



Sure (Guernsey) Limited

Price control: Wholesale Leased Lines

Final Decision

Document No: CICRA 14/65

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Guernsey Competition & Regulatory Authority
Suites B1 & B2, Hirzel Court,
St Peter Port, Guernsey, GY1 2NH
Tel: +44 (0)1481 711120
Web: www.cicra.gg

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1. Introduction

This decision extends the price control for Sure Guernsey Limited (Sure) in the market for on-island Wholesale Leased Lines set out in the original decision of the Guernsey Competition and Regulatory Authority (GCRA), in document CICRA 14/08), which is due to expire on 31 December 2014.

The Business Connectivity Market Review recently completed by the Channel Islands Competition and Regulatory Authority (CICRA) concluded that Sure continues to hold Significant Market Power (SMP) in the market for on-island wholesale leased lines in Guernsey, but not in the market for off-island leased lines.

CICRA has determined that there is a need to continue to price control on-island wholesale leased lines. The price control for off-island leased lines was however removed with the publication of the final decision CICRA 14/41 as Sure no longer holds SMP in that market.

CICRA commenced its review of wholesale leased line prices in Guernsey and Jersey by writing to the incumbent operators seeking justification for their existing levels of wholesale leased line charges. However, operators requested an extension to the deadline for responding to these requests and CICRA has therefore agreed to an extension on the basis that the existing price controls for leased lines markets in which the operators hold SMP will remain in place until the review can be completed. The existing price control freezes the overall price controlled basket and, following a Draft Decision (CICRA 14/56) issued in November 2014, to which no responses were received, this Final Decision extends the previous price control decision for wholesale on island leased lines until it is replaced.

2. Structure of the document

The document is structured as follows with discussions on:

- Section 3: Key legal and regulatory references relevant to this decision;
- Section 4: Outcome of the Business Connectivity Market Review (BCMR)
- Section 5: Responses to consultation
- Section 6: Final Decision.

3. Legal requirements and Licensing framework

3.1 Legal Requirements

Section 5(1) of The Telecommunications (Bailiwick of Guernsey) Law, 2001 (*the Telecoms Law*) provides that the GCRA may include in licences such conditions as it considers necessary to carry out its functions. The Telecoms Law specifically provides that such conditions can include, but are not limited to:

- Conditions intended to prevent and control anti-competitive behaviour¹; and
- Conditions regulating the price premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market².

3.2 Licensing Framework

In accordance with these provisions in the Telecoms Law, the Fixed Telecommunications Licence awarded to Sure includes the following condition³:

“[The GCRA] may determine the maximum level of charges the Licensee may apply for Licensed Telecommunications Services within a Relevant Market in which the Licensee has been found to be dominant. A determination may:

- a) provide for the overall limit to apply to such Licensed Telecommunications Services or categories of Licensed Telecommunications Services or any combination of Licensed Telecommunications Services;*
- b) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or*
- c) provide for different limits to apply in relation to different periods of time falling within the periods to which the determination applies.”*

This condition allows the GCRA to regulate the prices that Sure (Guernsey) Limited charges for its telecommunications services in a way and for a time that it deems

¹ Section 5(1)(c) of the Telecoms Law.

² Section 5(1)(f) of the Telecoms Law.

³ Condition 31.2.

appropriate, where Sure holds a position of SMP (significant market power) or a dominant position in the relevant market - the two terms being treated as equivalent for this purpose.

4. SMP in Leased Line Markets

The Market Review examined the leased line markets in Guernsey and concluded that Sure (Guernsey) Limited retained significant market power (SMP) in the market for Wholesale Leased Lines on island. The findings are set out in the table below.

Market	SMP finding
On island	
Wholesale leased line market	SMP for Sure (Guernsey) Limited
Retail leased line market	No SMP
Off island	
Wholesale leased line market	No SMP
Retail leased line market	No SMP

Summary of SMP findings from CICRA 2014 BCMR

On the basis of this finding the GCRA is able to impose a price control for wholesale on island leased lines in Guernsey.

5. Responses to consultation

The GCRA received no responses to its Draft Decision consultation. The invitation to respond was published in the draft decision, document CICRA 14/56 published on 14 November 2014. The consultation was open from 14 November to 12 December 2014.

6. Final Decision

Given that there were no objections or alternative suggestions, the GCRA has decided to issue its Final Decision in line with the Draft Decision, with no changes.

The GCRA determines that the existing price control for on-island Wholesale Leased Lines imposed on Sure (Guernsey) Limited in CICRA 14/08 shall be extended until new price controls are imposed to replace it.

Overall level of charges for on-island Wholesale Leased Lines (previously basket 4 of the combined retail and fixed line price control) will therefore remain unchanged until further notice and will be subject to review in line with the conditions set out in Sure's Telecommunications Licence.

The specifics of individual price changes are for Sure to determine. Sure may rebalance individual charges within this basket of services, provided that it remains within the price cap which limits the overall increase in prices to zero and complies with other relevant licence conditions.

Prices remain subject to the normal requirements of the Telecoms Law; the Competition (Guernsey) Ordinance, 2012 and Sure's telecommunications licence, in ensuring that charges are cost-justified where required and avoid discrimination. This safeguards, for example, against Sure (Guernsey) Limited offering services to its own retail arm on favourable terms or setting wholesale prices which unfairly prevent competitors from entering the market or competing against Sure.

END