



Non-confidential version of Response by Sure (Guernsey) Limited and Sure (Jersey) Limited to CICRA Consultation Document 13/54: Pan Channel Island Second Consultation on 800 MHz and 2.6 GHz Spectrum Awards

Sure (Guernsey) Limited and Sure (Jersey) Limited, collectively referred to in this response as “Sure”, is pleased to provide this response to the CICRA consultation 13/54, “Pan-Channel Island Second Consultation on 800MHz and 2.6GHz Spectrum Awards, which was issued on the 23rd December 2013. Please note that this response is the non-confidential version of Sure’s original response, which was submitted to CICRA on the 4th February. Redactions from the confidential version submitted to CICRA are marked with the symbol ⌘.

Sure welcomes further progress on the allocation of suitable spectrum to support the introduction of 4G (4th Generation) or LTE (Long Term Evolution) services¹ to customers in the Channel Islands.

We have provided detailed responses to the questions raised by CICRA below. In summary:

- CICRA’s objectives for the allocation of 4G/LTE spectrum would be best met by a one stage rather than two stage award process;
- CICRA should not delay the consideration of the 1800MHz frequency until the 800MHz and 2.6GHz allocation process is completed. As we have noted in previous responses and discussions with CICRA, the allocation of this frequency is critical to ensuring that customers (including roaming customers) obtain an excellent 4G experience as soon as possible. The current consultation does not pay sufficient regard to the importance of this spectrum to the success of 4G services in the Channel Islands;
- Sure would recommend that the allocation of 1800MHz takes precedence over the allocation of the 2.6GHz band or at least happens as part of this current process;
- CICRA should prioritise the redistribution and refarming of spectrum in the 1800MHz and 900MHz spectrum bands. Within the 1800MHz frequency band CICRA must redistribute spectrum to remove the current issues of non-contiguous and smaller allocations held by Sure and Airtel, which give JT, who has a larger contiguous allocation, an unfair advantage. It should also ensure that unallocated spectrum in this frequency band is distributed fairly so as to remove the advantage that JT currently also enjoys in this respect;
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- CICRA must make the requirement for the incumbents to relinquish some 900MHz spectrum more definitive and legally binding. Otherwise there is a real risk that the whole allocation process will be jeopardised should one operator decide not to co-operate. Sure has already indicated its willingness to relinquish some 900MHz spectrum in exchange for 800MHz spectrum

¹ We use both the terms 4G and LTE throughout this response for convenience but recognise that they are not completely synonymous



and would suggest that CICRA is explicit that this will be a legally binding ex ante requirement of the respective incumbents that will be enforceable regardless of their success or failure in the allocation of spectrum;

- CICRA should implement technology neutral licences across the Channel Islands for all relevant frequency bands - including 800MHz, 900MHz, 1800MHz, 2100MHz and 2.6GHz – and work with Ofcom to ensure the Wireless Telegraphy Act (WTA) licences also support this principle. However, technology neutral licences should only be available to those operators that have been granted an operating licence by CICRA to offer 4G services and have complied with any requirements to relinquish or refarm existing spectrum;
- Some Minimum Requirements are too vague and need to be more specific in nature;
- Sure would recommend changes to the evaluation weightings;
- Sure continues to believe that a fourth operator is counter to the objective of increasing competition as it will result in a denigration of the customer experience as well as having an adverse environmental impact. Further to this we get the impression that CICRA is regarding the promotion of competition as an end in itself rather than as a means by which to achieve its primary objective of promoting consumers' interests;
- Sure is disappointed that CICRA seems to be persisting in its belief that there will be widespread interference issues associated with the DTT spectrum and is proposing to load extra and unnecessary costs onto operators (and therefore consumers) as a result. This is despite strong evidence to the contrary, which Sure has shared with CICRA;
- It is inappropriate for operators to be expected to subsidise the costs of radar mitigation in Jersey especially when we understand this work was necessary to resolve interference issues with France, and more fundamentally, that the work has already been undertaken.



Question 1

Views are sought on whether the objectives as set out remain appropriate for informing the award process for LTE spectrum?

Sure believes that the four objectives set out in CICRA's July 2013 consultation and reproduced on page 10 of its current consultation remain appropriate to the determination of the allocation of spectrum to support 4G/LTE services in the Channel Islands. However we are not convinced that the two stage process that CICRA is proposing for the allocation and licensing of this spectrum is the best way to ensure that these objectives are met, and we discuss the reasons for this in more detail in response to question 2 below.

We would also emphasise at this point that other frequencies are capable of supporting 4G/LTE services – in particular the 1800MHz frequency band – and believe that CICRA needs to address the issues surrounding the allocation and refarming of this frequency, including the need for defragmentation, as part of this current process. We discuss this further in response to question 3 below.

We are pleased to note that CICRA itself recognises that an increased number of operators will not necessarily result in enhanced competition and improved outcomes for the economy and consumers in the Channel Islands. Despite this, we do get the impression that CICRA is regarding the promotion of competition – through the introduction of a fourth operator - as an end in itself rather than as a means by which to achieve its primary objective of promoting consumers' interests. We do not agree that the introduction of a fourth operator will necessarily result in an increase in effective and sustainable competition that will have positive outcomes for consumers, either in the short or long term. There are a number of reasons for this:

- If a potential fourth operator is successful in acquiring spectrum, that would spread the available spectrum too thinly across four operators, resulting in inefficiencies and higher costs that ultimately will need to be recovered from consumers. We discuss the optimal allocations of spectrum, and how this is impacted by having four rather than three operators, in more detail in question 3 below;
- If a potential fourth operator is not successful in acquiring spectrum, it seems that CICRA proposes to retain that unallocated spectrum in the hope that a potential new entrant will appear at some unspecified date in the future. We do not see how withholding spectrum in this way is consistent with CICRA's objective to promote consumers' interests and so we believe that any unallocated spectrum should be made available to the operators that have successfully qualified for spectrum under this current process. However, the two stage process makes it difficult for CICRA to redistribute that spectrum to the successful bidders in an efficient manner (that is, contiguous to their existing allocated spectrum) as those bidders awarded spectrum under Bundle A are awarded spectrum before the completion of stage two. (We discuss this in more detail in question 2 below.) The inefficiencies in allocations that result from non contiguous allocations would increase costs to operators, which will be reflected in higher consumer prices;



