



Non-confidential version of Response by Sure (Guernsey) Limited and Sure (Jersey) Limited to CICRA Consultation Document 13/38: Pan Channel Island Consultation on 800 MHz and 2.6 GHz Spectrum Awards

Sure (Guernsey) Limited and Sure (Jersey) Limited, collectively referred to in this response as “Sure”, is pleased to provide this response to the CICRA consultation 13/38, “Pan-Channel Island Consultation on 800MHz and 2.6GHz Spectrum Awards, which was issued on the 31st July 2013. Please note that this response is the non-confidential version of our response, which we are happy for CICRA to publish on its website. The commercially sensitive details included in our original confidential response to CICRA are represented in this public version of our response by the symbol [X]. Such details are not to be revealed by CICRA to any third party without Sure’s prior and express permission.

Sure is pleased that this consultation has now been reissued, especially given that the introduction of 4G (4th Generation) or LTE (Long Term Evolution) services¹ is gathering pace in other jurisdictions including UK and other parts of Europe, whilst the award process in the Isle of Man is now also moving at a good pace. It is therefore important that customers of mobile services in the Channel Islands – including those that are roaming from other countries - will not be left behind and denied the benefits that 4G/LTE services can bring in terms of speed, etc.

We have provided detailed responses to the questions raised by CICRA below. In summary:

- Sure would like to formally register its interest in receiving spectrum within the 800MHz and 2.6GHz frequency bands and expects to submit a request for [X] of contiguous 800MHz spectrum and [X] of contiguous 2.6GHz spectrum when the formal bid stage commences later this year. Allocations need to be contiguous to enable customers to obtain the maximum benefit from the full features offered by LTE.
- CICRA should adopt an approach to spectrum suitable for 4G/LTE services that is harmonised with the approach adopted by the UK and the rest of Europe. That is, it should also make spectrum in the 1800MHz frequency band available for 4G/LTE services. This will require CICRA to redistribute spectrum within this range to remove the current issues of non-contiguous allocations held by Sure and Airtel, which give JT an unfair advantage.
- CICRA should also review how existing 900MHz frequency allocations could be redistributed to support 4G/LTE services although Sure recognises that the attractiveness of this frequency for 4G/LTE services is currently limited by device availability. As such, Sure does not agree that current holders of 900MHz spectrum should be denied the opportunity of an allocation in the 800MHz frequency band. Sure would be prepared to relinquish some 900MHz spectrum in exchange for 800MHz spectrum, provided that JT is also made subject to this requirement.

¹ We use both the terms 4G and LTE throughout this response for convenience but recognise that they are not completely synonymous



- CICRA should implement technology neutral licences across the Channel Islands for all relevant frequency bands - including 800MHz, 900MHz, 1800MHz, 2100MHz and 2.6GHz – and work with Ofcom to ensure the Wireless Telegraphy Act (WTA) licences also support this principle.
- Sure does not believe it is appropriate or necessary for CICRA to encourage a fourth operator to enter the market as part of this process. The mobile market is already intensely competitive so there is no justification for this and it could actually lead to a denigration of the customer experience as well as having an adverse environmental impact.
- CICRA must revisit the 2009 Recommendation made by the JCRA in respect of the allocation of 2.6GHz spectrum to ClearMobitel Jersey Limited (CMJ). Concerns about the process that resulted in the allocation were raised by other operators and Ofcom at the time, but were not addressed, so the Recommendation cannot be allowed to stand. This is all the more important give the current question marks regarding CMJ's financial viability, which CICRA should investigate before any licence award to CMJ is considered.
- CICRA should consider making a direct award of spectrum suitable for 4G/LTE services to existing mobile operators, rather than embark on a relatively lengthy and unnecessary full scale comparative selection process. There is no justification for adopting an auction approach to the allocation of spectrum in the Channel Islands.
- Sure continues to have concerns regarding the Guernsey Commerce and Employment Department's proposed spectrum fee. Whilst this is no longer being allowed to delay the award process for relevant 4G/LTE spectrum, the proposed fee seem to be counter to CICRA's objective of ensuring consumers' interests are protected, especially in relation to the price of services.
- The UK experience has shown that fears of widespread interference issues associated with DTT spectrum have proved to be largely unfounded. It would be disproportionate for the Channel Islands to embark on a costly modelling exercise and any issues that do arise should be resolved directly by operators.



Question 1

Respondents' views are sought on the above objectives. In particular, CICRA seeks views on the balance it should strike between these objectives and what that might mean in practice for potential applicants and users of the spectrum. These views are intended to inform the services to which CICRA should give greater priority and what obligations should be imposed on potential applicants in allocating the 800 MHz and 2.6 GHz spectrum.

Sure has no difficulty with CICRA's proposed objectives for the process and criteria for the allocation of spectrum in the Channel Islands. We believe that a consistent and simultaneous pan-Channel Islands approach to the allocation of spectrum for 4G/LTE services is of fundamental importance, and should be possible despite the JCRA and the GCRA having separate duties and operating under separate laws. The main threat to this is if the public policy objectives of the Commerce and Employment Department in Guernsey diverge from those of the Economic Development Department in Jersey to such an extent that separate processes become necessary. We therefore hope that the issue of the proposed spectrum tax in Guernsey can be kept as separate as possible from this current process so that the significant benefits of a common pan-island approach to the allocation of spectrum for 4G/LTE services will not be lost. We discuss the potential implications of the Commerce and Employment Department's intention to raise revenue through a spectrum fee in our response to question 9.

A pan-island approach will support the achievement of the other objectives identified by CICRA as well as helping to keep the costs of the allocation process as low as possible. Operators will be able to take advantage of whatever limited economies of scale may be available from rolling out 4G/LTE services across both Bailiwicks at the same time, which will help to keep costs as low as possible and so have a positive impact on the end prices paid by consumers. So a common pan-island approach will help to ensure the achievement of CICRA's proposed objective to further consumers' interests in the short and long term, especially as it refers to the range of services available and their prices.

With this objective in mind, we think it is also important for CICRA to ensure that the allocation process results in a "balanced" market in the Channel Islands whereby all licence holders are able to make sustainable investments such that they can compete effectively over the long term. The costs of rolling out a 4G/LTE network will be significant and with only a small consumer base in the Channel Islands it may be counter-productive for CICRA to encourage a fourth operator to enter the market, especially if that operator does not have a sustainable future. We discuss this further in our response to question 5 when we question the assumption that the best way to promote competition and provide a great customer experience in relation to 4G/LTE services is to encourage further entry.

In a related vein, whilst Sure is supportive of the objective of ensuring that the environmental impact of any spectrum-related activities are minimised, achievement of this objective could be compromised if CICRA encourages a fourth operator to enter the market and that operator needs to build additional masts. It should not be assumed that mast-sharing will mean this is not an issue; there may not be sufficient or suitable space on all – or even any - existing masts.

We recognise that CICRA also needs to be mindful of Ofcom's duties and believe that the introduction of technology neutral licences, which would enable operators to choose which services to provide over which frequency ranges, would go some way towards increasing the efficient use of spectrum.



