



BACKHAUL SERVICES FOR WIRELESS SERVICE PROVIDERS

T1407GJ

STATUTORY NOTICE OF A PROPOSED DIRECTION TO SURE (GUERNSEY) LIMITED

Guernsey Competition and Regulatory Authority

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1. EXECUTIVE SUMMARY

- 1.1 The Guernsey Competition and Regulatory Authority (the **Authority**)¹ is issuing this Statutory Notice of a Proposed Decision of its intention to exercise a specified regulatory function to direct Sure (Guernsey) Limited (**Sure**) to provide certain backhaul services for licenced wireless service providers.
- 1.2 The Direction introduces a new Statement of Requirements process and requires Sure to enter into negotiation with Other Licensed Operators on submission of an appropriately competed document. The negotiations will be with a view to concluding an agreement, or an amendment to an agreement, for a backhaul solution for that OLO in line with Licence Condition 34.
- 1.3 This process will also be used for all future such requests for services, including from Sure’s own retail division.
- 1.4 This Statutory Notice of a Proposed Decision sets out the direction of the Authority. In due course, the Authority may issue a Statutory Notice of a Final Decision or a new Statutory Notice of a Proposed Decision if responses are received, following the process outlined in the relevant law.

2. STRUCTURE OF THIS DOCUMENT

- 2.1 This document sets out the Direction which the Authority intends to make, having taken full account of information gathered for CICRA Call for Information – Mobile Backhaul Market² of 19 October 2018, and non-statutory Draft Decision – Backhaul Services for Wireless Service Providers³ of 29 May 2019, and responses to those documents. The conclusion of this consultation process can be found in the non-statutory Final Decision (CICRA 19/36).
- 2.2 The document is structured as follows:

Section 3	Outlines the background and legislative basis for this Decision
Section 4	Sets out the Statutory Notice of a Proposed Decision
Section 5	Sets out the next steps

3. LEGISLATIVE AND LICENSING BACKGROUND

- 3.1 Telecommunication services are regulated in Guernsey by way of the Telecommunications (Bailiwick of Guernsey) Law 2001 (the **Telecoms Law**). The general duties of the Authority are set

¹ The Jersey Competition Regulatory Authority (JCRA) and Guernsey Competition and Regulatory Authority (GCRA) co-ordinate their activities in the Channel Islands. For the purposes of this document, the Authority refers to the JCRA as the Initial Notice refers to Jersey only.

² <https://www.cicra.gg/cases/2018/t1407gj-mobile-backhaul-market/t1407gj-mobile-backhaul-market-call-for-information/>

³ <https://www.cicra.gg/cases/2018/t1407gj-mobile-backhaul-market/backhaul-services-for-wireless-service-providers-draft-decision/>

out in the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 (the **Regulation Law**), and include to secure the provision of services that satisfy all reasonable demands for such services within the Bailiwick, whether those services are provided from, within or to the Bailiwick⁴.

3.2 The General Duties also contains the objective to protect the interests of consumers and other users in the Bailiwick in respect of the prices charged for, and the quality, service levels, permanence and variety of utility service. Also, to introduce, maintain and promote effective and sustainable competition in the provision of utility services, and to facilitate the availability of new services within the Bailiwick.

3.3 Sure (Guernsey) Limited holds a fixed telecommunications licence in Guernsey. The latest version of this licence was issued on 6 July 2017⁵.

3.4 Licence Condition 34 refers to 'Network Access', which states:

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| 36.1 | <i>The Licensee shall, to the extent requested by another OLO, negotiate with that OLO with a view to concluding an agreement (or an amendment to an existing agreement) for Network Access.</i> |
| 36.2 | <i>Where an OLO reasonably requests in writing Network Access, the Licensee shall provide that Network Access. The Licensee shall also provide such Network Access as the GCRA may from time to time direct.</i> |
| 36.3 | <i>The provision of Network Access shall occur as soon as reasonably practicable and shall be provided on fair and reasonable terms, conditions and charges and on such terms, conditions and charges as the GCRA may from time to time direct.</i> |
| 36.4 | <i>Where the Licensee acquires information from another OLO before, during or after the process of negotiating Network Access and where such information is acquired in confidence, in connection with and solely for the purpose of such negotiations or arrangements, the Licensee shall use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. Such information shall not be passed on to any other party for whom such information could provide a competitive advantage. This does not apply to the passing of information to the GCRA where the GCRA requires that information in order to carry out its functions.</i> |
| 36.5 | <i>The Licensee shall comply with any direction the GCRA may make from time to time under this Condition.</i> |