- A potential new entrant, who is successful in this current process, is unlikely to be able to compete on the same terms as existing operators as it would only be able to offer data services. This is because the current allocation process concerns 800MHz and 2.6GHz spectrum for 4G/LTE services, which are suitable for data services only. By contrast, existing operators will be adding 4G services as an overlay to their current 2G (voice) and 3G (voice and data) services. The fourth operator would therefore be a niche player, either offering WiMax or a data only mobile service. We doubt this would be attractive to a sufficient number of consumers in the small Channel Islands market to enable that operator to exert significant competitive pressure on the other operators. This would seem to defeat the purpose of encouraging a fourth operator in the first place, especially as that operator would be using up spectrum that could be allocated amongst three operators to encourage innovation and efficiency.

In this context we would also highlight the Analysys Mason report, commissioned by the Commerce and Employment Department of the States of Guernsey², had identified that it could take a 4th operator a significant time (as long as 13 years) to reach a market share that would be conducive to effective competition. During this time, the spectrum allocated to the 4th operator would be inefficiently used, whilst other operators would have a less than optimal allocation available for the delivery of the best possible customer experience.

Whilst a weak new entrant may seem like something that existing operators should not be too concerned about, it does not seem to be consistent with CICRA's aim of promoting consumers' interests. Indeed, CICRA could find itself accused of encouraging wasteful competition.

Therefore, whilst we remain fully supportive of CICRA's aim of promoting competition, we would reiterate that this needs to be sustainable competition that will genuinely improve consumers' short and long term interests. The mobile markets in both Guernsey and Jersey are already intensely competitive and with limited economies of scale and scope available we cannot see how they can sustain a fourth operator. Whilst it could be argued that it is for any potential fourth operator to make a commercial decision as to whether or not to enter the market, we are concerned that allocating spectrum to an unproven new entrant will result in sub-optimal allocations of spectrum and therefore an inferior customer experience and higher prices.

Sure notes from Annex D of CICRA's consultation, which contains a summary of responses to CICRA's July consultation, that all three existing operators as well as Guernsey Airport are not in favour of a fourth operator. Whilst this may not be an unexpected view (from existing operators in particular) CICRA needs to consider the reasons for this view are not necessarily self-serving. There is a real concern about unsustainable and possibly destructive competition that would ultimately not result in the best outcome for consumers. We do not believe that CICRA has given due consideration to the importance of this issue or to the views that have been expressed in this regard.

² 4G spectrum allocation review in the Channel Islands, Final Report for the Commerce and Employment Department of the States of Guernsey Government, Analysys Mason, April 2013



We note that in markets that are significantly larger than the Channel Islands the recent trend has been towards consolidation of mobile operators. For example, recent mergers in Ireland and Austria have seen the number of mobile operators reduce from four to three operators. In the UK, the number of mobile networks reduced from five to four, when EE was formed by the merger of T-Mobile and Orange. These developments indicate the scale required for the commercial success of mobile network operators, which raises significant questions about how the Channel Islands could support a fourth operator.³

Indeed, we believe that a more effective way of promoting competition would be for CICRA to address the current inequalities in the spectrum holdings of the existing operators, notably within the 900MHz and 1800MHz frequencies, as this would seem to offer a better means of achieving sustainable competition in the Channel Islands within a relatively short time period.

We discuss further in response to question 3 the minimum/optimal amounts of spectrum in each frequency band that an operator would need to be able to offer the best possible customer experience and how the dilution of available spectrum across 4 rather than 3 operators may limit the ability of operators to innovate, etc. This includes a discussion of how CICRA will need to consider the allocations of 1800MHz frequencies as part of this current process and how consideration of the best way to reform this band to correct current inequalities and inefficiencies cannot be delayed until after this current process is completed. Refarming could potentially allow CICRA to address the issue identified above of a fourth operator only being able to offer data services.

Notwithstanding the above, we believe that the introduction of a fourth operator will be counter to CICRA's objective of minimising the impact of spectrum-dependent activities on the environment. Whilst all current operators endeavour to share masts wherever possible, CICRA must recognise that there will be space limitations on some existing masts such that additional masts will be needed to support a 4th operator. If a fourth operator is introduced then it is likely that it would have to construct new masts for its sole use, substantially adding to its network roll-out costs and therefore reducing its ability to compete with the three existing operators. In our previous responses and discussions with CICRA we have suggested that if there is to be a fourth operator it should be in the form of an MVNO. This would ensure sound coverage from day one as well as minimising the environmental impact of the fourth operator. It would also ensure that spectrum allocations would only be spread between 3 network operators resulting in a better customer experience.

We remain supportive of CICRA's fourth objective of applying a consistent and simultaneous pan-Channel Islands approach to the allocation of spectrum for 4G/LTE services. This will help to ensure that CICRA can further consumers' interests in terms of prices and costs. The relatively small size of the respective Bailiwicks of Guernsey and Jersey mean that a joint allocation process will be essential if operators are to be able to take advantage of whatever limited economies of scale and scope may be available.

³ Whilst we acknowledge that our concerns seem to be based on the assumption that the fourth operator would be another mobile operator as opposed to a fixed wireless operator, the entry of a fixed wireless operator would still raise issues in terms of possible inefficient and sub-optimal allocations of spectrum, environmental impact of additional masts, cream-skimming, etc.



