



# Channel Islands Wholesale Access Project – Wholesale Line Rental

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## Draft decision regarding modification of licence of Sure (Guernsey) Limited

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## 1. Introduction

Wholesale access to the fixed networks of the incumbent telecommunications providers in Jersey and Guernsey is key to the further development of fixed-line competition in the Channel Islands. Competitive access to the network of Sure (Guernsey) Limited (**SURE**) will stimulate greater competition in fixed-line services in Guernsey, providing consumers with greater choice and better pricing, and helping drive innovation in the services provided to telecoms users. In the event that competition is increased in fixed-line services, the need for price controls on Sure in the longer term should also be reduced.

Wholesale Line Rental (WLR) allows competitors to the telecom incumbents to offer a single bill that includes exchange line rental. Currently the incumbent (in Guernsey, Sure) maintains a commercial relationship with the customer given it is the only provider of exchange line rental, even if the customer uses a competitor for calls or broadband services. This allows the incumbent several potential advantages, including the obligatory continuation of a commercial relationship with all customers who take fixed-line services, and the ability to bundle products in a way its competitors cannot. WLR is intended to allow a measure of access competition to remove such obstacles to competition.

In November 2013, the Royal Court of Jersey delivered its judgement on the appeal by Jersey Telecom (JT) against the decision of the JCRA to introduce WLR in Jersey. The appeal was allowed. A further consultation was issued (Consultation Document on Wholesale Line Rental (CICRA (14/12)) was issued on 24<sup>th</sup> March 2014. Responses to that consultation have informed this draft decision.

After consideration of the responses to this consultation, the GCRA has decided to issue this draft decision that proposes to modify the licence of Sure to make available to other operators a WLR product for its fixed-line telephony network by 1<sup>st</sup> June 2015.

## 2. Structure of the Draft Decision

The draft decision is structured as follows:

Section 3 sets out the legal and licensing basis for this draft decision and the decision to modify Sure's licence by adding a new condition. Section 4 provides background to the consultation process. Section 5 describes the WLR product and the timing for delivery of the WLR product by Sure. Annex C has the text of the proposed new condition for Sure's licence.

Interested parties can make submissions in response to this draft decision paper by post or email to the following address:

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Any comments should be clearly marked "*Draft Decision on Wholesale Line Rental Product*" and should arrive by close of play on 18<sup>th</sup> July 2014.

Responses to this draft decision will be made available on the CICRA website. Any material that is confidential should be put in a separate Annex and clearly marked as such so that it may be kept confidential.

### 3. Legislation and Licensing

The general legislative background is provided by the *Regulation of Utilities (Bailiwick of Guernsey) Law, 2001* for the Guernsey Competition and Regulatory Authority (GCRA).

The sector-specific legislative framework is provided by the *Regulation of Telecommunications (Bailiwick of Guernsey) Law 2001, (the law)* together with the telecommunications licences of the licensees in Guernsey. In addition to specific legislation, there is scope for the States of Guernsey to give formal directions to the GCRA.

In Guernsey, *Section 6 of Sure's licence provides for the modification of licence conditions.*

*"The Authority 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."*

Section 8 of the Telecommunications Law states that:

*"(1) 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 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).*

*(2) Before making modifications under this section to a licence, the Authority shall publish, and (in the case of an individual licence) give to the holder of the licence, notice -*

*(a) stating the modifications which he proposes to make;*

*(b) stating the reasons why he proposes to make those modifications; and*

*(c) specifying the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed modifications may be made by interested parties;*

*and he shall -*

*(i) before making the modification, consider any representations or objections received from any interested party; and*

*(ii) having followed the procedure set out in this subsection, modify the licence (and publish notice of the modification) or decide not to modify the licence (and publish notice of that decision).*

*(3) A modification to a licence shall take effect from such time as the Authority directs, not being earlier than the expiry of the period specified by the Authority in accordance with subsection (2)(c)."*

## 4. Background

In March 2014, CICRA published a consultation on Wholesale Line Rental (WLR). Responses to that consultation have been considered, it is apparent from those responses and subsequent enquires that there is general agreement that the Wholesale Line Rental service should be introduced into the Channel Islands as a remedy to increase competition in the access market.

