 12,618.51 | 15,153.65 | |
| JT (Guernsey) Limited | - | 177.76 | - | |
| JT Guernsey Ltd PO8006313 | 4,355.21 | 5,132.98 | 6,220.96 | 75,018.52 |
| Logicalis Gsy Ltd | 2,281.78 | 2,294.32 | 2,547.05 | 7,123.16 |
| Newtel Ltd | 6,681.49 | 7,041.79 | 8,508.54 | 22,231.83 |
| TOTAL | 34,849.97 | 36,059.84 | 44,450.96 | 115,360.78 |

These refund values are based on calculations provided by Sure to the GCRA in correspondence dated 21 March 2024.

Legal basis

The 2015 Decision was a determination of the Authority pursuant to LC 31.2 of Sure's fixed telecommunications licence of the maximum level of charges that Sure could apply, as set out in the 2015 Decision. The 2015 Decision directed Sure to comply with the price control in the terms specified.

Pursuant to licence condition 5(b) of its Guernsey fixed telecommunications licence, Sure is required to comply with any direction issued by the GCRA.

The Authority has provisionally concluded that, for the reasons set out above, Sure has failed to comply as directed with the determination set out in the 2015 Decision.

Proposed Direction

Pursuant to section 27(2)(a) of the Telecommunications Law:

1. The GCRA proposes to direct Sure to reimburse all its leased line customers that were subject to the overcharges for leased line products identified in **Table 3**.
2. The GCRA proposes to direct Sure to provide evidence to the GCRA which confirms that those payments have been made.
3. Any reimbursement, if so determined, shall be paid within two calendar months of a final direction.

END.