Finally we note that in conducting the selection procedure for spectrum allocation in the Channel Islands that CICRA will need to ensure that its recommendation to Ofcom will be consistent with Ofcom's own objectives and statutory duties. These duties include furthering the interests of consumers and where appropriate promoting competition. Significantly, Ofcom's duties also include the need to secure the optimal use of spectrum. We believe that this means that CICRA cannot afford within this current process to consider the 800MHz and 2.6GHz spectrum in isolation of other frequency bands. We believe that CICRA should use this current process as the opportunity to achieve a consistent allocation of all the relevant spectrum bands in the Channel Islands, and especially within the 900MHz and 1800MHz frequency bands. We do not believe that this can be achieved by delaying consideration of the current imbalances until after this process is completed; they need to be considered at the same time. This holistic approach to spectrum will be essential for ensuring that consumers' interests are furthered, effective and sustainable competition is promoted and spectrum is allocated as efficiently as possible. We discuss this further in response to question 3 below.

Question 2

Views are sought on whether the proposed two stage award approach meets CICRA's objectives as set out?

Sure has serious concerns over the proposed two stage process and believes it introduces a level of complexity to the process that could jeopardise some of CICRA's objectives for the process. We have considered the approaches taken to comparative selection processes elsewhere and have discovered that two stage processes rarely happen.⁴ When they do it is in the context of using the first stage as a "filter", or pre-qualification stage, where there are more applicants than licences available. We have not been able to find any evidence for a two stage beauty contest to be used in the actual comparative selection process, so it therefore seems a risky strategy for CICRA to be attempting to use a completely untried method, which as we highlight below, seems to have some significant weaknesses. We would suggest a one stage award would be much more suited to the Channel Islands marketplace.

Issues with a two stage award

Under CICRA's current proposals for a two stage process, operators need to decide whether they would prefer to obtain an allocation of spectrum in the first stage award or the second stage. It is not unreasonable to assume that all three of the current mobile operators will want to obtain an award of spectrum in the first round. However, knowing that one of these operators will not get an allocation in the first award process, all three operators will need to craft their applications to ensure that, should they be unsuccessful at the first stage, they will still be able to obtain spectrum at the second award stage. With the different weightings CICRA is proposing for the evaluation criteria at the second stage, it will be very difficult to create a single application that is suitable for both the first and the second stage award processes. For example, in the first stage awards, the highest proposed weightings are given to

⁴ See, for example, the review by the Electronic Communications Committee "Auctions and Beauty Contests in CEPT Administrations", May 2005.



coverage and quality of service (each at 25%), whilst the promotion of competition is given a relatively low weighting (of 12%). By contrast, under the second stage the highest proposed weighting is given to the promotion of competition (30%), with coverage and quality of service having the lowest weightings of 5% and 10% respectively.

An application that has been put together with the aim of winning spectrum as part of the first stage awards will therefore have an inappropriate focus if it is unsuccessful at that stage and is then considered for a second stage award where different weightings apply. This could put that applicant at a serious disadvantage against any niche players that may have made a strategic decision to apply only for the second stage awards and who would have written their applications with the second stage weightings specifically in mind.

We acknowledge that CICRA would allow operators to create two separate tender documents for submission to CICRA, one aimed at the first stage and the other for the second, in the event that the first stage application is unsuccessful. However, it seems from the Overview Table in section 19 of the draft Tender document that these would have to be submitted at the same time. This would place significant resource constraints on any operators that choose this option and would result in additional costs for all involved. Sure believes this could be avoided with a one stage process.

If existing full service providers submit only one tender document we would question whether the possible elimination of a full service provider in favour of one or two niche players, who had not pledged good coverage or quality of service, would be in the best interests of Channel Islands consumers. Could such an outcome also make CICRA more vulnerable to a legal challenge from the unsuccessful operator than if that operator had lost out in a single stage process that applied the same criteria and weighting to all qualifying bids?

A bidder with a preference for an allocation in the first stage, but wanting to safeguard against not achieving that and therefore needing to produce a strong application for the second stage, could find that it unnecessarily increases its cost levels (by offering strong coverage and quality of service commitments for stage one) and reduces its revenues (by offering more aggressive charges and other pro-competition initiatives to meet the high proposed weighting of the pro-competitive parameter in stage two). This could compromise the medium to long terms viability of that operator and put it at a competitive disadvantage against bidders targeting stage 2 allocations only.

Indeed, It appears odd that CICRA is expecting, if not encouraging, two different quality of service levels at the respective first and second award stages, as indicated by the different weightings applied at each stage. We are not sure we can see how placing a lower weighting on the coverage and quality of service criteria in the evaluation criteria for assessing second stage awards can be expected to result in bids that will be able to satisfy a higher weighting in terms of promoting competition.



Perhaps CICRA is expecting that one or more niche players will enter the market and concentrate their service offerings in St Peter Port and St Helier? If so, they may be able to provide services using a lower cost base than those operators that have been awarded spectrum under CICRA's proposed Bundle A, but only because they will not have had to incur the costs of rolling out services to all parts of Jersey and Guernsey.

It may be reasonable for a regulator in larger jurisdictions to encourage this sort of niche competition, but we question whether it is reasonable and appropriate for the Channel Islands, where the market is very small and has limited economies of scale and scope. This would seem to amount to encouraging cream skimming that would act against the overall interests of Channel Islands consumers. The full service providers would be left with the obligation to provide services to all parts of the Channel Islands – including the smaller islands of Herm, Sark and Alderney – and so would have a higher cost base than the niche players, but they would then have a reduced customer base against which to recover those costs, as the niche players are likely to attract some of the more profitable customers. This could prove to be counter to the overall interests of Channel Islands consumers.

We are also concerned that a two stage process could result in available spectrum being withheld from allocation should a potential fourth operator not meet CICRA's minimum requirements. We believe that it would be preferable for CICRA to allocate all available spectrum – as it would be consistent with CICRA's objective of promoting consumers' interests - but this may be difficult to do efficiently if the successful operators from the first stage have already been allocated spectrum. There may not be sufficient gaps between the individual allocations to enable CICRA to then allocate any additional spectrum not needed for a fourth operator, such that it is contiguous with the successful operators' existing spectrum holdings.