Question 2

Respondents' views are sought on the above issues, namely:

- Commercial decisions based on the JCRA recommendation
- Developments since the JCRA recommendation
- Benefits of a pan-Channel Island approach
- Scale of the available 2.6 GHz spectrum

a. Commercial decisions based on the JCRA recommendation

CICRA is aware that Sure objected to the JCRA's allocation of spectrum in the 2.6GHz band made to Clear Mobitel (Jersey) Limited ("CMJ") in September 2009. At the time of the proposed allocation in 2009, the other operators, including Sure, felt that the JCRA's proposed allocation of 2.6GHz had been made without giving sufficient consideration to their Expressions of Interest. In a joint letter submitted to the JCRA by Sure (then Cable & Wireless Jersey Limited), Jersey Telecom Limited and Jersey Airtel Limited on the 15th October 2009, we expressed further concerns to the JCRA that it had decided against following the full Consultation process outlined in Telecoms Jersey Law 2002 prior to issuing its recommendation to Ofcom for the award of 2.6GHz ("Recommendation").²

The lack of sufficient consideration by the JCRA for the interests of other island operators was also recognised by Ofcom in October 2009 when it responded to the JCRA Recommendation. These concerns were not revealed to local operators until March 2012, when Ofcom's response was included as an attachment to a letter from the JCRA to all operators with an update on the implications of the Royal Court's judgement on the judicial review launched by CMJ. The JCRA letter stated that it had decided to withhold issue of licences until further engagement with local operators had taken place and more certainty surrounding operators' specific bandwidth requirements on 2.6GHz had been obtained.

We appreciate that CICRA is asking whether we have made any investments as a result of the JCRA's 2009 recommendation as the Royal Court stated that any such costs incurred would need to be taken into consideration in any subsequent consultation. Sure can confirm that given we had concerns about the allocation process in 2009, and also because we were aware of the potential airport radar and marine coastguard interference issues surrounding the 2.6GHz spectrum, we did not proceed to make any significant investments in relation to the small allocation of 2.6GHz spectrum that was granted to us at the time.

We understand, however, that a major part of CMJ's challenge to the JCRA's withdrawal of its allocation was based on some investments it had made at the time on the back of the JCRA's September 2009 allocation. However, even if CMJ had incurred cost, we do not agree this would justify allowing an allocation of spectrum to remain in place when it seems that it had not been issued in accordance with a sufficiently thorough and robust consultation process involving all interested parties. Indeed we note

² Letter to JCRA from Cable & Wireless Guernsey Limited, JT and Airtel dated 15th October 2009



that the Royal Court's judgement is also quick to point out that the commercial interests of CMJ should not for 'one moment' be seen as 'determinative.'³

In another part of its decision the Royal Court said it would be "...wrong to deprive CMJ of the opportunity of putting to the JCRA all its arguments for saying that the Recommendation should not be revoked..." Furthermore where a decision affects another party, it is a "principle of Natural Justice" that they should be given a chance to defend /justify their position prior to final judgement being made.⁴ Unlike the commercial interests of a particular operator the process of giving each operator the chance to have its case for spectrum heard is a determinative factor in the eyes of the Court. This gives further support to Sure's view that a full Consultation process must now be carried out by CICRA to satisfy the fundamental principle cited by the court.

We believe that CMJ took a commercial risk by investing funds in 4G/LTE technology and infrastructure prior to Ofcom issuing the 2.6GHz WTA licence, especially when all operators should have been aware of the interference issues that surrounded the spectrum at the time and which would have made commercial launch unfeasible. Even though JCRA had verbally given positive signs to CMJ, all operators should be aware that the actual approval and WTA licence is issued by Ofcom. Investing heavily from the outset in an attempt to gain early entry to the 4G/LTE market was part of CMJ's short term business plans. If it had gone to plan CMJ would have reaped the benefits of being the first to market and would inevitably have gained a competitive advantage.

However, it is now clear that not only were the other operators dissatisfied with the original process followed by the JCRA and the proposed allocation of spectrum that arose from that process. So too was Ofcom. The original process was fundamentally flawed and in particular the JCRA had not made clear that it had expected respondents to indicate the exact allocations of spectrum they would like to receive. The fact that the three existing operators had all believed that such specific requests were not required at that stage but an entirely new operator – CMJ – had believed otherwise, raises real questions regarding the process followed by the JCRA at the time. In light of this, the fact that CMJ have since lost money due to a change in circumstances is not a reason for CICRA validating any part of the 2009 allocation.

The consultation in 2013 gives a great opportunity for the JCRA – through CICRA - to restart the process giving all operators the opportunity to have their positions considered and to uphold the principles of fairness cited by the Royal Court. This principle should be upheld over and above the commercial success or failings of an individual operator.

We also believe it is incumbent on CICRA to ensure that the financial circumstances of CMJ have not changed so significantly since 2009 to mean that it would no longer satisfy the appropriate "due diligence" tests that CICRA should conduct before awarding an operating licence. We are aware, from the Jersey company registry website, that CMJ has failed to file its annual return and that it has also received a notice of unauthorised registered office. CMJ appeared on the public list of "strike-offs" on June 30th, so we assume this means that it will be removed from the Company's list in October. Under

³ Royal Court Judgement 22nd September 2011 : Clear Mobitel Vs JCRA

⁴ Royal Court Judgement 22nd September 2011 : Clear Mobitel Vs JCRA



such circumstances, we would expect that the JCRA would then need to revoke CMJ's Class II licence in a timely manner.

b. Developments since the JCRA recommendations

With the launch of 4G/LTE services in the UK in 2012 and 2013 and advancements in technology since 2009 it is important that the allocation of 2.6GHz is not carried out in isolation of other LTE-viable bandwidths. LTE services can now run over numerous bandwidths including the 800 MHz, 900 MHz, 1800 MHz and 2.6GHz bandwidths that the UK and Europe have identified as the main frequencies to be used at the current time⁵.

The Analysys Mason report⁶ that has been published alongside this consultation states that even with a fourth entrant such as CMJ in the market, their forecasts for spectrum demand suggest that there would be enough spectrum to provide for all operators demands. However, Sure is concerned that so long as licence terms in Guernsey remain technology specific, supply and flexibility of bandwidths is greatly reduced. This increases the risk that demand for 4G/LTE spectrum would outweigh supply and limit the variety of 4G/LTE services being made available to consumers which would affect their choice and reduce competition. Sure has long advocated technology neutrality in spectrum licensing and believes that this would help to ensure that there is adequate spectrum for 4G/LTE services for all operators who are commercially viable.

We would observe that since 2009, CMJ has incurred well publicised costs without being able to create revenue to recover them. This does raise the question of its ongoing viability as highlighted above we believe it is relevant for CICRA to establish the long term prospects of CMJ and its current financial standing to ensure that CICRA's proposed objectives for the allocation of spectrum for 4G/LTE services, as discussed in relation to question one above, are not compromised. Article 7 (2) (a) of Jersey Telecoms Law also requires CICRA to take this long term view into account. If these concerns cannot be satisfied, Sure would like to understand how CICRA intends to mitigate the risk of awarding spectrum to an operator who may no longer be in a position to deliver 4G/LTE services to market.

