



Telecoms - regulatory information requirements

Consultation Document

Channel Islands Competition and Regulatory Authorities

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1. Introduction

- 1.1 CICRA is tasked under the telecoms laws in Jersey¹ and Guernsey² to carry out various duties and functions as the regulator of the sector in the Channel Islands. It requires different information to support its role, which includes assessment of licence applications, ensuring various licence obligations are met, monitoring market developments and carrying out investigations.
- 1.2 CICRA wishes to review whether the current approach to regulatory reporting in the telecoms markets locally remains appropriate, in particular in the provision of separated accounts by specific licensees.
- 1.3 Respondents are therefore asked to consider the issues set out below and provide their views on this aspect of telecoms regulation.

¹ The Telecommunications (Jersey) Law 2002 – as revised

² The Telecommunications (Bailiwick of Guernsey) Law, 2001

2. Responses

2.1 The deadline for comments is 5.00pm on 1 April 2016. CICRA encourages the submission of responses by email to info@cticra.je or info@cticra.gg. Alternatively, responses to this consultation document can be submitted in writing to either:

Channel Islands Competition and Regulatory Authorities Suite 4, 1 st Floor Plaiderie Chambers, La Plaiderie St Peter Port Guernsey GY1 1WG	Channel Islands Competition and Regulatory Authorities 2nd Floor, Salisbury House 1-9 Union Street St Helier Jersey JE2 3RF
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2.2 All comments should be clearly marked '*Consultation – Telecoms regulatory information requirements*'. CICRA's normal practice is to publish all responses to consultations on its website. If respondents do not want their response to be published in part or in full, the relevant sections should be clearly marked as confidential, and the response should explain why those parts of the response should be treated as confidential.

3. Objectives for Telecommunications in the Channel Islands

3.1 The strategic aims of CICRA in regulating the telecoms sectors are to:

- ensure: telecoms markets work in the best interests of consumers, through effective competition where appropriate, and
- regulate where competition is not sufficient to adequately protect consumer interests.

Telecommunications markets that work in the best interests of consumers, offering appropriate networks and services, are a vital component of technological innovation and economic growth for the Channel Islands. Competition drives telecoms networks to innovate, to offer new services at competitive prices and enable consumers to benefit from these fruits of competition.

4. Background – Current regulatory information requirements

4.1 At present JT (Jersey) and Sure (Guernsey) provide certain information in the form of separated accounts each year that are delivered between 6 and 12 months after the end of the reporting period. This imposes a cost on those operators and CICRA is considering whether the regulatory burden imposed is appropriate for its future information requirements or whether these needs can be met through alternative means.

4.2 There is therefore a question whether existing data collection through telecom statistics, other ongoing information collection, price control compliance reporting and bespoke information requests to support specific investigations, provide an adequate level of regulatory information without the need for regular separated accounts assembled and provided by JT (Jersey) and Sure (Guernsey) each year.

4.3 CICRA has reviewed the rationale for regulatory information by other regulatory bodies and suggests the following information objectives are most relevant to its needs:

- a) it should have a reasonable understanding of the size of, and developments in, those market activities it regulates;
- b) it should have a reasonable understanding of the specific performance of its licensees, including information in areas such as investment, turnover and profitability as well as market shares;
- c) it must have information that gives reasonable assurance licensees are compliant with their licence conditions;
- d) it should have conclusive proof of compliance by licensees subject to specific price controls or other specified remedies obliged by decisions of the Authorities.

Q1: CICRA is seeking the views from respondents on the above information objectives. Where respondents are of the view these should be modified, expanded or reduced, they are asked to set out clearly the reasoning for their position.

4.4 CICRA receives annual financial statements from Sure, JT, Airtel and Newtel. It has also, over the past year, collated detailed telecom statistics that provide annual information about the size of

the markets it regulates and individual operator data including turnover, volumes and market share. CICRA's provisional view is that through annual financial statements and annual telecom statistics data collection, its requirements might be satisfied or can be supplemented to achieve both **a)** and **b)** above.

4.5 CICRA also carries out regular checks on commitments by licensees on certain obligations either in licence conditions or through determinations it has made. Specific tests in the case of mast emissions for example are carried out. Customer satisfaction surveys and more recently mystery shopping provide a 'dashboard' that highlights issues and can be drawn on to identify if licence conditions require review or additional enforcement. When CICRA carries out investigations these are undertaken using its formal information gathering powers if complaints appear reasonably founded. It also has the option to initiate its own investigations. In CICRA's experience investigations of this nature tend to be issue specific, separated accounts have not generally been drawn on for these purposes and specific information requests are issued to parties in such cases. CICRA's provisional view is that the requirements of **c)** are met using the available tools above.

4.6 The EC Recommendation adopted in 2005 addressed the implementation of a cost accounting and/or accounting separation system, and states:

"The purpose of imposing an obligation to implement a cost accounting system is to ensure that fair, objective and transparent criteria are followed by notified operators in allocating their costs to services in situations where they are subject to obligations for charge controls or cost-oriented prices. The purpose of imposing an obligation regarding accounting separation is to provide a higher level of detail of information than that derived from the statutory financial statements of the notified operator, to reflect as closely as possible the performance of parts of the notified operator's business as if they had operated as separate businesses, and in the case of vertically integrated undertakings, to prevent discrimination in favour of their own activities and to prevent unfair cross-subsidy."

"The cost accounting and accounting separation systems of the notified operators need to be capable of reporting regulatory financial information to demonstrate full compliance with regulatory obligations."

4.7 With the exception of one price setting control, there are no cost-oriented charge controls in place on licensees in Guernsey or Jersey. CICRA regulates wholesale leased lines through a retail-minus approach. BEREC recommendations in relation to price regulation of broadband is likely to inform CICRA's approach to future controls in this area and our understanding is that cost plus price setting is not the recommended approach. Controls for retail fixed line access services in both islands are currently informed by a benchmarking approach. Each of the price control decisions already in place or in process have or will have specific compliance arrangements that ensure controls are adhered to, with proof of compliance checked through a stipulated reporting framework. Cost-oriented reporting through separated or regulatory accounts is therefore not necessary to assess compliance of pricing controls. Given this, CICRA's provisional view is that its requirement in respect of **d)** is met without the need for cost accounting reporting through separated accounts.

4.8 In summary, while CICRA does not have access to information on all types of potential concern that might arise about behaviour particularly by licensees with significant market power, it does have a wide range of information available to it and extensive information gathering powers

where additional information is required. There is therefore a question whether the information burden and cost that licensees bear and consumers bear indirectly justifies information provided in the form of separated accounts.

Q2: CICRA is seeking the views of respondents on the reasoning set out above and whether they agree with CICRA's provisional views as set out. Respondents are asked to set out clearly the reasoning to support their position.

5. Next Steps

5.1 CICRA will review the responses received, and these will inform its decision on whether to continue with the existing regulatory reporting arrangements or modify these in order to support its future information requirements in the Jersey and Guernsey telecommunications sectors.

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