



CASE C1471G – JT / SURE

STATEMENT ON PENALTY

On 20 December 2021, following an investigation conducted by the Guernsey Competition and Regulatory Authority (**the Authority**), it was found that both Sure (Guernsey) Ltd (**Sure**) and JT (Guernsey) Ltd (**JT**) had entered into an agreement/concerted practice to control the provision of mobile networks in Guernsey, including the future introduction of 5G. The GCRA found that this agreement/concerted practice infringes section 5(1) of the 2012 Ordinance, which prohibits agreements between undertakings which have the object or effect of preventing competition within any market in Guernsey for goods or services.

Applying the factors set out in section 34 of the 2012 Ordinance and following the approach in its [Guideline on Financial Penalties](#), the Authority has now imposed a financial penalty of £2,962,632 on Sure and £439,608 on JT.

A basic penalty is initially calculated as a percentage of turnover and then multiplied by the number of years for which the infringement lasted, up to a maximum of 3. The percentage of turnover used for each of Sure and JT in this case was 12%, which is towards the bottom end of the appropriate range for serious infringements. As the infringement had lasted between 22 August 2018 and 6 November 2019, the multiplier was 1.21 years. The basic penalty amount may be adjusted if there are mitigating or aggravating factors.

Sure took active and intentional steps to prevent certain key evidence from coming to the attention of the Authority, namely suppression of that evidence and providing contradictory and misleading accounts of the matters contained in communications uncovered by the Authority. Sure personnel were also found to have taken active and intentional steps to prevent certain key evidence regarding the role of a third party from coming to the attention of the Authority, namely providing materially untruthful answers to questions put at statutory interview. The Authority imposed an increase of 65% to the basic penalty in respect of this conduct.

In terms of mitigating factors, the Authority considers that the steps taken by JT constitute efforts to prevent a recurrence of the infringing conduct. Given the comprehensive and wide-ranging nature of the measures adopted and the speed at which they were adopted, the Authority applied a reduction of 10% to the financial penalty imposed on JT.

The Authority considers that the steps taken by Sure also constitute efforts to prevent a recurrence of the infringing conduct but given these measures were less comprehensive and wide-ranging than those put in place by JT and were not adopted as quickly, the Authority applied a lesser reduction of 5% to the financial penalty to be imposed on Sure.

The full penalty calculation is set out below:

Sure

Starting percentage	12%
Duration multiplier	1.21
Turnover figure	£13,016,780
Step 1 figure	£1,890,036.46
Aggravating factors	65%
Mitigating factors	5%
Step 2 figure	£2,962,632.15
Legal maximum reduction	N/A
Step 3 figure	£2,962,632.15
Final figure	£2,962,632 (rounded to nearest £)

JT

Starting percentage	12%
Duration multiplier	1.21
Turnover figure	£3,364,000
Step 1 figure	£488,452.80
Aggravating factors	0%
Mitigating factors	10%
Step 2 figure	£439,607.52
Legal maximum reduction	N/A
Step 3 figure	£439,607.52
Final figure	£439,608 (rounded to nearest £)

21 July 2022