On a separate note, in 2009 WiMax was probably considered by some as a viable alternative technology to LTE and as a low cost alternative to fixed fibre or copper rollout this did not turn out to be in the experience in the European market place, where the wide availability of UMTS and a general desire for standardization has meant spectrum has not been allocated for WiMax. As LTE technology has continued to develop and reach commercial maturity, so the relative value of spectrum initially visualised for fixed wireless services has increased as its applicability to a true mobile (LTE) service has realised.

⁵ We recognise that other bandwidths - such as 850MHz, 2100MHz, 2300MHz, 3.4-3.6GHz – are also capable of supporting 4G/LTE services, some of which are pending the finalisation of European harmonisation discussions. We do not consider these other possible frequencies any further in this response.

⁶ 4G spectrum allocation review in the Channel Islands, Final Report for the Commerce and Employment Department of the States of Guernsey Government, 5th April 2013



c. Benefits of a Pan-Channel Island approach

In recent years CICRA's regulatory agenda has continued to drive a pan-island approach wherever possible. Sure also supports CICRA adopting this approach when making recommendations to Ofcom for local spectrum awards.

From a technical perspective it makes sense that where possible spectrum is aligned across islands for optimal use by operators, however this does depend on the level of supply and reviewing current allocations. It should be a goal to harmonise spectrum allocation between Jersey and Guernsey but careful consideration must be given by CICRA if some bandwidths cannot be harmonised or where re-farming certain bands would bring unnecessary detriment to an operator.

Introducing technology neutral licenses would increase flexibility and resource to achieve the harmonisation goal. There are also technical benefits to inter – island communications if spectrum is harmonised. The most important benefit is that it will enable all operators to re-farm existing 2G frequency assignments for 3G/4G use, thereby increasing supply. Secondly, the efficient use of spectrum can be maximised if planned in the Channel Islands in a similar way to that in the UK and France: this will reduce the severity of cross-border interference issues, and will also benefit mobile operators in the Channel Islands who will have access to harmonised equipment markets. This will benefit consumers and will be particularly important for 4G/LTE compatible devices.

Sure has the general view that the whole mobile community, including users, operators and vendors, benefit from harmonized spectrum usage. A harmonized approach guarantees the timely availability of cost efficient equipment due to economies of scale and also brings more choice for customers in terms of handset device brands and models.

d. Scale of the available 2.6 Spectrum

Sure notes that there is some 190MHz of 2.6 GHz spectrum available, of which CMJ's allocation from the 2009 JCRA Recommendation amounts to 2x20Mhz. Regardless of whether there would be sufficient spectrum available if CMJ were to keep its original allocation of 2 x 20MHz, we do not believe it would be appropriate for CICRA to take this approach, given the concerns that other operators – and Ofcom – raised at the time that CMJ's allocation was made. CICRA now has the opportunity to start afresh and it should do so. This should include consideration of whether CMJ is still financially sound and also whether it is capable of using any spectrum for 4G/LTE services effectively and efficiently, a point which we discuss further in response to question 5.

Question 3

Views are also sought on any other relevant factors respondents believe CICRA should take into account regarding existing recommendations to the extent they are relevant to future spectrum awards.

In the event that CICRA decides to allocate spectrum to CMJ, Sure would seek reassurances from CICRA that it is satisfied that CMJ would be capable of launching 4G/LTE services in the near future. Sure does



not believe the market requires a fourth operator as we explain in response to question 5, however at the very least Sure expects any decision allowing CMJ to enter the market to be accompanied by information in support of CMJ's financial standing. It would also seem to be proper and diligent of CICRA to issue spectrum to a fourth operator on a conditional basis with strict timelines for the launch of commercial services. We would refer CICRA to previous correspondence⁷ where we have raised the concept of "use it or lose it" conditions in licences to prevent spectrum hoarding.

If CMJ were to be awarded a licence only to then find themselves shortly afterwards at a point of failure or exit, CICRA would have to incur further work and cost in taking the necessary action to deal with such failure.

In addition to CICRA's cost of having to deal with such failure, operators would also find themselves back in a situation where spectrum would have to be reallocated on a three operator model. We accept Sure and other operators would see a benefit from an increase in bandwidth availability as a result of CMJ's exit but we would not appreciate having to incur further time and cost of doing this if such an event could have been avoided by CICRA carrying out the appropriate due diligence processes.

Question 4

Respondents' views are sought on the above aspects and on any other which respondents consider relevant. Views are also sought on the weight that should be given to each of these in any decision around spectrum awards and what these mean in practice for the construction of any award process.

- 1) A high proportion of sub-1GHz spectrum is held by the two local incumbents, Sure (Guernsey) Limited in Guernsey and JT (Jersey) Limited in Jersey*

We discuss the question of whether a cap should be placed on the allocation of sub-1GHz spectrum in response to question 7. The key point is that, currently, not all sub-1GHz spectrum is of equal value in terms of its suitability for providing 4G/LTE services, due to limitations on device availability. Therefore a large allocation of 900MHz should not offer an operator any advantage with respect to these services so it would be too simplistic an approach for CICRA to consider withholding 800MHz spectrum from an operator holding a large proportion of 900MHz spectrum.

- 2) Reliance is still placed on using the incumbent's fixed network in each islands*

Reliance on an incumbent's fixed network is not viewed by Sure as an issue. Sure operates in three distinct jurisdictions, in two of which Sure is not the incumbent, but in all three Sure's mobile business takes wholesale services from the fixed network operator on a regulated basis.

Sure utilises a combination of its own assets such as radio, and those of wholesale providers, Ethernet backhaul. Commercial drivers are predominantly the determining factors on whether to utilise an incumbent's networks, and in some cases it is not the annual recurring charges that are the problem but the charge associated with extending the incumbent's fibre network to rural mast sites. Radio can be

⁷ See for example our response submitted 16 January 2009 to the OUR's Information Note "Licensing of 2.6GHz spectrum", attached in the Appendix for ease of reference.



utilised to provide backhaul to mobile base sites if it is not feasible to utilise the products offered by the wholesale providers. The impact of utilising radio for backhaul is two-fold: firstly there is an environmental impact in terms of the physical mounting of the dishes and associated equipment, and secondly the radio emissions associated with transmit and receive function of the radio. All of these considerations are taken into account when constructing a base site.

In essence, the point is that even though Sure is both a fixed and mobile operator, as is JT, the respective mobile businesses do not have any advantage by virtue of the fact they have a fixed network. All mobile operators are treated equally in terms of the provision and maintenance of communications to mobile base sites.

3) Environmental concerns exist around the number and size of masts

In any mobile market, the number of base sites required on day one of the launch of a new technology will be significant. With technology advancements, however, efficiencies are made which in some cases result in a reduction of the number of sites required. Wherever possible, it is Sure's intention to use facilities already in place by upgrading radio equipment to be 4G/LTE compliant, thereby minimising the environmental impact from the introduction of this new technology. Other factors such as the spectrum allocated for a particular technology will also have a material impact on the environmental impact of site deployments. In order to respond to this question fully, some background has been provided below.

