



Sure (Guernsey) Limited:

Wholesale Leased Lines
Price Control (Rollover)

Draft Decision

Document No: CICRA 14/56

14 November 2014

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

The current price control for wholesale leased lines for Sure (Guernsey) Limited 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.

As a result, there is a need to continue the price control for on-island wholesale leased lines. The price control for off-island leased lines was removed with the publication of the final decision CICRA 14/41 confirming that Sure (Guernsey) Limited no longer holds SMP in that market.

CICRA has commenced a review of prices in Guernsey and Jersey by writing to the incumbent operators seeking justification for their existing levels of wholesale leased line charges. However, given a number of simultaneous information and regulatory processes operators have requested an extension to the deadline for responding to these requests. CICRA has agreed to this extension on the basis that existing price controls for leased lines markets (in which the operators hold SMP) will continue or be extended until the review can be completed.

This means that the existing price control for Wholesale Leased Lines imposed by the Guernsey Competition Regulatory Authority (GCRA) on Sure (Guernsey) Limited, which was due to expire on 31 December 2014, will be extended. It will remain in place until it can be replaced by an updated price control informed by CICRA's more detailed review.

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: Draft 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 appropriate, where Sure has a dominant position in the relevant market.

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

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

³ Condition 31.2.

4. Business Connectivity Market Review

The Market Review examined the leased line markets in Guernsey and concluded that Sure retained significant market power (SMP) in the market for on-island wholesale leased lines, but did not hold SMP in either off-island market or in the on-island retail market, where it had previously been found to hold SMP.

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 2014 BCMR study

In the conclusion and final decision to the BCMR, CICRA set out its proposed remedies, including among other things, the continuation of price controls where appropriate and indicated that price controls should continue to apply to Sure for the on-island wholesale leased line market.

5. Draft Decision

The GCRA proposes that the existing price control for on-island wholesale leased lines should be extended until the conclusion of CICRA's current review of Sure's wholesale on island leased line prices.

This means that the overall level of charges for wholesale leased lines (previously basket 4 of the combined retail and fixed line price control) should 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. However, 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.

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.

6. Conclusion & Next Steps

This draft decision extends the existing price control on wholesale leased lines in Guernsey until it is replaced by the GCRA, and is to be subject to review in line with the conditions set out in the fixed Telecommunications Licence held by Sure (Guernsey) Limited.

The GCRA invites responses to this draft decision and respondents are requested to provide their views on this draft decision to the address set out below. The GCRA will consider those views and seek to issue a final decision shortly afterwards.

Responses to this document should be submitted in writing to:

GCRA
Suites B1 & B2
Hirzel Court
St Peter Port
Guernsey
GY1 2NH

or by email to info@icra.gg.

The deadline for responses is 5.00pm on 12 December 2014.

All comments should be clearly marked: "Sure Guernsey Limited – Wholesale Leased Line Price Control", reference CICRA 14/56.