Benefits of a one stage process

All the above difficulties could be avoided, or at least reduced, if CICRA adopts a one stage award process. A one stage process would be much simpler and would also be able to accommodate a new entrant, should CICRA continue to believe that this is appropriate. It would give clarity and certainty over the criteria that operators' bids would be assessed against whilst still allowing CICRA to set out the minimum requirements that any operator would have to meet. The extent to which operators exceed the minimum requirements would then determine their ranking in the process and could therefore accommodate different packages of spectrum (that is, Bundle A or Bundle B) being allocated depending on that ranking.

We note that CICRA is currently proposing that the minimum requirements for coverage and rollout targets (as set out under Requirement 8) apply only to applicants for Bundle A. There seem to be no minimum requirements for applicants for Bundle B and in our response to question 4 we ask whether this is appropriate. However, should CICRA believe that it is appropriate to continue with this



differentiation, it could still be accommodated within a one stage process. This could be done by CICRA stating that the minimum requirements for coverage and rollout would be conditional on an applicant securing spectrum in Bundle A; if they were unsuccessful, and instead secured spectrum in Bundle B, they would not be subject to the minimum requirements associated with Bundle A (or would be subject to a slightly different minimum requirement if CICRA feels that is indeed appropriate).

It would be possible for CICRA to offer the different spectrum packages as currently proposed, simply based on ranking, with the top two applicants receiving the current stage 1 packages (Bundle A) and the applications ranked 3rd and 4th (if there are four) receiving the current stage 2 packages (Bundle B). Should only 3 bidders meet the minimum requirements, then CICRA could have a different set of three packages available, which could also be awarded based on ranking and/or preference by individual applicants. This would allow CICRA to ensure that bidders received contiguous allocations of spectrum, thereby meeting its – and Ofcom’s - objective of ensuring spectrum is allocated in a way that promotes efficiency. Operators would be able to configure their networks in the optimum manner regardless of whether three or four operators had been successful in their applications for spectrum.

A one stage process would therefore be able to accommodate a fourth operator, but could do so in a way that would ensure that any increased competition would support, rather than undermine, CICRA’s primary objective of promoting consumers’ interests.

By eliminating the additional time that a two stage process would take, CICRA would be able to take a more holistic approach to spectrum from the outset, especially in terms of how to address the refarming and defragmentation required for the 900MHz and 1800MHz spectrum bands as part of this process. As we discuss in greater detail in response to question 3 below, 1800MHz spectrum is becoming the global frequency band of choice for LTE services and so it would be inappropriate for CICRA to delay its consideration until the 800MHz and 2.6GHz bands have been allocated. We also believe that the current inequalities in the 900MHz spectrum band need to be addressed as part of this same process.

Question 3

Views are sought on whether the amount and mix of spectrum in each lot is consistent with the purposes of making these awards?

Sure notes that within the current consultation CICRA has defined “LTE spectrum” as the 800MHz and 2.6GHz bands. It has then focused this consultation on how to award spectrum in these bands, whilst postponing the consideration of the 1800MHz band until after the allocation of 800MHz and 2.6GHz spectrum has been completed. Sure believes that this overlooks the importance of the 1800MHz spectrum band to the delivery of 4G services and risks compromising CICRA’s stated objectives for this current process, as set out on page 10 of the current consultation. In particular, CICRA’s objective “to



further consumers' interests in the short and long term, having regard to prices and costs..." and its objective "to promote competition...to further the consumer interest", risk being compromised. It could also put at risk CICRA's ability to propose spectrum allocations that are consistent with Ofcom's duties of promoting the efficient and optimal use of spectrum.

It is surprising that CICRA seems to have taken the decision to delay consideration of the 1800MHz band, especially in light of the recent report by Analysys Mason. Whilst this Report was commissioned by the Guernsey Commerce and Employment department, CICRA published it as an appendix to its July 2013 consultation and seems to have drawn on its findings in other respects, such as in relation to the proposed cap on 1GHz frequencies. We do not understand therefore how CICRA seems to have overlooked some of the very clear statements within the Analysys Mason Report regarding the importance of the 1800MHz frequency to 4G services. For example, it stated:

"...when considering the options for meeting 4G spectrum demand, it is appropriate for the Governments of Guernsey and Jersey to consider not just new spectrum bands (e.g. 800MHz and 2.6GHz) but also the existing bands used for 2G/3G mobile services (e.g. 900MHz, 1800MHz and 2.1GHz⁵), which can be refarmed for 4G use. For example, it is noted that not all the available 2G spectrum in the 1800MHz band has previously been assigned for 2G use in the Channel Islands and so there is a possibility of the remaining spectrum in that band being assigned directly for 4G use."

Analysys Mason highlighted a number of reasons why 4G spectrum should be regarded to consist of 800MHz, 1800MHz and 2.6GHz spectrum. These included benefits in terms of international co-ordination with operators across Europe:

"Releasing 4G spectrum in the 800MHz, 1800MHz and 2.6GHz bands also has significant benefits of international coordination with operators across Europe. This allows the Channel Islands operators to benefit from the strong equipment ecosystems (including consumer devices) in each of these bands, as well as significantly simplifying coordination issues with other countries, i.e. France and the UK."

The Report also highlighted the need for operators to have access to the most popular 4G spectrum bands to ensure the best possible 4G experience, stating:

"By not releasing spectrum in the 800MHz, 1800MHz or 2.6GHz bands, the Channel Islands would have severely limited the potential for its operators to deploy 4G networks and services across the islands. With operators having no access (or limited access in the case of 1800MHz) [emphasis added] to the most popular 4G spectrum bands globally, covering each of the

⁵ We would however note that the industry is not currently considering 2.1GHz as a frequency to be reused for 4G.



strongest device and equipment 4G ecosystems, it is likely that operators would be forced to retain the majority of their traffic on the existing 3G networks. While operators would likely deploy the newest HSPA+6 releases to gain a close (but inferior) equivalent to LTE and LTE-A, the limited efficiency (and hence increased cost) with which traffic could be carried and the lack of speeds seen by the end user, would lose a sizeable fraction of the 4G benefits as discussed.”