At the time of the previous consultation in 2011 the GCRA decided to carry out a high-level cost benefit analysis (**CBA**) on the introduction of WLR. It continues to be the case that the needs of the market are in the GCRA's view appropriately met at the present stage of competition by removing the advantage the incumbents currently have over their competitors in terms of ability to bundle their offers. A more even playing field is also enabled through the removal of the ability of Sure to enjoy an exclusive billing relationship with their customers in the Jersey and Guernsey markets in which they are the incumbent.

In terms of the benefits arising from this decision, the GCRA's view is that irrespective of whether customers choose to switch or not, the improved level of competitive pressure in the market is beneficial to all customers, and not confined to those that switch away from the incumbent. This is because the incumbent is likely to have to react to this competitive pressure in serving its existing customers, with related benefits to those customers who remain with it. Any Cost Benefit Analysis should therefore take into account the benefits to all customers and not only those that might be expected to actually change provider.

The GCRA further considers that WLR is likely to contribute to the potential benefit of introducing other wholesale products in the future. The ability of other operators to offer bundles will improve their ability to compete against the incumbent and grow their market share. A higher market share enables an entrant to more easily market further services if it were introduced at a later stage an existing commercial relationship with customers is likely to reduce marketing and acquisition costs when selling new products.

## 5. Wholesale Line Rental (WLR) Product

WLR is a service which allows alternative communications providers to rent access lines on wholesale terms from the (incumbent) network owner and resell those lines to customers. For this service, the communications providers effectively lease an exchange line and decide how best to route a customer's calls. The November 2011 consultation document explained that this would generally include residential and business customers (PSTN & ISDN-2). The subsequent consultation in March 2013 also sought industry comments on the introduction of the multi-line PSTN and ISDN2.

This draft decision is for the introduction of single line WLR at this stage of the Wholesale Line Rental. Feedback from operators indicates that WLR could be launched in six to eight months from the commencement of the project, should it be confined to a single line service. However, the majority of OLOs and operators were keen to see WLR implemented as quickly as possible in order to compete in the market with single provider solutions.

Responses also informed GCRA on the requirement for the inclusion of wholesale calls in the WLR product. This initial notice includes the requirements for Sure to provide calls on a wholesale basis for any operators that requires wholesale calls as part of the WLR service.

A deadline date of 1<sup>st</sup> June 2015 is therefore set for the introduction of this access product.

The licence condition to be inserted as the new Licence Condition 16.9 will not mandate the price at which Sure is required to offer the WLR product, although it does stipulate that Sure is entitled to share the efficient costs of the provision of the WLR service proportionately with each of the Other Licensed Operators that seek WLR. The GCRA will intervene if Sure and potential customers for the WLR product are unable to agree on a price.

The proposed licence modification will take place through the standard procedure in Guernsey set out under Section 8 of the Telecommunications Law. The intention is that it would come into effect at the same date as a similar licence amendment applies to JT in Jersey.

The product description for Wholesale Line Rental is as follows (as a minimum product description). The implementation of WLR should be technology agnostic and the ability to rent a line on a wholesale basis should apply equally to copper and fibre networks.



## *WLR Product Description*

- 1. Wholesale Line Rental (WLR) is a public switched telephone network (PSTN) voice Communications Provider (CP) product, which enables CPs to offer their own branded telephony service directly to their End Users using the incumbent network*
- 2. The incumbent provides, repairs and maintains WLR lines, and provides a consolidated bill to the CPs for all of their services*
- 3. The CP sets their own prices and bills their end-users (single bill)*
- 4. WLR contains wholesale calling and network features (some chargeable)*
- 5. WLR includes an option for a CP to purchase wholesale call minutes*
- 6. Pan CI Retail products supports single line PSTN type service (whether provided over copper or fibre)*
- 7. Understanding service/products that need to be in place to support the product*
  - a. A line connecting the customer to the network of the incumbent operator*
- 8. Minimum term of 12 months applied to line rental*

## **6. Next Steps**

Parties are invited to comment on this draft decision. In the event that there are representations or objections raised, the GCRA will consider those prior to issuing a Final Decision. The condition that the GCRA intends to add to Sure's licence is set out in Annex C.

