



Sure (Guernsey) Limited:
Price Control 2014 for exchange lines, calls and on-island
(wholesale) and off-island (retail) leased lines

Draft Decision

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1. Summary

The existing price control for Sure (Guernsey) Limited (formerly Cable and Wireless Guernsey Limited) (**Sure**) expires on 31 December 2013. This price control covers retail fixed line services for calls and exchange line rental, and leased lines.

Sure has requested an increase in its revenue cap for exchange lines and calls, which are subject to a retail price control at present. Given the period of time in which a price freeze has been in effect, CICRA's considers this request is not unreasonable and could be accommodated with an RPI-based price increase.

In this draft decision, the Guernsey Competition and Regulatory Authority (**GCRA**) proposes to allow Sure to increase its charges for its fixed line retail services by no more than the rate of inflation (as expressed by the Guernsey Retail Prices Index). The existing price control for on- and off-island leased lines will be extended with no increase, until it is replaced following the outcome of the GCRA's ongoing Business Connectivity Market Review. Sure will continue to be allowed to rebalance tariffs within and between the calls and exchange line baskets, and separately, within each of the on- and off-island tariff baskets, which means that individual prices may increase by more or less than this figure, provided that the overall basket of charges remains within that limit.

2. Structure of the Draft Decision

The document is structured as follows:

- Section 3: Sets out key legal and regulatory references relevant to this draft decision.
- Section 4: Describes the current (2013) price control.
- Section 5: Sets out the rationale and proposed decision.
- Section 6: Draft Decision
- Section 7: Conclusion and Next Steps
Including the address for comments and deadline for responses.

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 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. Current price control

Sure's current price control, which expires on 31 December 2013, covers

- exchange line rental;
- local calls;
- national calls;
- international calls;
- other charges, including connections and one-off fees;
- on-island wholesale leased line charges; and
- off-island retail leased line charges.

The overall price for these services have been frozen since 2008, when the last full price review was conducted. Sure has been allowed to rebalance its charges between different areas, but not to increase its overall basket of prices.

The duration of the price control was limited to 31 December 2013 with the expectation that competition in the fixed line market in the form of Wholesale Line Rental would be in place by then and a different approach to future price controls might be appropriate.

Reviews of on-island leased line services and off-island leased line services were also initiated in 2013.

Also a number of billing-related charges levied by Sure, such as charges for various payment methods and for receiving paper bills, which have been of some concern to Sure's customers, have been the subject of discussions between Sure and the GCRA. Sure has now formally provided the GCRA with assurances that its billing-related charges are not also recovered through the price control basket to any material extent. To date, the GCRA has sought to address these billing-related charge issues through its ongoing work on quality of service and its review of billing practices, and will continue to do so.

5. Proposed price control for 2014

In the absence of effective competition in the markets for the price-controlled services, the GCRA is of the view that there is a need to continue the retail price control in its existing form.

5.1 SMP/Dominance

The GCRA is satisfied that Sure continues to hold significant market power in the relevant markets for this price control. The GCRA does not see a basis for changing its findings of dominance by C&WG (now Sure) in the relevant fixed line markets in Guernsey since no additional competition has come in to the market. Sure remains the only provider able to offer exchange lines to customers. Although calls from fixed lines may be provided by other licensed operators, this is available only through carrier select services – which require the dialing of a prefix code before every call or installation of a dialing box on every telephone extension, and which have been available for a number of years.

When competition is introduced, in the form of Wholesale Line Rental (WLR) or some other wholesale access product, and has had a significant impact on the market, the GCRA will need to consider and review the relevant findings of dominance and potentially adopt a new approach to these price controls.

A full market review is under way in this area and will be carried out on a Pan Channel Islands basis at the end of 2013 and into 2014. The findings will be used to inform decisions on future price controls.

5.2 Proposed price control

Sure has requested an increase in its revenue cap for exchange lines and calls, which are subject to a retail price control at present. Given the period of time in which a price freeze has been in effect, CICRA's considers this request is not unreasonable and could be accommodated with an RPI-based price increase.