Analysys Mason also concluded that overall spectrum efficiency could be increased by addressing current inequalities in the 1800MHz frequency band and awarding the remaining available spectrum. In particular it stated:

“The modelling showed that redistributing the 1800MHz spectrum increases the overall spectrum efficiency by removing issues with non-contiguous spectrum (a situation which exists for both Airtel-Vodafone and Sure). The new award... increases the usable spectrum available for all operators. We note that a redistribution of the 1800MHz band along with the award of the remaining 1800MHz spectrum would result in a net gain of spectrum by each operator, even in the case where part of the new spectrum was required for a new entrant.”

Given all the above factors, Analysys Mason suggested the following in terms of the appropriate framework for assigning spectrum in the Channel Islands:

“Our analysis suggests that it will be beneficial to operators and consumers if spectrum used for 4G services in the Channel Islands is aligned with that of the UK and France. This suggests awarding new 4G licences to use spectrum in the 800MHz, 1800MHz and 2.6GHz bands, as well as considering possible redistribution of existing 900MHz and 1800MHz 2G assignments to make them suitable for liberalisation to 4G.”

Analysys Mason then went on to suggest that as a first stage to the allocation of spectrum in the Channel Islands, the respective Government of Guernsey and Jersey, along with CICRA, should encourage existing operators to agree voluntary re-alignments of the existing 1800MHz assignments (as well as the 900MHz assignments) to achieve contiguous blocks of spectrum. It was recommended that CICRA and the respective Governments should intervene if voluntary agreements could not be reached.

Analysys Mason seemed quite clear that agreement on this first stage was necessary before a second stage of considering how further 4G spectrum (in the 800MHz, 1800MHz and 2.6GHz) bands should be initiated.

In its response to the July 2013 consultation Sure therefore stated:

“For operators to be able to provide the best customer experience they need to have an appropriate mix of spectrum capable of delivering 4G/LTE services. Whilst this current consultation is specifically focused on possible allocations within the 800MHz and 2.6GHz frequency bands, the 4G/LTE capabilities of the other frequency ranges need to be considered too, alongside the extent to which roaming customers will expect to receive 4G/LTE services

⁶ We would note we believe that HSPA+ will be significantly inferior to LTE and even more so to LTE-A.



across a wide range of frequencies. In particular, we note that the UK and Europe have identified the 800MHz, 900MHz, 1800MHz and 2.6GHz frequency bands as suitable for 4G/LTE services...”

We went on to conclude:

“Sure therefore believes that CICRA should explicitly include 1800MHz frequency in its consideration of the allocation of frequencies suitable for 4G/LTE services, which will require CICRA to take a technology neutral approach as well as initiate a redistribution of allocations within this frequency band.”

We would also note that subsequent to submitting this response, we met with CICRA in October 2013 to discuss our submission and specifically to present our thoughts on how the 900MHz and 1800MHz frequencies could be realigned to enable all operators to have contiguous allocations. We specifically emphasised that we would want to use 1800MHz for 4G services as this would be consistent with the harmonisation efforts taking place throughout Europe and indeed worldwide.

We would further note that we have raised the need for CICRA (then OUR and JCRA) to address the realignment of the 1800MHz frequency band as far back as 2010⁷ but have no record of receiving a response. We raised it again in May 2011⁸ when we asked why 1800MHz was not being considered as part of the realignment of the 2100MHz spectrum but to no avail.

It is therefore very surprising and disappointing to see the scant regard that CICRA has given to the 1800MHz frequency band in this current consultation. We have therefore included below some further evidence to support our view that CICRA cannot delay the consideration of this frequency band and we hope that this will lead CICRA to reconsider its position on this important frequency band. We recognise that this may create a small delay to the process but we feel that even a delay of one or two months will be justified if it means that the Channel Islands ends up with the appropriate frequencies for 4G/LTE services being allocated, as this will be the best way to promote consumer interests. We have grouped our additional comments in terms of the technological characteristics of 1800MHz; the cost implications of the uncertainty of CICRA’s plans in relation to this frequency; and then the importance of 1800MHz for customer experience, which is assessed in terms of device availability; and worldwide trends in use of 1800MHz for 4G/LTE. We then briefly summarise the need for realignment of existing allocations and include our suggestions for how this could be achieved, as previously shared with CICRA.

Technological features of 1800MHz supporting use for 4G/LTE services

The technological characteristics of 1800MHz spectrum are such that it offers the Channel Islands the best possible mix of coverage, in-building penetration and capacity as well as already being supported

⁷ Letter to John Curran, dated 15th November 2010

⁸ Response dated 23rd May 2011 to OUR document 11/08



by existing antennae. It is therefore regarded as the most efficient 4G spectrum band, with positive implications for operating costs.

When compared to the 2.6GHz frequency, the 1800MHz frequency offers better coverage but is not as good in terms of capacity. However, in the initial years of 4G/LTE when an operator is trying to encourage take-up of the service, coverage will be more important than capacity, which will favour the early availability of the 1800MHz frequency for the 4G/LTE services over the 2.6GHz frequency.

Why we need clarity from CICRA now regarding its intentions for the 1800MHz frequency

Whenever Sure - or any operator - is planning its network it needs to have specifics regarding the technology to be employed as this will be translated into requirements from its network vendor. There will be costs involved in enabling different radio access technologies (such as GSM, UMTS, LTE) in different frequency bands as each will require different hardware (cell sites etc) and software (licences, etc). Costs will be higher the more the combination of radio access technologies and frequency bands deployed on a network. However, if it will take a significant amount of time before all those technologies and frequency bands are used by customers then unnecessary costs will have been incurred, with implications for consumer prices.