## **Annex A - Considerations under Section 2 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001**

The GCRA considers that the ability of other telecom operators to compete more aggressively in the fixed line telecom market by offering a fuller set of products protects the interests of consumers in respect of price charges, quality service levels, permanence and variety of utility services available to them. As with the assessment under Article 7 of the Jersey law, WLR is seen to meet an existing demand. The wider economic and social well-being of the Bailiwick is, in the view of the GCRA, improved in that increased competition in telecoms markets contributes to stable, low inflation, well regulated, competitive domestic markets and maintenance of a stable, competitive environment where infrastructure providers such as telecoms have business confidence and are faced with sufficient demand to continue to re-invest. Further competition is also likely to improve the quality of service that customers receive, given the improved choice and impetus this brings to the competitive process. WLR is a less intrusive form of access competition, and may be preferable to duplication of infrastructure on the island, which would lead to road closures and roadworks for islanders. Since WLR will be offered across the island, it will benefit all islanders.

## **Annex B – Considerations under The Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012**

Section 2 of the Regulation of Utilities (States' Directions) Ordinance requires the GCRA to follow the six principles for economic regulation set out in paragraph 5.11 of the report of the States Commerce and Employment Department entitled "Review of Utility Regulation" and dated 8 July 2011 and to take them into account in the performance of its functions and powers.

The six principles of better regulation are accountability, focus, predictability, coherence, adaptability and efficiency.

The GCRA has considered and fully taken into account the States of Guernsey Strategic Plan and the Fiscal and Economic Plan. These set out the need for stable, low inflation, well regulated, competitive domestic markets and maintenance of a stable, competitive environment where infrastructure providers such as telecoms have business confidence and are faced with sufficient demand to continue to re-invest. The GCRA therefore considers this draft decision is made within a framework and is fully consistent with the wider States Strategic Plan.

This draft decision is focussed on a specific existing weakness in the competitive landscape of fixed line telecoms services, an area where there is clear concern from customers around charges in this sector. An improvement in the ability of operators to compete against the incumbent is in the view of the GCRA critical to addressing these deficiencies and is focussed on a specific area of weakness, namely the exclusive ability of the incumbent to provide exchange line rental.

The wholesale access project has involved extensive consultation and regular discussions with all operators that have indicated an interest in developing further wholesale access for the market. This draft decision follows that process and the March 2014 consultation. WLR has been identified as a potential access product in the November 2011 consultation specifically and CICRA has held separate discussions with the incumbents in both islands to discuss issues around the introduction of WLR. The GCRA therefore considers this draft decision is the next step following that process.

It is apparent that the States places a priority on improvements in the availability and cost of fixed line services and this draft decision is consistent with that aim.

This WLR draft decision is intended as a first initiative in facilitating wholesale access. The development of more comprehensive wholesale access products will be considered after an assessment is made of the contribution of WLR to creating a more even competitive playing field. The approach taken is therefore flexible in that, as has been argued in the document, WLR offers benefits that may improve the cost-benefit equation of further access products in the future.

WLR offers the least intrusive means of achieving greater competition at the access level and is promoted on the basis that it offers a low cost burden on operators to provide an access product that is likely to enable bundling by operators. The potential efficiencies in the provision of services are also likely to be realised through the offering of fixed line services in this way to customers.

## **Annex C – Licence modification**

The proposed addition to the Sure licence shall be Licence Condition 16.9. The licence condition proposed is as follows:

*“From the earliest reasonably practicable date after this licence condition takes effect, and in any event no later than 1<sup>st</sup> June 2015, the Licensee shall provide Wholesale Line Rental (WLR) for single lines on its fixed-line network to Other Licensed Operators. The Licensee shall be entitled to share the efficient costs of the provision of the WLR service proportionately with each of the Other Licensed Operators that seek WLR and will ensure that it makes representatives available to attend meetings, upon reasonable notice, with GCRA and/or its representatives to discuss the implementation or operation of WLR. Where a dispute arises in respect of WLR charges, the GCRA may set the maximum price for the provision of such a service.”*

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