Physical Number and Size of Masts

The number of and placement of base sites/masts is determined by a number of factors, the two most relevant in the Channel Islands being:

- Spectrum allocation
- Geographic composition of the territory

In terms of spectrum allocation, the lower the frequencies within the spectrum allocation, the better the coverage in terms of geographic spread, and also in terms of building penetration. The first networks that were built required a certain number of masts to provide the geographic spread, with an additional number to provide coverage in areas where there are topographical challenges, such as in valleys, where there are shadows from hills etc. The other factor to consider, which was particularly relevant in the earlier days of GSM networks, is the number of devices and throughput to each site. This factor sometimes results in additional sites or sectors on sites to cope with the sheer volume of users or data flowing through a particular site which in turn alters the appearance of the site or network.

Planning laws in each of the islands have been modified over time to facilitate the controlled development of mobile networks whilst staying within the spirit of the policies in each geographic zone where mast construction occurs.

One of the key initiatives introduced in both Guernsey and Jersey is mast sharing or site sharing. In the first scenario, the initial construction of mobile base sites was built around the existing assets, which in both cases comprised of existing towers primarily, followed by other structures that have the features required to facilitate coverage. The towers consist of a mix of telecom which already had dishes and



infrastructure attached, and also some used for television broadcast which also had infrastructure attached. The other structures consisted of chimneys, water towers and other tall structures such as buildings, these again absorbed some of the visual impact of mobile infrastructure, which in terms of environmental impact, had minimal impact.

The sharing described above is a form of site sharing, initially between a single mobile operator and an asset owner. The next variant of site sharing took the form of a second mobile operator sharing the assets of the incumbent, such as towers or buildings. This initially took the form of commercial negotiations between operators, and in later stages the Planning authorities put in place conditions to push mobile operators towards further sharing of masts/sites rather than construct Greenfield sites. It must be noted that consideration for the physical impact on the asset owner's towers must not be underestimated. Each tower or mast site has been built to a specification which takes into account loadings, windage, access etc. These are factors that have a material impact on the safety of the structure and take precedence over commercial agreements.

Also to be noted is that when a new tower is constructed, if the intention is to build a structure that can accommodate additional infrastructure at a later date, the additional cost and environmental impact of a larger structure has to be considered carefully so that the asset owner does not bear all costs and liabilities for the additional function of the site.

The next phase of construction of a mobile network, once the existing asset base has been exhausted, is to construct Greenfield sites. These are constructed in a blend of high density zones, urban zones and rural zones.

High density zones tend to visually absorb new sites as options such as panels disguised as shutters or rooftop mounting can disguise the infrastructure. In high density zones there are a number of potential locations that can accommodate infrastructure and it is a combination of commercial, planning and coverage considerations that determine the ultimate site of installation. Backhaul from wholesale providers tends to not be an issue in high density zones as generally there will be assets serving existing consumers in these zones.

Urban site build is not as straightforward as in high density zones. There tends to be less existing physical infrastructure and the option of constructing a new site from nothing is often the result. Considerations are significantly higher in terms of acquiring land, obtaining planning consents, civil works, mast costs and extending power and communications to the site. The impact of a Greenfield construction is visually noticed by the surrounding residents and therefore tends to attract more attention in the planning cycle. In most cases, the site is constructed for a single operator as to accommodate additional operators requires a joint approach from concept stages. This is due to the fact the mast has to be significantly bigger to accommodate more sectors and feeders and also separate access is required for each operator's assets. The plinth has to accommodate twice the footprint of equipment and the power and communications to the site has to be adequate for twice the equipment base. All in all, the physical impact of sharing a mast/site can have a significant visual impact over that of a single operator site. The cost considerations for building a combined site must also be taken into account for the reasons listed previously, whereby the initial investment cannot be absorbed by the operator who initiates the site build.



Rural site build is similar to urban but with stricter planning regulation and, in some cases, significantly higher costs to extend and connect power and communications. Rural build does not lend itself to mast sharing in that the structure required to accommodate 2 or more operators has a much greater visual impact which generally speaking would not be seen as favourable when considered in light of the rural development plans of each island.

In light of the above explanations on considerations made when building sites, there are a large number of factors ranging from technical through to commercial that all require planning. Technologies such as Femto/Pico can assist with coverage improvements which in some cases can result in negating the need to build a new site to fill a geographic black spot. This advancement has not been widely publicised but has discreetly helped negate environmental impact challenges.

Sure works with the planning authorities in both islands and also pays attention to UK guidelines/best practice for site deployments.

4) There is a desire to maintain consistency with the approach and timing of awards in larger consumer markets;

Sure notes CICRA's desire to maintain consistency with the approach and timing of awards in larger consumer markets. We certainly agree that it is important that the Channel Islands do not get left behind in the adoption of 4G services, especially now there is an increased impetus behind rolling out these services in neighbouring countries such as the UK. A large proportion of visitors to the Channel Islands are from the UK and it is only natural that they will expect to be able to continue to receive 4G services when they are roaming here.

Sure does not agree, however, that maintaining consistency of approach to awards with larger consumer markets is appropriate if this is intended to suggest that the allocation of spectrum should be done through an auction process. The Channel Islands are obviously much smaller markets and the cost of running an auction process such as used in the UK will only feed back through to consumers in the form of higher prices. In addition, if an auction resulted in the exclusion of some of the existing operators – if, for example, their bids were relatively smaller than the winning bid(s) – then this could be contrary to CICRA's objective of furthering consumer interests as such operators would then not be able to offer a full range of mobile services.

Even a full comparative selection process would be disproportionate for the Channel Islands and would unnecessarily extend the time it will take for allocations to be made as well as result in unnecessary costs for both CICRA and the operators. We are surprised that CICRA has not drawn attention to the suggestion by Analysys Mason that a simple direct award of spectrum for 4G/LTE services could be used if only the existing operators are interested.⁸ Such an approach would seem to offer a means by which awards could be made relatively quickly, thus enabling CICRA to meet its objectives as soon as possible.

Sure believes that there could still be scope to use a direct allocation approach even if another operator were to come forward; CICRA could make it a condition from the outset that any awards would be subject to the fulfilment of certain obligations within a certain timeframe. Such an approach is currently

⁸ P. 129 Analysys Mason report, op cit



being considered by the Communications Commission in the Isle of Man, which CICRA may wish to refer to. If confirmed, the approach could see 4G licence awards being made in the Isle of Man by the end of October 2013, just some three months after the Communications Commission issued its formal consultation⁹.

- 5) *The small scale of the Channel Islands has potential implications for the number of competitors feasible in these markets;*

Sure believes that the Channel Island markets are barely capable of supporting three mobile operators, a view that is supported by others in the market. For example, in a recent press article, a spokesperson for Airtel commented “There is no economic sense in having three operators here. The market is too small.”¹⁰

Mobile services in the Channel Islands are intensely competitive, and all existing operators work to very small margins, as can be verified by considering the financial results for Sure’s mobile services as set out in Sure’s published separated accounts. [X] Whilst it should be for any potential entrants to make their own commercial decisions as to whether or not it is feasible and sustainable for them to enter and operate in such small markets, we do believe that CICRA has a certain responsibility to ensure that its regulatory and licensing actions do not have adverse effects on the market. In the specific context of 4G/LTE, this should include consideration of whether sharing the available spectrum between too many operators could result in a downgraded consumer experience. This would seem to be contrary to CICRA’s proposed objective of furthering consumers’ interests. We discuss the question of a potential fourth operator in more detail in response to question 5 below.

