



Final Notice

Amendment to General Class Telecommunications Licence

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1. Introduction

This Final Notice implementing an amendment to the General Class Telecommunications Licence in Jersey first issued in 2004 follows on from the JCRA's initial notice CICRA 14/05 published in January 2014.

In response to the Initial Notice proposing amendments to the General Class licence, we received a single reply from IT Consultancy Limited, which holds a Class I Telecommunications Licence in Jersey.

2. Structure of the Final Notice and next steps

This Final Notice is structured as follows:

- Section 3: Sets out the legal and regulatory framework;
- Section 4: Discusses the background and proposed changes to the general class licence;
- Section 5: Sets out the issues raised in response to the Initial Notice;
- Section 6: Sets out the JCRA's response to the issues raised and the Final Decision
- Annex A: Final revised text of the new general class licence and conditions.

A consolidated revised version of the General Class Telecommunications Licence will be posted on CICRA's website.

3. Legal Background

The legal basis in Jersey that provides for the JCRA to grant a telecommunications licence is set out under Article 14 of the *Telecommunications (Jersey) Law 2002*, which states as follows:

“14 Power to grant licence

- (1) The Authority may grant a licence for the running of any telecommunication system specified in the licence.*
- (2) The Authority may refuse a licence on such ground as the Authority sees fit.*
- (3) The Authority may refuse a licence in respect of a person, or in respect of a class of persons that includes a person, if the person has, within the previous 5 years –*
 - (a) failed to comply with a direction under Article 19 in respect of any licence; or*
 - (b) committed an offence against Article 54 in relation to any application made by that person under this Law (including an application on behalf of a class that includes that person).*
- (4) The Authority may refuse a licence if –*
 - (a) such reasonable fee as the Authority determines has not been paid in respect of an application for the licence;*
 - (b) such information as the Authority requires has not been furnished in respect of an application for the licence; and*
 - (c) such other requirements as, in the opinion of the Authority, are appropriate (including, if the Authority so requires, satisfying a third person with respect to any matter) have not been met in respect of an application for the licence.*
- (5) Paragraphs (3) and (4) do not limit the operation of paragraph (2).*

Article 15 explains the nature of licences which may be issued under Article 14:

“15 Nature of licence

- (1) A licence may be unconditional or subject to such conditions as are contained in it.*
- (2) A licence shall be in writing, and shall, unless previously revoked, continue in force for the period specified in the licence.*
- (3) A licence containing a condition that designates the system to which the licence relates as a public telecommunication system may authorize the*

relevant licensee to exercise any power contained in Article 26 and specified in the licence.

- (4) A licence may be granted to a person named in the licence, or to persons (whether or not named in the licence) of a class that is specified in the licence, but a licence containing a condition that designates the system to which the licence relates as a public telecommunication system may only be granted to a person named in the licence.*

In addition, the JCRA has the power to amend telecommunications licences it has issued in accordance with Article 18:

18 Modification of licence conditions

- (1) The Authority may, of its own motion or on the application of any person, modify any condition contained in a licence by virtue of Article 16.*
- (2) The Authority may refuse to modify any condition so contained on such ground as the Authority sees fit.*
- (3) The power to modify a condition contained in a licence includes the power to insert a new condition or amend or delete an existing condition but any new condition, or condition as amended –
 - (a) may only be a condition that a licence may contain by virtue of Article 16; and*
 - (b) shall be taken, as from the date when the modification takes effect, to be a condition contained in the licence by virtue of that Article.**

The JCRA first issued a General Class Telecommunications Licence following its Final Notice of 13 August 2004 (available on the JCRA website), with the decision and licence taking effect 29 days later on 11 September 2004.

In that Final Notice the JCRA indicated that subsequent amendments, including amendments to the appendix setting out the schedule of services covered by the licence, would be made in accordance with Article 18. Modifications of licence conditions are “specified regulatory functions” under Article 10(1).

4. General Class Licence & Amendments

The JCRA issues telecommunications licences in Jersey in accordance with Article 14 of the *Telecommunications (Jersey) Law 2002*. Under current arrangements in Jersey there are four classes of telecoms licence. Three of these classes are issued to specific service providers, while the fourth is a general class licence. This is intended for telecommunications systems services and apparatus that require a licence but the needs of which are less rigorous than those of a Class I, II or III Licence.