⁴ Telecommunications (Bailiwick of Guernsey) Law 2001, Section 2 General Duties

⁵ <https://www.cicra.gg/licences-in-issue/sure-guernsey-limited/>

States of Guernsey Policy

3.5 The States of Guernsey has published its telecoms strategy⁶ which asks CICRA to consider the regulation of the interconnect cost of fibre backhaul to 5G sites and backhaul transmission are shared. In this way no operator can enjoy a commercial advantage when it comes to rolling out 5G to areas where fibre is scarce.

4. BACKHAUL SERVICES FOR WIRELESS SERVICE PROVIDERS

4.1 Airtel has requested certain products from Sure in Guernsey with a view to reaching an agreement, or an amendment to an existing agreement, for backhaul services.

4.2 Under the terms of Licence Condition 34, Sure is required to negotiate with an OLO such as Airtel with a view to concluding an agreement for such network access. To date, such access has not been provided by Sure.

4.3 On 19 October 2018, the Authority issued a Call for Information – Mobile Backhaul Market⁷ and on 29 May 2019, the Authority issued its non-statutory Draft Decision – Backhaul Services for Wireless Service Providers⁸.

4.4 Taking the submissions to those documents into account, the Authority is of the view that it is not clear that there has been enough of a technical specification developed to proceed with a Direction to introduce a defined backhaul or dark fibre product at this time as outlined in the Draft Decision.

5. STATUTORY NOTICE OF A PROPOSED DECISION

5.1 The Authority remains of the view that, in the absence of any changes to backhaul services, operators who do not have the necessary fixed infrastructure will not be able to compete equally with operators' mobile businesses that are owned and controlled by the same party that controls fixed infrastructure necessary to support backhaul. This in turn could impact on the consumer experience.

5.2 Accordingly, the Authority was of the provisional view that fixed network operators should consider the development of leased line services and/or dark fibre to meet the specific requirements of wireless network operators licensed in the Channel Islands.

⁶ <https://www.gov.gg/article/165851/The-Future-of-Telecoms-Strategy> , page 21

⁷ <https://www.cicra.gg/cases/2018/t1407gj-mobile-backhaul-market/t1407gj-mobile-backhaul-market-call-for-information/>

⁸ <https://www.cicra.gg/cases/2018/t1407gj-mobile-backhaul-market/backhaul-services-for-wireless-service-providers-draft-decision/>

5.3 To this end, the Authority is issuing the attached Statement of Requirement Process which will be implemented in both Jersey and Guernsey, and is minded to direct Sure to follow the process for the request for wholesale services from Airtel or any Other Licensed Operator (**OLO**), when such a request is made.

5.4 Before exercising a regulatory function, the Authority is required to give 'Statutory Notice of a Proposed Decision'. This Notice gives notice that the Authority intends to make the following Direction to Sure in relation to the provision of backhaul services.

5.5 The Authority intends to make the following Direction on or about 23 October 2019.

DIRECTION
<ol style="list-style-type: none">1. On submission of an appropriately completed Statement of Requirements, the Authority requires Sure to enter into negotiations with Other Licensed Operators (OLO) with a view to concluding an agreement (or an amendment to an existing agreement) for a backhaul solution for that OLO, in line with Licence Condition 36.2. This process should be followed for all future requests for service, including from Sure's own retail division.

5.6 Written representations in respect of this exercise of regulatory function may be made by 22 October. If such representations are made, they will be considered by the Authority before giving Final Notice or fresh Initial Notice or decide not to take action by issuing this Direction.

6. NEXT STEPS

6.1 This is a Statutory Notice of a Proposed Decision to issue a Direction of the Authority. If representations from the licensee are received before 22 October regarding the proposed decision, the Authority will consider them and either decide to issue a Statutory Notice of a Final Decision or a new Statutory Notice of a Proposed Decision or decide not to take action by issuing a Direction. If no responses are received, the Direction will be made on or about 23 October. At such time as any statutory final decision takes effect, it becomes binding on all parties.