- 6) *The option of an auction approach in allocating spectrum may be less attractive for smaller jurisdictions*

We agree with CICRA that it is not appropriate to consider an auction approach for the allocation of spectrum in the Channel Islands as this will only add to the final price that consumers will have to pay for these services. We consider the appropriate allocation method in more detail in our response to question 17.

Question 5

CICRA seeks views on whether it should structure its work so as to encourage a fourth telecommunication operator to provide mobile services in the Channel Islands.

As we have already noted above, we do not believe that the Channel Islands is a large enough market to support a fourth operator. As CICRA itself states, a four operator market was considered feasible for the UK but this assessment was based on the fact that the UK has a population that is more than 400 times the combined size of the two Bailiwicks of Guernsey and Jersey. Similarly, the market in Ireland, which also has a four operator model, is 30 times the size of the Channel Islands.

⁹ Consultation on the proposed licensing of 4G Mobile Services and Notice of Proposed Modifications to Existing Licences, Communications Commission, 1st July 2013.

¹⁰ See article available at <http://www.thisisguernsey.com/business/2013/08/15/three-mobile-operators-means-uncomfortable-competition/>



We would have concerns if CICRA were to actively encourage a fourth entrant as part of this current process, given the relatively small size of the Channel Islands markets. CICRA has a responsibility to ensure that the mobile market is one in which *sustainable* competition can be supported and should not be actively encouraging a fourth operator on the mistaken assumption that the larger the number of competitors in a market, the more competitive it will be. It is difficult for us to see how the Channel Islands can support a new entrant to the mobile market and given there is absolutely no evidence to suggest that any of the existing operators are earning supernormal profits, we do not understand the justification for encouraging such new entry.

We also note that the Analysys Mason report has highlighted some potential negative effects of a fourth operator entering the market, including the impact of a new entrant taking some time to build up market share with the result that its network remains inefficiently empty for some time.¹¹ This could have an adverse impact on the availability of spectrum for the existing operators and given that Analysys Mason assumes that it could take a significant amount of time – some 13 years – to reach a market share of 15%, this would seem to be a significant risk. Whilst we recognise this is only an assumption and that in practice it could take less time for an entrant to reach a reasonable market share level, it does beg the question as to whether such entry would actually help increase competition or whether its only effect would be to degrade the overall consumer experience.

Analysys Mason has highlighted that a fourth operator would raise the risk of spectrum shortages specifically for Sure and Airtel, due to the current inequalities in spectrum holdings whereby JT holds significantly more sub-1GHz spectrum than any other operator. In view of this we believe that rather than trying to facilitate the entry of a fourth operator, CICRA should be trying to remove the current inequalities in spectrum holdings of existing operators. If all existing operators had the opportunity¹² to hold the same amounts of frequencies across all frequency bands then this would level the competitive playing field and would seem to offer a better means of ensuring sustainable competition in the Channel Islands. We recognise that a full realignment of allocations may take some time – particularly within the 900MHz band for a variety of reasons including the existing 2G frequency coordination MoUs between the UK, Channel Islands and France – but this would seem to be more of a priority for CICRA than trying to encourage a fourth operator into an already intensely competitive market place.

In this respect we also note that Analysys Mason has highlighted that the small amount of 800MHz spectrum available could only sensibly be divided between three operators.¹³ It would seem odd were CICRA to choose to allocate some of this spectrum to an unproven fourth operator to the disadvantage of the established operators.

Finally, CICRA should not underestimate the potential negative impact on the environment as has been highlighted by Analysys Mason as a possible consequence of a fourth operator entering and requiring new mast sites.¹⁴

¹¹ See section 7.14, op cit.

¹² By which we mean that no operator should be obliged to hold the maximum amount of spectrum that could be made available to them if they preferred to have a smaller frequency holding.

¹³ P.75 Analysys Mason report, op cit.

¹⁴ P.95 Analysys Mason report, op cit.



Question 6

CICRA seeks views on whether spectrum caps should apply as part of any award process and to what extent the issue of contiguity of any existing or new allocation is material to any decision process. If caps are seen to be appropriate or the need for contiguity of spectrum is important, respondents are asked to set out their preferred approach to dealing with these areas and reasons.

For operators to be able to provide the best customer experience they need to have an appropriate mix of spectrum capable of delivering 4G/LTE services. Whilst this current consultation is specifically focused on possible allocations within the 800MHz and 2.6GHz frequency bands, the 4G/LTE capabilities of the other frequency ranges need to be considered too, alongside the extent to which roaming customers will expect to receive 4G/LTE services across a wide range of frequencies. In particular, we note that the UK and Europe have identified the 800MHz, 900MHz, 1800MHz and 2.6GHz frequency bands as suitable for 4G/LTE services, but has recognised that the suitability of the 900MHz bands for 4G/LTE services is currently limited.¹⁵ This is due both to the existing use of this band for 2G services and the limited availability of handsets that can offer 4G/LTE services over the 900MHz frequency.

CICRA states that there is a maximum of 70MHz of frequency available for allocation within the 800MHz band and 190MHz of frequency available in the 2.6GHz band, including the 2x20MHz that has been reserved for CMJ. The Analysys Mason report shows¹⁶ that the maximum spectrum available in the 800MHz frequency is 2x30MHz, whilst in the 2.6GHz frequency there is 2x70MHz of unassigned spectrum (that is, it excludes the spectrum currently held in reserve for CMJ.)

In the current three operator model in the Channel Islands, we believe that this should offer sufficient spectrum for all three operators to be able to offer a good 4G/LTE experience. [X] We discuss below in response to question 7 what this means in terms of a possible cap on sub-1GHz spectrum. [X] The remaining 2.6GHz spectrum could be held in reserve for future use, and in particular for LTE-advanced services.

We note that there is also spectrum available in the 1800MHz frequency band, which as Analysys Mason observes, has become a popular band throughout Europe for initial LTE deployment as it offers a good mix of coverage and capacity.¹⁷ Sure therefore believes that CICRA should explicitly include 1800MHz frequency in its consideration of the allocation of frequencies suitable for 4G/LTE services, which will require CICRA to take a technology neutral approach as well as initiate a redistribution of allocations within this frequency band.

JT currently has an advantage over both Sure and Airtel with respect to its 1800MHz allocations across the Channel Islands. In Jersey, JT holds the largest allocation of 2 x 11.6MHz whilst both Sure and Airtel's allocations (of 2x10MHz and 2x5MHz respectively) in Jersey are non-contiguous. In Guernsey, JT again holds the largest allocation with 2x10MHz of 1800MHz compared to Sure's 2x5MHz allocation and Airtel's 2x6.2MHz non contiguous allocation.

¹⁵ P.101 and 102 Analysys Mason report, op cit.

¹⁶ Table 4.1 page 33, op cit.

¹⁷ P.123 Analysys Mason report, op cit.



As part of this process, and in line with Analysys Mason's recommendation, CICRA should redistribute spectrum within the 1800MHz frequency band to ensure that all operators have the opportunity to hold equal, contiguous allocations of 1800MHz spectrum. Analysys Mason's results suggest that, in the case of just the existing three operators being awarded licences to provide 4G/LTE services, redistributing the 1800MHz spectrum to achieve contiguous blocks and to give each operator an even (2x25MHz) split of the 1800MHz band is beneficial to the overall market allocations. It should also allow each operator some leeway for their spectrum demand to be slightly higher than that forecast in the modelling of data traffic. Further to this and even at Analysys Mason's highest theoretical traffic levels (30% level of fixed-mobile substitution, compared to the 15% substitution assumed in base case), it highlights that even with JT's reduced spectrum levels due to reorganisation of the 1800MHz band, there is still no excess spectrum demand from JT, with a significant margin still existing in both Bailiwicks.