There is no need for telecommunications service users or providers covered by the General Class Licence to apply for the licence or to notify the JCRA of their activity, but the licensee is required to know the limitations and responsibilities of the General Class Licence. If there is any doubt about whether an activity is covered by the General Class Licence or not, the company or individual concerned should contact the JCRA directly¹, who will be able to advise on the matter.

The proposed changes to the licence were set out in the JCRA's Initial notice CICRA 14/05, published in January and which remains available on its website, www.cicra.je.

Following discussion with the States of Jersey Economic Development Department Communication Services department, the aim of the amendments was to implement changes to ensure that telecommunications services used by the emergency and rescue services and other essential services, using spectrum specifically designated for that purpose would be brought within the remit of the General Class Licence.

This included for example fire and rescue, ambulance and police services together with other essential services such as air traffic control, navigation and ground to air or ship to shore communications.

This amendment is not intended to include the provision of other services, such as (non-emergency) passenger communications or other commercial services even if making use of the same technology or infrastructure.

In addition, the JCRA took the opportunity to update other aspects of the licence, for example the removal of expiry date from the licence and its replacement with a provision to allow it to continue until revoked or suspended by the JCRA.

Full details of the proposals were set out in the original Initial Notice (CICRA 14/05) available on the website www.cicra.je.

¹ Contact details provided in section 2

5. Response To the Initial Notice

The JCRA received a single response to the Initial Notice from IT Consultancy Limited, a copy of which is available on the CICRA website at www.cicra.je. In the response, it set out its interpretation of the Telecommunications (Jersey) Law 2002 and in particular, its view of two possible interpretations of the General Class Licence.

IT Consultancy notes that the wording of the Initial Notice states that “*the provision of commercial ‘for profit’ services to individuals or businesses*” will continue to need separate licensing.

- the possible and diametrically opposed interpretations of the General Class Licence;
- that the text of the General Class Licence does not differentiate between services operated “for profit” or otherwise;
- that the Authority did not engage in any consultation prior to the introduction of the General Class Licence in 2004;

and considers that:

- it would not be in the public interest for providers of some or all of the example services [set out in the response] to have to apply and pay for individual class I licences.
- such individual licensing would be likely to reduce the variety of such services provided within Jersey and would not be in the public interest.

The JCRA believes that these comments go beyond the scope of the changes under consideration and to the much broader issue of the way in which licensing in general operates. While the JCRA recognises the comments made by the respondent, it notes that there is no specific concern or objection to the inclusion within the general class licence of telecommunication services intended to serve the emergency services or to provide essential air or marine navigation.

At this time the JCRA does not propose to review the overall operation of the General Class Licence, which has been in place since 2004. It is however likely that at some point in the future the JCRA will wish to consult on the broader issues around licensing at which point these comments would be relevant and we would invite the respondent to raise the specific points for consideration.

In respect of the wording in the Initial Notice and interpretation of the new categories within the General Class licence.

Specifically, the amended licence enables the provision, under the General Class Licence, of telecommunications services for the essential services, including emergency fire, rescue, coastguard services, police and ambulance services together with airport and air traffic control and navigation services and harbour and marine navigation and shipping communications.

The new and amended categories within the licence permit the provision of telecommunications services for these purposes, making use of spectrum specifically allocated by Ofcom, regardless of the technology employed. They are not intended to cover the provision of commercial services to third parties, such as calls or data services provided to passengers, even if they make use of the same infrastructure. Such commercial services would need to be licensed through the usual means, whether by a Class I, II, or III Licence or under a separate provision of the General Class Licence.

Note that this is not intended to restrict the ability of the agencies or bodies involved in providing these services to determine how best to provide the relevant telecommunication services, whether, for example, to go out to tender or to subcontract to a commercial provider or make some other arrangement. However, if the commercial operator or subcontractor wanted to make use of the same infrastructure to provide commercial services to third parties (other than the relevant essential service) they too would need to ensure that the activity was appropriately licensed.

6. Conclusion

The JCRA will issue the amended General Class Licence as proposed in the Initial Notice CICRA 14/05, the text of which is attached to this notice at Annex A. The amended General Class Licence will be issued when this notice takes effect on 18 June 2014.



