



Information Notice

Future Economic Regulation of the Broadband Market

Channel Islands Competition & Regulatory Authorities

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1. Introduction

1.1 On 26 April 2018 CICRA¹ launched its current broadband consultation with a stakeholder meeting. Subsequently, CICRA published its *Consultation Document on Future Broadband Regulation of the Broadband Market*² on 4 May 2018.

1.2 Responses were received from the following stakeholders:

- Sure;
- JT;
- Homenet;
- Airtel-Vodafone, and
- Clear Mobitel.

1.3 CICRA would like to express its gratitude to the stakeholders who have provided responses in support of this consultation.

1.4 This Information Notice is being published at this point in time with two main purposes. Firstly, this Information Notice forms the means by which the responses received by CICRA to the consultation are to be published. Annexes A to E to this Information Notice are the responses received. Secondly this Information Notice provides an update on the actions that CICRA is currently taken with respects to the broadband market.

2. Update

2.1 In reviewing the constructive engagement at the stakeholder meeting and by analysing the responses received to the Consultation CICRA has identified two major themes that it is currently progressing. These two themes are:

¹ The JCRA and GCRA co-ordinate their activities with respect to competition law enforcement in the Channel Islands. For the purposes of this document, the JCRA and GCRA are together referred to as CICRA, and all references to CICRA should therefore be read as references to each of the JCRA and GCRA unless the context otherwise requires.

² CICRA 18/21

- Broadband Market Review and Dominance, and
- Requests for new wholesale broadband products.

2.2 In the following section CICRA provides a current status on the above activities.

Broadband Market Review and Dominance

2.3 At the meeting a number of operators requested that CICRA carries out a Market Review on the Broadband Market. Specifically JT (in Jersey) and Sure (in Guernsey) expressed concerns that the dominance findings existing in the respective broadband markets had been in place for a significant time during which both fixed and mobile technology have changed as well as how consumers use the broadband services provided.

2.4 Following the Stakeholder Meeting CICRA reviewed the comments of the operators and decided to engage external consultants to carry out a pragmatic and proportionate market review.

2.5 SPC Networks (“**SPC**”) was subsequently engaged to carry out the market review.

2.6 CICRA, in parallel to this Information Notice, is publishing its Draft Decision^{3]} which presents the findings of the *Market Review on the Broadband Market carried out on behalf of CICRA*. The Market Review considered both the Guernsey and Jersey markets.

2.7 The Draft Decision invites comments on the SPC report findings. Following the consultation CICRA will publish its Final Decision on this matter in line with CICRA’s new Regulatory Consultation Process.⁴

New Wholesale Broadband Products

³ CICRA 18/41, published 19 October 2018

⁴ CICRA 18/29, published 3 July 2018

2.8 CICRA received a number of responses to the consultation that provided evidence of the requirement for new wholesale broadband products to be made available. All responses specified that the requirement was for the new products to be provided in Jersey with no request for additional wholesale broadband products being made for the Guernsey market.

2.9 CICRA considers that the availability of wholesale broadband products that allow operators to provide differentiated retail products is directly in support of the States of Jersey policy for telecoms that was published in January 2018.

2.10 Whilst CICRA supports the request for wholesale broadband products it considers that at this point in time the most appropriate course of action is for the operators requesting the products to formally request these products under their existing commercial arrangements in place between themselves and JT in Jersey (as the dominant network operator).

2.11 CICRA has engaged with JT and the operators requesting the new services and has requested that the operators engage in good faith to reach a mutually agreeable solution for the new products.

2.12 CICRA is clear that, in the event that a reasonable, evidence based request is rejected without a substantiated and rationale reason CICRA will be minded to intervene.

2.13 For the avoidance of doubt, where there is not a justified and quantifiable demand that can be demonstrated by the requesting operator CICRA will not support (or direct) the development and implementation of new wholesale access products.

3. Next Steps

3.1 CICRA will initially focus on progressing the Market Review and Dominance process as well as closely monitoring the progress made on the commercially based engagement to support the requirements identified for new wholesale access products.

3.2 In the meantime, the formal regulatory process with respect to new wholesale access broadband products is on hold. CICRA in due course will revert to the responses received from the consultation process to identify further actions that may be required to improve the performance of the market and where necessary make changes to the way that the market is regulated.

END