The need for this redistribution of 1800MHz spectrum is enhanced by the fact that currently it is the 1800MHz band that supports the greatest number of available LTE smartphones.¹⁸ It could therefore give JT an unfair advantage if the current imbalanced allocations were to be allowed to persist so in that sense, we agree that it may be appropriate for CICRA to consider a cap on some frequency allocations.

Of course the use of 1800MHz for 4G/LTE services would require CICRA to implement technology neutral licences in Guernsey, and for Ofcom to make the relevant WTA licences in Guernsey and Jersey technology neutral. Sure has long been supportive of technology neutral licences as it should help to ensure the most efficient use of spectrum and would give operators the commercial discretion to decide which services to deploy over which frequencies. We recognise that some redistribution of spectrum holdings may be required as a prerequisite for technology neutral licences.

Handset availability is also relevant to CICRA's consideration of the suitability of the other spectrum frequencies to allocate to operators. Analysys Mason report that whilst handset/tablet availability is highest in the 1800MHz band, the 800MHz band is becoming one of the most popular bands in terms of device availability due to the large number of European mobile operators being awarded 800MHz licences.¹⁹ By contrast, the 900MHz band is the least well-supported in terms of device availability. This has implications for CICRA's proposal to restrict access to 800MHz frequency to operators who currently have large allocations within the 900MHz band, as we discuss further below in response to question 7.

Sure would also like to mention some other relevant handset issues. [X] Technology neutrality as mentioned above would make it easier to support all existing and future customers, as well as ensure the most efficient use of spectrum. Spectrum that is currently used to support a 2G base could be readily re-farmed to support an LTE base as customer demand for 2G dwindles, and LTE grows.

[X]

It may also be relevant for CICRA to consider the limitations that one of the largest device providers, Apple, places on the 4G/LTE networks that their devices will connect to. Unless a network has been approved by Apple for speed and experience, customers will only be able to access 3G/HSPA+ speeds. We expect Apple approval to be significantly delayed post launch due to their internal processes and the

¹⁸ Table 4.6 of Analysys Mason report, op cit.

¹⁹ P. 36 Analysys mason report, op cit



size of the Guernsey and Jersey markets, which will limit the experience for a large number of customers.

Question 7

Views are sought on whether a sub 1 GHz spectrum cap is appropriate as a criterion for making any award, and the appropriate level of such a cap, if any.

Sure recognises that there are currently unequal allocations of sub-1 GHz spectrum, with Sure holding the majority of 900MHz spectrum in Guernsey and JT holding the majority of 900MHz spectrum in Jersey. We also recognise that there are considerations surrounding the existing MoUs between the UK, Channel Islands and France with respect to the use of 900MHz for 2G services which may make it difficult to address this imbalance immediately.

However, it is clear that there are currently limitations on the suitability of 900MHz spectrum for 4G/LTE services, not least due to the limited availability of suitable handsets. Therefore, whilst Sure is generally supportive of the principle of placing a cap on the amount of sub-1GHz spectrum that any one operator may hold in any jurisdiction, it does not believe it would be acceptable or appropriate for this to be done by not allowing Sure (or even JT in Jersey) to hold any 800MHz spectrum from the outset. This would give an unfair advantage to Airtel – or any unproven fourth operator that may enter the market - who by default would then have the majority of the only sub-1GHz spectrum currently capable of supporting 4G services.

Sure would be prepared to relinquish some of its existing allocation of 900MHz spectrum in exchange for an allocation of 800MHz spectrum and notes that this is an option that has also been suggested by Analysys Mason. We must be allowed to have an allocation of 800MHz spectrum given its superior propagation characteristics, more consistent service and overall improved customer experience. However, it is important that CICRA ensures that a common approach is applied to all operators and that JT should also be required to relinquish 900MHz spectrum before being allocated any 800MHz spectrum.

Question 8

Do you agree that CICRA should use the opportunity provided by the allocation of new spectrum to rationalise other parts of the spectrum

As we have noted elsewhere in this response, we believe that this is an ideal opportunity for CICRA to rationalise other parts of the spectrum in the same way as it has rationalised the 2100MHz spectrum. In fact, we are disappointed that more progress has not been made with rationalising other spectrum bands, especially as we have engaged with CICRA on a number of occasions on this issue over recent years. In May 2011²⁰ we asked why the JCRA/OUR had stopped referencing the realignment of the 1800MHz frequency band when originally this had been part of the same work programme as the

²⁰ Letter to John Curran dated 23rd May 2011, "Ref: Realignment of 2100 MHz spectrum between Islands OUR REF 11/08". Copy included in Appendix for ease of reference. (Please note confidential status of letter remains)



realignment of the 2100MHz frequency band. We don't believe we ever received a response to this question.

Question 9

Views are sought on whether the charge proposed by the States of Guernsey raises special issues for CICRA in determining an appropriate allocation of spectrum in Guernsey or in the Channel Islands

CICRA already has a copy of the response that Sure submitted to the consultation by the Guernsey Commerce and Employment regarding its proposal to introduce a spectrum charge, but it is worth summarising our main views here, especially in terms of the impact such a charge would have on the prices any consumers in Guernsey would pay for services depending on radio spectrum.

Sure is aware that the Commerce and Employment Department regard a spectrum charge in Guernsey to be justified on the basis that radio spectrum is a limited Island resource, which is utilised by mobile operators for their commercial gain. Therefore they conclude that the mobile operators should make a financial contribution to the Island in recognition of this.

There are a number of flaws to this line of thinking. First, in terms of the scarcity of spectrum, the Analysys Mason report – which was of course commissioned by the Commerce and Employment Department – does not support the view that radio spectrum in the Channel Islands is a scarce resource. In fact it states that “...the demand for spectrum does not exceed current and planned assignment, for any of the existing operators...”²¹ although it recognises that efforts should be made to improve assignment efficiencies, including the realignment of the 1800MHz band. Analysys Mason also notes that there would be sufficient spectrum to support a new entrant, although emphasises this does not mean that any new entrant would be commercially viable.

Second, in terms of the mobile operators using spectrum for their commercial gain, there seems to be a perception that the mobile operators are all making super-normal profits in excess of their cost of capital from their use of spectrum. This is certainly not the case. [3<]

Following on from the above, we strongly object to the suggestion that the mobile operators do not currently make a financial contribution to the Island. In 2012, Sure paid a total of £2.9m to the Guernsey coffers in the form of taxes and regulatory fees, plus a further £2.1m in the form of payments for services provided by States' owned utilities.

Should the Commerce and Employment Department proceed with its plans to impose a spectrum fee then this would mean an additional cost to Sure of at least £770k.²² Sure could simply not absorb such an increase in its costs when it is already operating at very small margins. We would therefore have no alternative put to pass on these increased costs to consumers. As we have noted in our response to Commerce and Employment, we would propose to do this as an explicit line item on our bills, but

²¹ P. 4 Analysys Mason report, op cit.