General Class Licence
for a
Telecommunications System

JERSEY COMPETITION REGULATORY AUTHORITY

General Class Licence

under

THE TELECOMMUNICATIONS (JERSEY) LAW, 2002

The JCRA, in exercise of the powers conferred on it by the Telecommunications (Jersey) Law, 2002, grants to the Provider or User a Licence to provide, install, maintain and operate a Licensed Telecommunication Service or Telecommunications Apparatus within the Bailiwick of Jersey and subject to the Conditions, all lawful directions of the JCRA and all applicable laws, rules, regulations, ordinances and orders of the States of Jersey.

DATED

SIGNED

**Andrew Riseley
Chief Executive, JCRA**

CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 A word or expression that is used in the Licence and the Conditions and is also used in the Telecommunications (Jersey) Law, 2002, has, except where the context otherwise requires, the same meaning in the Licence and the Conditions that it has in the relevant Law. In addition, the expressions set out below have the meanings given to them below:

“**Access**”: means the ability to obtain a required service, facility or function;

“**Alarm System**”: means a system for detecting fire, intrusion or other predefined conditions in relation to a building or premises and connected to a central location operated by the Provider or User;

“**Associated Company**”: means a company that is an ‘associated company’ of the Provider where one of the two has control of the other, or both are under the control of the same person or persons;

“**BABT**”: means the British Approvals Board for Telecommunications or its successor;

“**BSI**”: means the British Standards Institution;

“**Community Distribution System**”: means a system operated via cable or wireless for the unidirectional distribution of radio or television broadcast programmes or multimedia content to a community of Users within a building or premises and received via a single reception system;

“**Conditions**”: means Conditions 1 through 11 of this Licence, as may be amended, revoked or added to by the JCRA from time to time;

“**Direction**”: means a written statement issued by the JCRA with which a Provider or User must comply;

“**Emergency Service**”: means an organisation established to ensure public safety in emergency situations, and includes police, fire and rescue, ambulance and coastguard services;

“**ETSI**”: means the European Telecommunications Standards Institute;

“**General Class Licence**”: means this Licence;

“**ITU**”: means the International Telecommunications Union;

“**ISVR**”: means International Simple Voice Resale; the conveyance of telephone messages via a switch that is not located in the Bailiwick of Jersey and accessed by means of dialled Numbers from a telephone located in the Bailiwick of Jersey;

“**JCRA**”: means the Jersey Competition Regulatory Authority;

“LAN”: means a data communications system that (a) lies within a limited spatial area, (b) has a specific user group, (c) has a specific topology, and (d) is not a public switched telecommunications network, but may be connected to one;

“Licence”: means this licence to provide, install, maintain and operate the Licenced Telecommunications Service or Telecommunications Apparatus, subject to the Conditions;

“Licence Commencement Date”: means the date on which this Licence is signed by the JCRA;

“Licensed Telecommunication Service” means a Telecommunication Service defined in Appendix A of this licence;

“Licensed Telecommunication System”: means the system for the conveyance of messages through the agency of energy which the Provider or User is authorised to establish, operate and maintain in the Bailiwick of Jersey;

“Modem”: means a device for modulating and demodulating signals for transmitting, receiving, or transmitting and receiving data;

“Network”: means a set of interconnected devices across which a telecommunicated message can be passed;

“Numbers”: means the formats of codes and subscriber numbers for routing telecommunications services to a network termination point, user, telecommunications equipment or customer premises equipment in the Bailiwick of Jersey, which formats are allocated by the JCRA or by Ofcom under the Communications Act 2003;

“Ofcom”: means the Office of Communications established under the Communications Act 2003, or its successor;

“PMR” means a Private Mobile Radio System as defined below;

“Private Mobile Radio”: means a private radio system, not connected to the PSTN, which allows users to have voice communication from mobile to mobile, mobile to base or base to mobile within the Bailiwick of Jersey;

“Provider”: means a person who installs or controls a Telecommunications Service or a Telecommunications System and who may or may not be the User;

“PSTN”: means Public Switched Telephone Network;

“Radio Alarm”: means a radio system designed for the sole purpose of sending non-verbal signals to a receiving device to raise an alarm or summon assistance;

“Radio Controlled Device”: means a device whose motion or function is controlled by non-verbal radio signals;

“System”: means, in this document, a device for the origin and completion of telecommunicated messages;