Because CICRA is proposing to delay the consideration of this frequency band for 4G/LTE services we cannot speculatively configure our network for 1800MHz now and incur the costs of doing so. If we do not know how long CICRA will take to deal with the allocation of 1800MHz frequency for 4G/LTE services then we could be spending significant capital and operating costs now that would not be earning a return until such time that we could provide 4G services over the 1800MHz frequency. We could not justify the investment case in the face of such uncertainty.

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We therefore request that CICRA provides regulatory certainty regarding the 1800MHz frequency band and we believe that there are compelling consumer interest arguments for CICRA to prioritise the use of this frequency for 4G/LTE services over the use of the 2.6GHz frequency, both in terms of the lower prices that will result from using the 1800MHz frequency compared to the other frequencies and in terms of other factors as explained below.

The importance of the 1800MHz frequency for the Customer Experience

CICRA needs to bear in mind that currently 4G services are data only services, whilst the majority of mobile customers will be expecting a combined voice and data service. That is, they will want the ability to move between 4G and 3G/2G services and vice versa.

The 1800MHz frequency provides an elegant overlay with 3G deployed at 2100MHz resulting in a better user experience when moving from LTE to 3G (and2G) and vice versa. The ability for users to switch between LTE and 3G is important, as currently 4G does not offer voice services unless solutions like VoLTE are implemented by operators. ✂



To enable voice for 4G Smartphones, Circuit Switched Fall Back (CSFB) is the bridging technology that ensures users can enjoy ultra-fast data services, as well as high-quality voice services on 2G/3G networks. CSFB will enable devices in packet-switched 4G networks to change over to circuit switched (CS) networks for incoming and outgoing voice calls. With CSFB, operators can provide not only quality voice for 4G subscribers but also data continuity, Short Messaging Services (SMS), emergency calls, voice roaming and other CS services currently available in 2G/3G networks. As CSFB utilises current CS networks, all features related to voice services are available whilst CSFB MSS can control the Media Gateway in the network, which enables smooth integration of existing ringing and message tones and announcements to subscribers. ☒

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Operators worldwide are implementing 4G data networks and a broader number of 4G-capable Smartphones are being introduced. As this evolution continues, end-users will expect to be able to make voice calls as well as access data services with their new devices and to do so seamlessly. The vast majority of such handsets offer 1800MHz as standard, as opposed to a 2.6GHz. (We discuss device availability further below) so it seems remiss of CICRA not to be considering the 1800MHz frequency as part of this current process.

Device availability for 4G/LTE services over 1800MHz compared to other frequencies

Sure's view of the importance of the 1800MHz frequency is reinforced when the greater availability of 4G devices compatible with this frequency is taken into account. The number of LTE compatible Smartphones is largest in the 1800MHz band and LTE 1800 handsets are more consistently backed by the major handset manufacturers.⁹ There are few Smartphone devices currently available that operate at the 2.6GHz frequency (although there are a large number of dongles available for the 2.6GHz band). CICRA may be interested to know that one of Sure's most popular selling handset lines, the iPhone 5s & 5C does not support the 2.6GHz frequency, but it is compatible with both the 800MHz and 1800MHz frequencies.

We would suggest therefore that it would make more sense for CICRA to concentrate on awarding a mix of 1800MHz and 800MHz as part of this current process and to possibly delay the allocation of the 2.6GHz frequency (suitable for capacity and therefore for when a large proportion of Channel Islands users would have switched from 3G to LTE) to a subsequent process¹⁰. Alternatively, CICRA could deal with the location of all three of these frequencies at the same time but not impose any requirement on operators to deploy all frequencies from the outset. This would mean that the extent to which an operator complied with the coverage obligations would be judged in terms of the availability of 4G/LTE services and not in terms of the underlying frequencies used to support those services.

⁹ See Fig 4.6 in Analysys Mason Report, sourced from the Global Suppliers Association

¹⁰ As CICRA may be aware, as part of the recent 4G licensing process in the Isle of Man the Communications Commission has determined the allocations of 2.6GHz frequency but have held them back for future assignment.



Worldwide trends in use of 1800MHz as a 4G/LTE frequency

The 1800MHz frequency is increasingly used by operators across the world to deliver 4G/LTE services. A recent report from the Global mobile Suppliers Association (GSA) states: “There is a high interest in re-farming 2G spectrum for LTE, especially the 1800 MHz band. Regulators generally adopt technology-neutrality to facilitate use for LTE-enabled mobile broadband and Internet access. In some markets 1800 MHz has been newly allocated for LTE systems. LTE network deployment in 1800 MHz is a main trend in many regions. 108 operators have commercially launched LTE1800 systems in 58 countries, either as a single band system, or within a multi-band deployment. LTE1800 serves millions of subscribers on > 44% of LTE networks worldwide. 1800 MHz is the most widely used band for LTE deployments globally (emphasis added) and will greatly assist international roaming. Having regard to the scale of network deployments and maturity of the user devices ecosystem, LTE1800 is considered by GSA to now be a mainstream systems technology”.¹¹

Need for realignment of existing allocations within the 1800MHz frequency

In light of the above factors, Sure believes that operators will be better able to meet CICRA’s objective of “furthering consumers’ interests...having regard to prices and costs, the availability and range of services...” if they are able to rollout 4G services over the 1800MHz frequency band from the start.

We have therefore considered what this proposal could mean in terms of the composition of the frequency bundles and, should CICRA wish to continue with a two stage Award process, would propose the following, which we have termed “Sure Bundle A” and “Sure Bundle B” to distinguish them from CICRA’s original recommended bundles:

✂

From the above, it is clear that should there be 4 suitably qualified operators expressing an interest in 4G spectrum (and we discuss in response to question 1 whether we believe that a 4th operator is compatible with CICRA’s objectives), ✂. We also would like to note that in the event that no 4th entrant would be awarded bundle A or B, CICRA’s objective to further consumer interest would be best satisfied by allocating three operators ✂ in the 1800MHz band.