²² This has been calculated by applying 5% to Sure's mobile revenues as reported in its separated accounts. However, the current lack of clarity of the scope of the proposed spectrum fee in terms of the services against which it would be applied means that this cost could be higher.



however the costs are passed on, the end result will be the same: consumers of mobile services in Guernsey will face higher prices than they would in the absence of such a tax.

It is therefore difficult for us to see how such a policy is consistent with the CICRA objective of ensuring that the short and long term interests of consumers are protected, especially in relation to the cost and prices of services.

We also highlighted in our response to Commerce and Employment how there could be knock-on effects in Jersey if the proposed introduction of this tax were to prevent a pan-island approach to the allocation of spectrum from being taken. Conducting separate processes for each island would only increase the costs of all parties concerned, and ultimately lead to higher prices for Jersey consumers as well as Guernsey consumers. Hopefully, however, this current consultation means that the risk of separate processes being followed has now been reduced somewhat.

Question 10

Views are sought on the benefits of these two areas in which spectrum can be deployed and to what extent a strategic choice between them may be needed in any allocation decision

Sure believes that 4G/LTE spectrum has a valuable part to play in supporting the alternative delivery of services currently provided over the fixed network infrastructure and therefore supports the prospect of LTE widening the choice of competition in the fixed line market through the utilization of LTE spectrum. The Analysys Mason report also recognises the opportunity for 4G/LTE to provide consumers with a real alternative to the current range of Fixed Broadband products whilst also being ‘truly mobile.’²³

[X]

4G/LTE provides three distinct services: one, a fixed broadband replacement technology; two, a bridge between high speed home fixed broadband and a comparable speed service when mobile, and three, a high speed data service for inbound roamers. In Guernsey and Jersey there will be equal demand for all services and it is for that reason, spectrum needs to be provided evenly between the incumbent and the competitor(s).

Question 11

Respondents’ views are sought on the issues in this section and, where additional considerations are identified, they are invited to set these out also. In particular, CICRA seeks views on the environmental factors – including actions in which telecommunication companies should engage that might inform the construction of any award process and the weights or priorities it should give these factors in deciding on awards.

Primarily we would refer CICRA to our detailed response under question 4.3 regarding the various factors that will determine whether additional masts will be required as part of the allocation of

²³ P.97 Analysys Mason report, op cit



spectrum for 4G/LTE services. As explained in that response, the introduction of new technology can have a material impact on the environment which may not be aligned with the local planning and development guidelines. In consideration of this – the body allocating spectrum must take into account the technical requirements that manifest into physical requirements – such as the number of sites and sectors required to achieve the desired coverage plan.

A basic rule is the lower the frequency the less sites are required – the higher the frequency the greater the number of sites required. It is critical the balance of spectrum allocated is considered proportionally with the potential impact on the environment and the relevant planning and development guidelines.

A by-product of building additional sites is the connectivity of the site to the operator’s mobile core, and connectivity to the power supplier’s network. If more sites are required due to the spectrum range allocated, additional support infrastructure is required. This takes the form of:

- a. Power – either extension from the incumbent power suppliers network
- b. Power – via self supporting system such as wind or solar
- c. Fixed communications – through wholesale supplier
- d. Wireless communications – as alternative to Fixed via radio

The considerations above not only have environmental impacts and commercial impacts in terms of cost per site build, but also time impacts in that it takes longer to build a new site than to upgrade an existing site.

In addition to impacts derived from spectrum allocation, the addition of a fourth operator would have a significant impact on the environment. This would be in the form of all considerations raised in response to question 4.3 above, with particular attention on the suitability of existing mast configurations and the visual impact that additional sectors or structures would effect.

Question 12

Respondents’ views are sought on the above issues and, in particular, what specific combinations of 800 MHz and 2.6 GHz spectrum should be made available, or whether spectrum in these two bands should be made available as separate awards. Operators that intend to seek spectrum awards are requested to set out, in as detailed a manner as possible, what spectrum is sought and to what purpose.

Sure believes that spectrum for 4G/LTE services should be made available across a range of frequency bands in order to ensure that coverage and capacity is maximised. Making spectrum for 4G/LTE use available across several frequency bands is a key recommendation of the Analysys Mason report.²⁴ In addition, the use of a range of frequency bands will help to ensure handset compatibility such that any roaming customers, whether from the UK or further afield, will be able to access 4G/LTE services whilst in the Channel Islands. This will be helped if CICRA applies the concept of technology neutrality to

²⁴ Section 12.2 Recommendations, P. 128 Analysys Mason report, op cit.



spectrum allocations in other bands that are currently used to provide 2G and 3G voice and data services, and also ensures that any WTA licences issued by Ofcom are no longer technology specific.

So if, for example, the operator wanted to use the 2100MHz frequency for 4G/LTE services it could do so. This would be consistent with the approach confirmed by Ofcom in July of this year,²⁵ whereby UK licensed mobile operators are allowed to employ 4G/LTE technologies in each of the 900MHz, 1800MHz and 2100MHz frequencies. Whilst recognising that operators may not want to deploy 4G/LTE services in these bands for some time, Ofcom noted the advantage of liberalising these bands now so that operators could plan and implement a transition to 4G/LTE technology in these bands without having to engage in a further regulatory process. We note that the Isle of Man Communications Commission is also intending to take this approach.

CICRA has stated that there is a maximum of 70MHz of frequency available for allocation within the 800MHz, although we note that Analysys Mason shows the maximum availability to be 2x30MHz.²⁶ There is also 190MHz of 2.6GHz spectrum available, including the 2x20MHz that has been reserved for CMJ. We do not believe it appropriate for the CMJ allocation to stand for the reasons given in response to question 2.

In the current three operator model in the Channel Islands, we believe that this should offer sufficient spectrum for all three operators to be able to offer a good 4G experience, with CICRA able to offer [X] within the 800MHz band. We have discussed in response to question 7 what this means in terms of a possible cap on sub-1GHz spectrum. There is also sufficient spectrum available within the 2.6GHz band for each operator to be offered [X], which would be sufficient for all operators to offer a great customer experience. This would still enable CICRA to consider holding the remaining 2.6GHz spectrum in reserve for future use, and in particular for LTE-advanced services, as is currently being considered in the Isle of Man.

Sure would therefore specifically request an allocation of [X] of 800MHz frequency and [X] of 2.6GHz frequency, such allocations to be made at the same time so that the same range of 4G/LTE compatible frequencies is available to customers – including roaming customers – as are currently available in the UK and other parts of Europe. This should be accompanied by changes to the operating licences in Guernsey to make them technology neutral, as Jersey licences currently are, with the same changes being made to the WTA licences issued by Ofcom.