“Telecommunications Apparatus”: means apparatus defined in Appendix A of this licence;

“Telecommunications (Jersey) Law”: means the Telecommunications (Jersey) Law, 2002;

“Terminal”: means a device capable of sending, receiving, or sending and receiving information over a network;

“User”: means a person, organization or other entity that is a consumer of Telecommunication Services;

“VSAT”: means Very Small Aperture Terminal, an earthbound receiver used to receive a telecommunicated message;

“VSAT Services”: means the distribution of unidirectional telecommunicated messages received via a VSAT;

“Wireless LAN”: means a LAN utilising infrared or radio spectrum, allocated for the purpose by Ofcom.

1.2 In the Licence and these Conditions, unless the context indicates a contrary intention:

- (a) references to Conditions, paragraphs and subparagraphs are to Conditions, paragraphs and subparagraphs of the Conditions, as varied from time to time in accordance with the Conditions;
- (b) a document will be incorporated into and form part of the Conditions if it is referred to in the Conditions, and reference to such a document is to that document as varied from time to time;
- (c) headings used for conditions, paragraphs and subparagraphs are for ease of reference only and will not affect the interpretation of the Conditions;
- (d) references to any law, rule, regulation, ordinance, order or other legal instrument includes any modification, re-enactment or legislative provisions substituted for the same;
- (e) use of the word “includes” or “including” should be construed as being without limitation; and
- (f) the masculine gender shall include the feminine and neuter, and the singular shall include the plural, and vice versa, and words importing persons shall include firms or companies.

PART I: ESTABLISHMENT AND ENFORCEMENT

2. SCOPE OF THE LICENCE

- 2.1 This Licence authorises a Provider or User to supply, install, maintain and operate a Licensed Telecommunication Service or Telecommunications Apparatus.

3. PROVISION OF INFORMATION

- 3.1 For the purpose of monitoring the Provider's or User's compliance with the Conditions and the Laws, the Provider or User shall provide to the JCRA in the manner and at the times required by the JCRA, any documents, accounts, returns, estimates, reports or other information (whether financial, operational, technical or otherwise) including but not limited to the documents, accounts, returns, estimates, reports and other information specified in this Licence.

- 3.2 The Provider or User shall bear all reasonable costs associated with any examination, investigation or audit conducted under this Condition.

- 3.3 Upon request from the JCRA, the Provider or User shall provide to the JCRA the following details:

- (a) the name of the Provider or User;
- (b) the address of the Provider's or User's registered office or residence; and
- (c) particulars of the types of Telecommunication Services to be supplied and operated by the Provider or User.

4. COMPLIANCE

- 4.1 In addition to the Conditions, the Provider or User shall comply with:

- (a) any obligation imposed on it by the Laws or by any law, regulation, rule, ordinance or order; and
- (b) any direction duly issued by the JCRA under the Laws or by any law, regulation, rule, ordinance or order of the States of Jersey or this Licence.

5. MODIFICATION

- 5.1 The JCRA may from time to time modify, delete or add to any condition in this Licence or the Appendix. Any such modification, deletion or addition

shall be made in accordance with Article 18 of the Telecommunications (Jersey) Law and any other requirements under any applicable Law.

6. ENFORCEMENT AND REVOCATION

- 6.1 The JCRA may at any time revoke this Licence in accordance with the provisions and procedures set out in Articles 19 and 20 of the Telecommunications (Jersey) Law. The JCRA may also take any action to enforce any Condition of this Licence in accordance with Article 19 of the Telecommunications (Jersey) Law or any direction issued relating to this Licence.

7. EXCEPTIONS AND LIMITATIONS ON THE PROVIDER'S OR USER'S OBLIGATIONS

- 7.1 If the Provider or User is prevented from performing any of its obligations under this Licence because of force majeure:
- (a) the Provider or User shall notify the JCRA of those obligations it is prevented from performing and the reason why as soon as reasonably practicable; and
 - (b) the JCRA may suspend those obligations and the Provider or User will not be liable to perform those obligations, for so long as the force majeure continues, only if and to the extent that the inability to perform could not have been prevented by taking steps specifically required under this Licence or other reasonable precautions and the inability cannot reasonably be circumvented by the Provider or User at its expense through the use of alternate sources, work-around plans or other means.