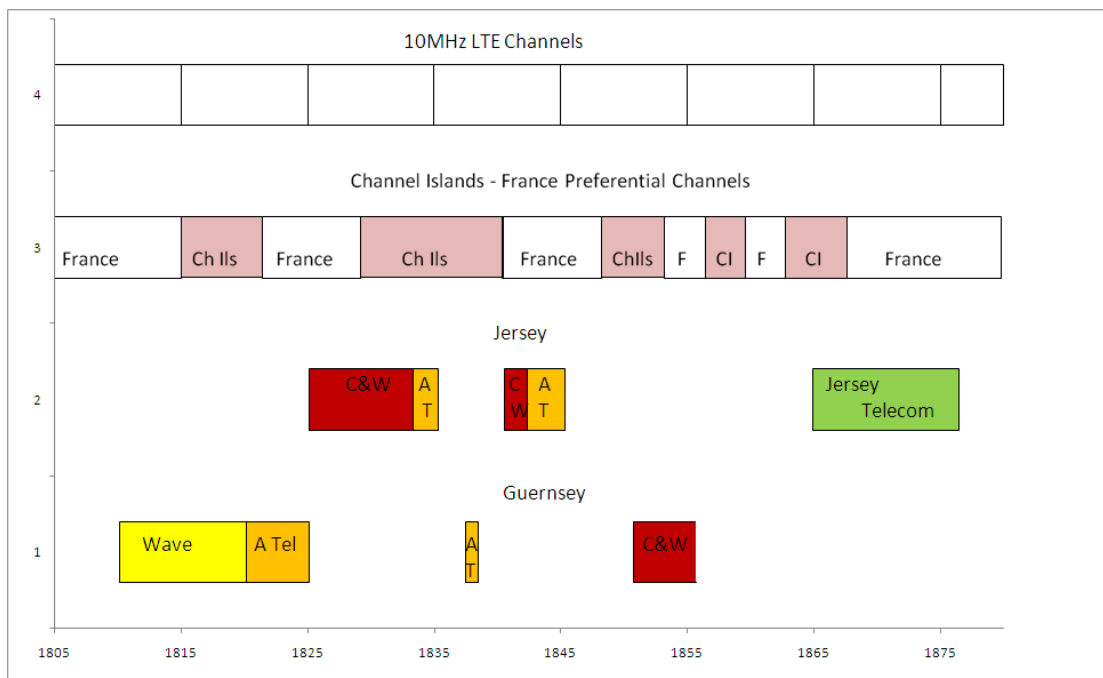
To do this will require CICRA to ensure that operators proceed with the reallocation and realignment of the existing 1800MHz allocations. As noted in our previous response, JT currently has an advantage over both Sure and Airtel with respect to its 1800MHz allocations across the Channel Islands. In Jersey, JT holds the largest allocation of 2 x 11.6MHz, which is contiguous, whilst both Sure Jersey’s allocation of 2x10MHz and Airtel’s allocations of 2x5MHz are non-contiguous. In Guernsey, JT again holds the largest allocation with 2x10MHz of contiguous 1800MHz. This compares to Sure Guernsey’s 2x5MHz contiguous allocation (note, not 2x10MHz as stated by CICRA in this current consultation) and Airtel’s 2x6.2MHz non-contiguous allocation. The current allocations are shown the diagram below (where the references to

¹¹ http://www.gsacom.com/downloads/pdf/GSA_status_of_the_global_LTE1800_market_101213.php4



C&W should be read as references to Sure and the reference to Wave should be read as JT). It is critical to the development of fair competition in the Channel Islands that CICRA ensures that all allocations of the 1800MHz frequency band are made contiguous and equalised so that JT's current advantage does not persist.

In the event that JT is not willing to participate in equalising 1800MHz allocations, given the current allocation of the 1800MHz spectrum as shown below, there would be sufficient 1800MHz spectrum available for any combinations of two operators among Sure, Airtel and a 4th entrant to be awarded bundle A to launch LTE, and only those two operators, without being blocked by JT's 1800MHz position. The same would be true should Airtel not be willing to equalize 1800MHz. This reinforces the need for CICRA to make the requirement to refarm 1800MHz spectrum a legally binding obligation on all operators.



We have included below an extract of the presentation we gave to CICRA in October 2013, which shows our suggested contiguous allocations of the 1800MHz frequency. ✂

✂

The need for technology neutrality

The ability of operators to use the 1800MHz frequency for the delivery of 4G/LTE service will also require Ofcom to make the associated Wireless Telegraphy Act (WTA) licences technology neutral. Ofcom has recently issued technology neutral licences in the Isle of Man following the recent completion of the 4G licensing process there by the Communications Commission.



Extending the scope of technology neutral licences, which would enable operators to choose which services to provide over which frequency ranges, would go some way towards increasing the efficient use of spectrum.

In Guernsey, all the current operating mobile licences issued by the GCRA limit the extent of technology neutrality. The 1800MHz and 2100MHz frequency bands can be used for the delivery of 2G or 3G services, but the 900MHz frequency band can only be used for the delivery of 2G services. In Jersey, there are no such restrictions contained in the operating licences issued by the JCRA (which are also not specific to mobile services). However, for both islands, the WTA spectrum licences issued by Ofcom limit technology neutrality, and are consistent with the limitations as set out in the Guernsey operating licences. We remain supportive of technology neutrality but believe that CICRA should make it clear that its availability for 4G/LTE services is conditional on an operator having the appropriate 4G operating licence from CICRA and having complied with any requirements to relinquish and/or refarm existing spectrum allocations, notably within the 900MHz and 1800MHz frequency bands. Should an individual operator not comply with such requirements this should not delay the granting of technology neutral spectrum licences to those that have complied. This will give the right incentives to all operators to comply with such requirements that seem to be essential to the overall success of this process.

Question 4

Views are sought on the above minimum requirements, whether this is the appropriate set of issues to include and if the strength and clarity of the requirements is adequate?