Question 13

Views are therefore sought on whether this approach is desirable and what CICRA might need to ensure is in place to give effect to any such approach

Sure thinks it would make sense for CICRA to consider whether tradeable licences should be introduced to the Channel Islands and would draw CICRA's attention to previous comments we have made on this

²⁵ See Statement by Ofcom published 9th July 2013, available at: <http://stakeholders.ofcom.org.uk/consultations/variation-900-1800-2100>

²⁶ See table 4.1 P. 33 Analysys Mason report



issue.²⁷ We do believe there are a number of issues that CICRA would need to consider more closely before making a decision on this issue. Whilst we can see that licence trading would give operators an easy exit route there is a concern that this could encourage unsustainable entry to the market in the first place, which could have adverse consequences for existing operators, especially if it impacts the spectrum allocations they receive. In addition, there would need to be clear parameters set around tradeable licences to ensure that they could only be traded between properly licensed operators. There may also be a concern that the ability to buy more spectrum from an operator who is exiting the market could lead to unbalanced spectrum holdings and also possibly encourage strategic spectrum hoarding by operators. We would draw CICRA's attention to previous comments we have made on tradeable licences

Question 14

Views are sought on whether responsibility, if any, for the cost of filters for the Jersey airport radars should be on telecommunication operators in Jersey only.

Question 15

Views are sought on how the cost of installing filters at Jersey Airport should be shared among telecommunication operators, whether it should be the operators active in the 2.6 GHz band only, or those operating in all the bands that could be substituted for the 2.6 GHz band, or those offering 4G services, or operators using other spectrum also.

Sure notes that both Questions 14 and 15 relate directly to the costs of mitigation and filtering any possible interference to aviation radar systems so we have provided a consolidated answer to both questions:

In Jersey the use of the 2.6GHz band for 4G/LTE sees the potential main interference constraint arise from the use of adjacent "S-Band" (2.7-3.1GHz) for the States of Jersey airport radar systems. It is noted though that the French military also use spectrum within the 2.6GHz band for military fixed links, though it is understood that this usage is being cleared and will be fully vacated by the end of 2013, but this needs to be verified and confirmed by Ofcom.

In addition French mobile operators have recently commenced a limited roll-out of 4G services across the water on the adjacent Normandy peninsula, and whilst it is understood that currently there is no evidence of any "interference" resulting from these installations it is being recommended that as these installations are relatively new that the situation be closely monitored. Therefore it is apparent that there is a list of potential interference issues, some from off island that makes it essential that cross-border consultation determines that if there are any issues that these are resolved by satisfactory negotiation by all parties. Therefore the position of Sure is that it does not believe that it is the sole responsibility of the Jersey mobile operators alone to cover the costs of filters for Jersey airport.

²⁷ For example: Response to Licensing of 2.6GHz spectrum, January 2009, op cit.



Sure notes that in the UK a radar modification programme has been ongoing since 2012, with the cost of these modifications being partially funded by the UK government under a scheme administered by the Department of Transport (DfT) which covers 80% of the costs up to GBP300,000 per air navigation provider. In Jersey It is understood that budgets have already been allocated and approved for the installation of the required filters at Jersey airport and Sure understands that this work is scheduled for completion by the end of September 2013.

Question 16

Respondents' views are sought on all five points above: the value of forecasting model, KPIs, survey of existing DTT services, the setting up of a central delivery service, and the allocation of DTT mitigation costs.

Sure is aware of the potential DTT interference issues associated with the 800MHz band, although we note that the fears of widespread interference in the UK market have proved to be largely unfounded.²⁸ On this basis, we believe that it would be completely disproportionate and unnecessary for the Channel Islands to embark on a similar route as the UK and enter into a costly modelling exercise. It would seem to be far more appropriate to instead address any issues as they arise. We believe that any interference issues that do materialise could probably be quite simply addressed through the use of appropriate filters and note that Ofcom has already considered this issue in some detail.²⁹

We believe it would be appropriate for holders of 4G/LTE compatible frequencies to deal with any potential interference issues themselves. Sure would recommend that the cost of filters, if required, should be shared equally between the spectrum holders, providing spectrum is shared out equally. It would be unfair if the operator with the spectrum allocation nearest to the 'interfered frequency' were to be required to absorb all the costs of any such interference.

Question 17

Views are sought on an appropriate competitive or comparative selection process and how best it might be structured to achieve the benefits sought

As we have already noted above, we do not believe that an auction approach is appropriate for the Channel Islands, given the size of the markets and the cost of running an auction process. We are pleased to see that CICRA is also of this view and that the Economic Development Department in Jersey and Commerce and Employment Department in Guernsey also believe that the award of spectrum should not have the purpose of raising funds and the allocation process itself should only aim to recover the costs of the process.

²⁸ See for example: <http://www.t3.com/news/4g-tests-show-limited-interference-with-tv-signals> and from the BBC [BBC News - Fears of 4G TV interference in UK may have been overblown](#)

²⁹ See *Ofcom UK recommendations* <http://stakeholders.ofcom.org.uk/binaries/consultations/dtt/summary/dttcondoc.pdf>
Ofcom: filters and fly leads will remove LTE interference
<http://www.broadbandtvnews.com/2010/03/02/ofcom-report-filters-and-flyleads-will-remove-lte-interference/>



We would question, however, why CICRA then presents as the only alternative allocation method a full comparative selection process. It appears from the indicative timetable shown in section 7 of the document that this would involve a full tender process, with applicants being assessed against a range of criteria. Under this process, it appears that bids would not be made until Spring 2014, with CICRA making recommendations to Ofcom in the first half of 2014.

We are surprised and disappointed that CICRA has made no mention of the other possible allocation method, as suggested by Analysys Mason, which would involve a simple direct award of spectrum for 4G/LTE services to existing operators if operator's demands were found by CICRA not to exceed spectrum supply. We assume that this is because CICRA feels it has to leave the door open for a potential fourth operator, which may or may not be CMJ. If this is indeed the reason then we do not see that a direct award approach would rule out the possibility of a fourth operator and this view is also supported by Analysys Mason who state "...Given that our analysis suggests there is potentially sufficient 4G-spectrum available to support four operators...a simple direct award...could be used..."³⁰ although as we have explained in other parts of this response, we question the rationale for facilitating further entry in a market that is already intensely competitive.

A simple direct award process has the advantage that allocations of spectrum could be made relatively quickly and at a much lower cost than through a full-blown comparative selection process. This would enable CICRA to meet its objectives as soon as possible and in particular, bring the benefits of 4G/LTE services to Channel Islands consumers much more quickly.

If CICRA is concerned that such an approach would result in operators providing a low quality service then it is within CICRA's powers to make any awards subject to the fulfilment of certain obligations within a certain timeframe. These obligations could be made explicit in the operating licences, with clear penalties for failure to meet any such obligations.

Such an approach is currently being considered by the Communications Commission in the Isle of Man, which CICRA may wish to refer to. If confirmed, the approach could see 4G licence awards being made in the Isle of Man by the end of October 2013, just some three months after the Communications Commission issued its formal consultation³¹.

Given the delays that the Channel Islands process has already been subject to, we would urge CICRA to consider whether this approach should also be adopted here.

Sure would be happy to discuss any part of this response in more detail with CICRA.

Sure (Guernsey) Limited and Sure (Jersey) Limited
9th September 2013

³⁰ P. 129 Analysys Mason report, op cit.

³¹ Consultation on the proposed licensing of 4G Mobile Services and Notice of Proposed Modification to Existing Licences, Communications Commission, 1st July 2013.



Appendix: Copies of relevant previous correspondence/consultation responses by Sure on spectrum issues

[X]

