



LICENCE MODIFICATION: CONSUMER PROTECTION – T1676G

SURE (GUERNSEY) LIMITED RESPONSE

1. Sure is pleased to be able to respond to the Guernsey Competition and Regulatory Authority's ("the Authority's") Proposed Decision regarding its proposed licence modification¹. We are grateful to the Authority for providing licence holders ("Licenced Operators" or "LOs") with sufficient time to consider its proposals and formulate a response².
2. We welcome and support the Authority's proposal to remove certain clauses from LOs' licences, and we agree with its assessment that having multiple avenues for resolving disputes with LOs would likely be confusing for consumers and licensees. This is particularly relevant at the current time, given some LOs in Guernsey have recently become licenced and regulated by the Guernsey Financial Services Commission ("GFSC") as providers of "consumer credit". Accordingly, these LOs must also provide such customers with a mechanism through which they can make complaints and raise a dispute with the Channel Islands Financial Ombudsman ("CIFO") or refer a complaint to the GFSC. We therefore welcome the Authority's proposal to simplify the dispute resolution process for consumers and remove certain consumer dispute resolution clauses from each LO's licence(s).
3. In addition to the Authority's proposal to remove certain consumer dispute resolution clauses, we believe that there are other aspects of the Consumer Protection provisions that could be updated to further simplify the complaints and dispute resolution process for LOs and avoid duplicative regulation that could cause unnecessary uncertainty.
4. LOs' licences state that the purpose of the "consumer code" is to outline a 'transparent, simple, and inexpensive procedure through which customers or users can resolve their disputes'. These licences also dictate that the Authority may issue directions to licensees and must be notified in advance

¹ Licence Modification: Consumer Protection – T1676G – Proposed Decision

² This includes the Authority's decision to email relevant LOs on 7th November and outline the Authority's proposals and intended next steps. We found this very helpful.

should an LO wish to amend the contents of the consumer code³. If, as the Authority has explained, the Trading Standards Service (“TSS”) has ‘enhanced consumer protection powers and are able to effectively serve the consumers within the scope of the consumer protection rules in respect of telecoms complaints’^{4 5}, then it seems sensible that it is the TSS, not the Authority, that should also have oversight of relevant consumer complaints policies and consumer codes.

5. The Trading Standards (Guernsey) Ordinance already requires traders, including LOs, to have and publish a complaints policy and information about the handling of complaints. Furthermore, the TSS has the power to prepare and publish information and guidance regarding provisions contained within the Ordinance, including rules on complaints policies and complaints handling information⁶. In the event that the TSS does issue further guidance regarding complaints handling policies and processes that necessitate a change in such policies (including the consumer code), there is a risk that, as currently drafted, LOs would be required to notify the Authority and enable them to comment on or disagree with the changes required by the TSS. There is a similar risk that, under the prevailing Consumer Protection provisions, the Authority could issue directions regarding the consumer code or complaints handling processes that may not be fully aligned with the views and approaches of the TSS. Such a misalignment could be confusing for LOs and result in unnecessary delays in making changes to important consumer complaints and disputes information.

6. In accordance with the Authority’s (very welcome) desire to simplify the complaints and dispute resolution process for LOs, we believe it would be helpful and sensible to also remove reference to the Authority’s ability to issue directions and obtain advanced notice of changes to the consumer code. We have included an example of how the clause should be amended to reflect our proposals in Figure 1 (below). Such an amendment would give LOs confidence that future regulatory changes to their consumer codes would come from just one regulatory authority (or two where they are also regulated by the GFSC) and that there is no need to verify or ratify those changes with the Authority before implementing them.

³ Licence (as modified) issued to Sure (Guernsey) Limited (fixed) – Clauses 17.5 and 17.7; Licence (consolidated) issued to Sure (Guernsey) Limited (mobile) – Clauses 15.5 and 15.7.

⁴ Email from info@gcra.gg to Sure on 7 November 2023 at 10:02 titled *Telecom Consumer Complaint Procedure*.

⁵ The Authority has not indicated that it will retain any control over the complaints processes of LOs. Rather, its Proposed Decision suggests that the TSS will now be the sole authority responsible for consumer complaints. See paragraph 1.4 of the Proposed Decision – “[the TSS] will promote consistency and certainty in the resolution of telecoms related consumer disputes”.

⁶ The Trading Standards (Fair Trading) (Guernsey) Ordinance, 2023 – Section 197

7. Additionally, we believe that the Authority should remove the requirement for LOs to ‘publish proposed changes to their consumer codes 28 days in advance of the changes coming into effect’. As explained in paragraph 2, some LOs have recently become licensed and regulated by the GFSC (and by extension, CIFO) in Guernsey, and the Authority is now passing on responsibility for consumer complaint procedures to the TSS. It is entirely conceivable that any or all of the GFSC, CIFO, or the TSS could issue directions to LOs to make changes that must be reflected in their complaints policies and/or consumer codes. Such directions may need to be undertaken immediately, such as a direction from the GFSC following supervisory activity or following a dispute involving CIFO or the TSS, and thus LOs would not be able to fulfil its requirement to publish updated consumer codes 28 days prior to them coming into effect. It would, in our view, be inherently unfair that an LO may have to breach their GCRA licence and suffer potential enforcement action in order to comply with a direction made by another regulatory authority. We believe that the most pragmatic way to avoid such a conflict would be to remove the 28-day publication requirement in its entirety from LOs’ licences.

8. We believe that our proposed amendments represented in Figure 1 below are a simple and pragmatic approach that (1) rightly retains the need to have a consumer code and (2) enables the LOs to make changes to that code to reflect directions and requirements from other regulatory authorities without the risk of breaching its GCRA Licence Conditions. As always, we remain available to discuss our proposals with the Authority and provide further evidence, where appropriate.

9. This response to the Authority’s Proposed Decisions is non-confidential and we are happy for it to be published in its entirety.

Figure 1

The Licensee shall publish an appropriate code of practice (“consumer code”) for the resolution of Subscriber or User disputes and including but not limited to the non-payment of bills and disconnection. ~~The GCRA may from time to time issue directions to the Licensee specifying any modifications or additions that he consider should be made to the consumer code.~~

The consumer code shall identify a transparent, simple, inexpensive procedure in order to address, inter alia, the following:

- (a) The appointment of a representative of the Licensee to be the first point of contact for members of the public;
- (b) A means of recording complaints and disagreements against the Licensee;
- (c) The procedure and time frame in which the Licensee will respond to complaints and disagreements;
- (d) The method and duration of retention of records and complaints and disagreements; and
- (e) The level of any compensation that the Licensee may offer where complaints have been upheld or not satisfactorily resolved.

~~If a complaint or disagreement remains unresolved for 3 months, either party may refer it to the GCRA for determination.~~

~~The may be amended by the Licensee from time to time, provided that the Licensee shall notify the GCRA and publish the proposed changes 28 days in advance of their coming into effect. The GCRA may issue directions to the Licensee as to changes, including but not limited to directions not to make the changes, directions to amend the changes further or directions as to the timing of changes.~~

~~The Licensee shall participate in good faith in any dispute resolution procedure established by the GCRA for the resolution of disputes.~~