GCRA therefore proposes to allow Sure to increase retail charges covered by the existing single price control basket 1 by no more than the annual rate of inflation. The measure of inflation to be used is RPI for the 12 month period prior to the commencement date of this control (September 2013). The change in RPI for year to end September 2013 is 2.7%⁴.

⁴ Official RPI figures are published by the States of Guernsey at: www.gov.gg/rpi

Sure will be free to adjust and rebalance charges within the overall basket 1 control as provided for in the decision document CICRA 13/15 provided that the overall increase does not exceed the increase in RPI.

Future prospects for price controls

At present competition is limited to competition for calls using carrier select, and its impact on the market has been very limited. The GCRA has previously indicated that it would expect to relax retail price controls as and when competition evolves for retail fixed line services.

The introduction of new products and approaches to competition, for example WLR (wholesale line rental), FNP (fixed number portability) and greater potential for future competition with mobile services, should allow price controls to be rolled back as competition develops.

The GCRA's view is that price controls are needed in circumstances where competition is limited. The potential for competition is however not in itself enough to guarantee the downward pressure on prices and upward pressure on quality of service which comes from competitors.

In order to limit the price control, the GCRA would want to see improved levels of competition, including a number of competitors with sustainable businesses, while complete removal of controls altogether would depend on having an actively competitive market with at least one strong competitor with a significant market share and the ability to compete with the incumbent operator (Sure) across a range of services.

6. Draft Decision

Draft Decision

The Authority determines that:

- (i) The Price Control for retail exchange lines, calls and related services (the services previously defined as baskets 1, 2 and 3 in Sure's 2008 price control), is that Sure (Guernsey) Limited may increase its overall charges by no more than the change in the relevant retail price index.
- (ii) The relevant retail price index will be RPI for the year to September 2013, as published by the States of Guernsey.
- (iii) The existing Price Control for on-island wholesale and off-island retail leased lines should be extended, until either replaced following CICRA's Business Connectivity Market Review or 31 December 2014, whichever is sooner.

This price control to remain in place 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. Sure may rebalance or adjust individual charges within this basket of services provided that it remains within the price cap which limits the overall increase in prices to no more than the change in RPI.

Prices remain subject to the normal requirements of the Telecoms Law, the Competition (Guernsey) Ordinance, 2012 and Sure's Licence, in ensuring that charges are cost-justified where required and avoid discrimination. This safeguards, for example, against Sure offering services to its own retail arm on favourable terms or setting retail and wholesale prices which unfairly prevent competitors from entering the market or competing against Sure.

Basket	Description	Price control 2013	2014 proposed price control
1	Exchange line rental		
2	Local Calls	Frozen	+ RPI
3	Other Charges	(0%)	(2.7%)
4	On island Wholesale leased lines	Frozen* (0%)	Frozen* (0%)
5	Off island Retail leased lines	Frozen* (0%)	Frozen* (0%)

Note that while the overall level of charges for baskets 4 and 5 are frozen, Sure is permitted to rebalance individual prices within the basket.

7. Conclusion & Next Steps

This draft decision sets out how the GCRA intends to proceed in setting a form of price control rollover for Sure that balances the competing interests and priorities of stakeholders. In this case, the GCRA is minded to allow Sure to increase prices in line with inflation, for a range of services for which prices have been frozen since 2008.

This increase covers a basket of services and Sure may adjust and rebalance charges within that basket, provided that the overall increase does not exceed the change in RPI.

The existing price controls for on-island wholesale and off-island retail leased lines will be extended until they are replaced following the outcome of the Business Connectivity Market Review, which means that overall tariff baskets are frozen, albeit that Sure may rebalance charges within each of those baskets.

Respondents are requested to provide their views on this draft decision to the address set out above. 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@cicra.gg.

The deadline for responses is 5.00pm on 17 January 2014.

All comments should be clearly marked: "Sure Guernsey Limited – Price Control 2014 – Draft Decision", reference CICRA 13/52.