8. TERM

- 8.1 The Licence commences on the Licence Commencement Date and continues until revocation or suspension by the JCRA, subject to the Provider's or User's compliance with the Conditions and the Laws.

PART II: CONDITIONS APPLICABLE TO ALL PROVIDERS OR USERS

9. APPARATUS STANDARDS

- 9.1 All Telecommunications Apparatus connected to a Licenced Telecommunications System shall meet the standards of BABT and BSI and,

as appropriate, operate within the radio spectrum defined for the use in the Bailiwick of Jersey by Ofcom.

10. MISUSE OF DATA

- 10.1 The provider shall not make use of customer information or profiles or any other data of any nature which become available to it directly or indirectly as a result of the execution of duties under this Licence, in any way which, in the reasonable opinion of the JCRA, would unduly prefer the interests of any business carried on by the provider or an Associated Company of the provider, or place other providers under this Licence at an unfair disadvantage.

PART III PUBLIC SERVICE CONDITIONS

11. CONSUMER PROTECTION

- 11.1 The Provider shall, as appropriate and in the manner and at the times specified by the JCRA, publish its standard terms and conditions, prices and tariffs. In the absence of any other direction from the JCRA, the Provider shall ensure that a current statement of all applicable terms and conditions is promptly made available for inspection at the request of any User or customer or promptly sent to them by post on request.

APPENDIX A

SCHEDULE OF APPARATUS OR SERVICES COVERED BY THIS LICENCE

- (a) Telephones connected to the PSTN or a private network;
- (b) Cordless telephones connected to the PSTN or a private network using spectrum allocated for the purpose by Ofcom;
- (c) Mobile telephones connected to a public mobile network;
- (d) Loudspeaking telephones connected to the PSTN or a private network;
- (e) Answering machines connected to the PSTN or a private network;
- (f) Fax machines connected to the PSTN or a private network;
- (g) Calling Line Indicator apparatus connected to the PSTN or a private network;
- (h) Telephones operated by means of a coin or token where provided for the use of third parties on private premises;
- (i) PABX's connected to the PSTN;
- (j) Private telephone exchanges and key systems not connected to the PSTN but providing a service to a third party;
- (k) Key systems connected directly to the PSTN or to a PABX connected to the PSTN;
- (l) Wireless LAN equipment operating in the infrared (IR) spectrum or Licence free spectrum allocated for the purpose by Ofcom;
- (m) Telex transmitter and receiver devices;
- (n) Wireless loop hearing aid systems designed for the sole purpose of producing a signal for reception by a hearing aid;
- (o) Radio microphones using spectrum allocated for the use by Ofcom;
- (p) Unidirectional wireless paging systems using spectrum allocated for the purpose by Ofcom;
- (q) Community Distribution System;
- (r) Alarm Systems;

- (s) VSAT Services;
- (t) ISVR retail telecommunications services by means of a prepaid token to access a Licensed Telecommunications System;
- (u) Modems;
- (v) Data networks connected to the internet;
- (w) Point to point private circuits;
- (x) Citizen Band Radio stations and repeaters using spectrum allocated for the purpose by Ofcom;
- (y) Radio Controlled Devices using spectrum allocated for the purpose by Ofcom;
- (z) Private Mobile Radio using spectrum allocated for the purpose by Ofcom;
- (aa) Radio Alarms using spectrum allocated for the purpose by Ofcom;
- (bb) The provision of communications using PMR, trunk radio services or other technology as appropriate, for the Emergency Services in their day to day operations and other users, as approved and authorised by the States of Jersey Tetra Management group (or its successor) or in the States of Jersey Emergency Plan, and for essential communications provided in the event of major incidents and using spectrum allocated for the purpose by Ofcom;
- (cc) Air traffic control operations and navigation services and essential ground to air communications provided by Jersey Airport and air traffic control services, using spectrum allocated for the purpose by Ofcom. For the sake of clarity, this does not include commercial communications services provided for the convenience of passengers (eg, for the provision of telephone or data connectivity) whether on the ground or in the air;
- (dd) Harbour and maritime operations and services; navigational services and essential shore to ship or air communications using spectrum allocated for the purpose by Ofcom. For the sake of clarity, this does not include commercial communications services provided for the convenience of passengers (eg, for the provision of telephone or data connectivity), whether in harbour or at sea.