



LICENCE MODIFICATION: TELECOMMUNICATION SERVICES

T1675G

Proposed Decision

Date: 27 October 2023

Guernsey Competition & Regulatory Authority
Suite 4, 1st Floor,
La Plaiderie Chambers, La Plaiderie,
St Peter Port,
Guernsey, GY1 1WG
www.gcra.gg

1. Summary

- 1.1. The Guernsey Competition and Regulatory Authority (**GCRA**) is issuing this notice of a draft licence modification, which revises the definition of “Licensed Telecommunications Services” in the fixed and mobile licences of all telecommunications licensees in Guernsey to ensure clear understanding of the definition.
- 1.2. Currently, The Telecommunications (Bailiwick of Guernsey) Law, 2001 (**Telecoms Law**) which regulates the licensing system in Guernsey and the licences of all telecommunications licensees have different wording for the same definition. The GCRA is seeking to introduce a licence modification to address this discrepancy.
- 1.3. This proposed modification therefore ensures the unification of wording and meaning between the Telecoms Law and issued telecommunication licences.

2. Structure of this Document

- 2.1. The document is structured as follows:

Section 3	Outlines the licensing background to this Proposed Decision
Section 4	Sets out the reasoning that underpins the Proposed Modification
Section 5	Sets out the Proposed Licence Modification Decision and Further Steps

3. Licensing Background

- 3.1. Currently, all telecommunications licensees have licences (both fixed and mobile) that contain a clause regarding modifications of licence conditions. This clause reads as follows for telecommunication licensees¹:

“The GCRA may from time to time modify, revoke or add to any condition in this licence. Any modification, revocation or addition to the Conditions shall be made in accordance with Section 8 of the Telecommunications Law and any other requirements under any applicable law.”

- 3.2. Accordingly, the above licence condition explicitly provides the power for the GCRA to modify a licence condition as stated in section 8 of the Telecoms Law which is as below:

“Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions and the following provisions of this section, the [Authority] may

¹ Condition 6 of the telecommunications licenses.

modify a licence by amending or revoking any condition included in it or by adding any condition to it (including, subject to the provisions of section 9, any condition as to the application in relation to the licensee of the code)."

3.3. Section 1.1 of mobile telecommunications licenses defines "Licenced Telecommunications Services" as follows:

"Licensed Telecommunications Services: means telecommunications services (other than Mobile Telecommunications Services) provided to the public;"

3.4. Whereas Section 1.1 of fixed telecommunications licenses defines it as follows:

"Licensed Telecommunications Services: means the provision of any telecommunications services to the public (other than Mobile Telecommunications Services);"

3.5. Although the definition does not affect the current practice, the definition of "Licensed Telecommunications Services" needs to accord with the Telecoms Law (discussed below) and to be unified between fixed and mobile telecommunications licences.

4. Reasoning Underpinning the Proposed Modification

4.1. Section 31 of the Telecoms Law provides "Interpretations" of terms used in the Law and "Telecommunications Service" is defined as below:

"telecommunications service means a service consisting of the emission, transmission, switching, conveyance or reception of messages within, to or from the Bailiwick by means of a telecommunications network."

4.2. Part 1 Section 1 of the Telecoms Law covers "Prohibition of unlicensed telecommunications networks and services" and states that:

***"Subject to the provisions of subsections (2) and (3),** a person shall not provide a telecommunications service in the Bailiwick except under the authority of and in accordance with the conditions of a licence granted by the GCRA". (Emphasis added)*

4.3. Section 1 (2)(b)(A) and (B) provide an exclusion for licence requirements stated in Section 1(1):

(2) Subsection (1) is not contravened by –

(b) the establishment, operation or maintenance by a person of a telecommunications network which is not connected to any other telecommunications network and in the case of which all telecommunications apparatus comprised in the network is situated either – (...)

and which is not-

(A) Operated for or provided to **any third party** for commercial gain, or

(B) Provided to **any third party** for the provision by that third party of telecommunications services for commercial gain, (...)" (Emphasis added)

- 4.4. In accordance with the Telecoms Law, if a telecommunications service is not provided to any third party, there is no licence requirement. As is seen in the definition, telecommunications licences use different wording ("public") than the Telecoms Law ("third party") to emphasize the distinction between telecommunications service and licensed telecommunications service. The aim of this proposed decision is to unify the wording and remove the inconsistency between the telecommunications licenses and the Telecoms Law.
- 4.5. Additionally, in order to unify the definition in both fixed and mobile licences, the GCRA suggests a new definition as specified in Annex A. With this suggestion, "(other than Mobile Telecommunications Services)" part in the definition will be removed as "Mobile Telecommunications Services" is already defined in the licences and it is not relevant anymore in the definition of "Licensed Telecommunications Services".
- 4.6. This proposed decision also aims to correct a typo in Sure Guernsey Limited's fixed telecommunication licence. The GCRA's decision number which is referred in footnote 9 in Sure's fixed telecommunication licence references the incorrect document and will be corrected.
- 4.7. The proposed licence modification and the reasons for it will be notified to licensees in the relevant regulated sectors, publicised on the GCRA website and in the *La Gazette Officielle* for any public comment and/or objection.

5. Proposed Modification Decision and Further Steps

5.1. The GCRA hereby:

- 5.1.1. gives notice to all its current telecommunications licensees (who hold both mobile and fixed telecommunications licences) of its proposed decision to modify
- 5.1.1.1. the definition of "Licensed Telecommunications Services" under Section 1.1 in all their licences, in the terms set out in the enclosed Annex A (see below) and
- 5.1.1.2. a typo in footnote 9 in Sure's fixed telecommunication licence.
- 5.1.2. gives notice to the public of the above proposed licence modification.
- 5.1.3. requests any written objections or representations from any interested party to this proposed modification and its terms (as per Annex A), before 5pm on Monday, 13 November 2023, in the manner and to the address indicated below.

5.1.4. Responses can be submitted by email to info@gcra.gg or alternatively in writing to:

GCRA, Suite 4, 1st Floor,

La Plaiderie Chambers,

La Plaiderie,

St Peter Port, GY1 1WG

All written comments should be clearly marked 'Matter T1675: Proposed Modification'. The GCRA's normal practice is to publish responses on its website. If any part of a response is held to be commercially confidential, it should be clearly marked (by highlighting the confidential sections in colour) when the response is submitted.

Annex A

Within the amendments below, lines struck through any words indicate current wording which will be removed by the modification and underlined words indicate words that will be added to the existing wording.

Proposed Amendments

1. The GCRA proposes to amend the “Definitions and Interpretation” clause in the licences of all its telecommunications licensees as indicated below.

In all fixed telecommunications licences, the definition of “Licensed Telecommunications Services” under Section 1.1 is amended as follows:

“Licensed Telecommunications Services: means the provision of any telecommunications services to public third parties ~~(other than Mobile Telecommunications Services)~~;”

In all mobile telecommunications licences, the definition of “Licensed Telecommunications Services” under Section 1.1 is amended as follows:

“Licensed Telecommunications Services: means the provision of any telecommunications services ~~(other than Mobile Telecommunications Services)~~ provided to public third parties;”

2. The GCRA proposes to amend the footnote 9 (page 23) of the fixed licence of Sure Guernsey Limited as follows:

“Amended by CICRA ~~17/19~~17/18, 6 July 2017 and effective from 13 July 2017.”

END