Although not formally part of the minimum requirements, Sure notes CICRA's introductory description of General Allocation Process as set out on page 20 of the consultation. Sure considers these points of critical importance and offers its comments on them below:

Sure notes, in particular, the desire to address the current imbalances in spectrum holdings (presumably within the 900MHz band) due to the historic large allocations to JT in Jersey and Sure in Guernsey. This intention is qualified by the phrase "where feasible". Sure is concerned that this could be seized on by JT to unreasonably argue that it cannot release some 900MHz spectrum. CICRA must not allow this to happen as it would mean that historic imbalances would remain and JT would continue to have an unfair advantage.

Sure therefore has significant concerns that the 4G licensing process appears to be dependent on the incumbent in each respective island agreeing to the timely refarming of the 900MHz spectrum and agreement to a sub-1GHz spectrum cap. We have already stated that Sure will be prepared to give up some 900MHz spectrum in exchange for 800MHz spectrum and we stand by this commitment. However, we have noted JT's comments as summarized in Annex D of the consultation, which appear to suggest that it will resist any attempts to optimize its network such that a sub-1GHz cap can be put in place. This may also indicate JT's attitude towards any attempts by CICRA to reallocate the 1800MHz frequency band which, as we discuss in response to question 3, is an important frequency band for the early and cost-effective delivery of 4G services.

Sure has serious doubts that an approach depending on the "good faith" and "reasonable endeavours"



of an operator to relinquish and refarm some of its existing spectrum will result in a timely completion of the two stage award process. What would CICRA do in the event that an incumbent operator refuses to relinquish and refarm the appropriate spectrum? Would CICRA hold up the whole process while this is resolved? Or would it proceed with making an allocation to the operator that has co-operated with the process (assuming that operator has also been successful at the award stage)? Does this risk CICRA facing a legal challenge from the incumbent who is refusing to relinquish existing spectrum (or whose “best endeavours” are proving to be very slow)?

What would CICRA do – assuming it proceeds with a two stage award process – in the event that an incumbent is not successful at the first award stage and then as a result refuses to relinquish and refarm the necessary spectrum? As currently drafted, it appears that Requirement 6, which requires operators to make an upfront commitment to agreeing to a sub 1GHz cap in order to obtain 800MHz spectrum, will be sufficient to ensure that operators will relinquish some of their existing 900MHz allocations. However, we believe that the drafting of Requirement 7, which relates to the refarming of 900MHz and 1800MHz spectrum, is too loose and could allow certain operators to drag their feet and resist the rationalization of spectrum into contiguous bands – especially within the 1800MHz band – if they felt this would give them a competitive advantage.

Sure believes that for any award process to work smoothly – whether that is a one stage or two stage award process – it is not sufficient to rely on operators using their “reasonable endeavours” to engage in relinquishing and rationalising their existing spectrum holdings. We believe it is necessary for CICRA to make this a legally binding commitment on operators, who should not be allowed to participate in the award process unless and until such a commitment is made. This would require that CICRA specifies, at least to a certain degree, how it proposes to redistribute the 900 and 1800 spectrum bands. Sure would be pleased to participate in a process to set out these parameters prior to the launch of the 4G tender process and would refer CICRA to the proposals for realignments and refarming that it has previously provided, including in its October 2013 meeting.

Similarly, Sure is not certain what CICRA intends when it says that it would like to defragment existing spectrum holdings and align them between Jersey and Guernsey but without changing the total allocation available to each existing holder of spectrum licences. If this is a reference to the current allocations of the 1800MHz frequency band then we do not understand how this would be compatible with a desire to correct any current imbalances, which we note in question 3 are material, and we would welcome clarification of this by CICRA. As we have already highlighted above, it would seem that addressing the existing imbalances of spectrum will be a more effective way of ensuring sustainable and effective competition than encouraging a fourth operator to enter the market.

With regards to the minimum requirements proposed by CICRA, we believe that a number of them are ambiguous and lack clarity. This could make it difficult for CICRA to judge whether an operator’s application complies with the minimum requirements. If different interpretations could be made regarding the minimum requirements then CICRA could leave itself open to challenge. We have therefore made the following specific comments against the individual minimum Requirements:



Requirement 1 *Applicants accept they will obtain the same allocation of 800 MHz and 2.6 GHz spectrum in both Jersey and Guernsey, with the same conditions attached to each relevant WTA licence.*

Sure agrees with this Requirement but would add that it needs to be extended to the 1800MHz spectrum band, which will require some rationalisation of existing allocations within that band. We also believe that the Requirement should be more explicit in terms of whether successful applicants will be expected to offer services in both Jersey and Guernsey (which is different to them receiving an allocation in both Jersey and Guernsey).

Requirement 2 *Applicants must pay all the fees required for application by transfer to a designated bank account within five days of the deadline for applications.*

Sure agrees with this requirement

Requirement 3 *Applicants must agree to use any allocated LTE spectrum to support services capable of delivering a data download speed of 2Mbps both outdoors and at some indoor locations within the vast majority of premises throughout the Bailiwicks, provided that there are few other users using the service simultaneously in the vicinity.*

Sure believes that CICRA needs to provide clarity on this requirement in a number of respects. What is meant by “the vast majority of premises”? Applicants would be less likely to interpret this differently to CICRA if CICRA defined what this meant in terms of a specific percentage – for example, 75% of premises (or whatever % CICRA believes represents a vast majority).

Further, we note that as drafted, with its reference to “the vast majority of premises throughout the Bailiwick”, it suggests that all applicants – regardless of whether they are applying for Bundle A or Bundle B – will be required to offer services throughout the two Bailiwicks. This seems to be inconsistent with Requirement 8 which suggests that there is no minimum coverage requirement associated with Bundle B so we believe that CICRA needs to clarify.

We also seek clarity regarding the phrase “must agree to use **any** allocated LTE spectrum...” Assuming that CICRA proceeds with technology neutrality across all frequency bands, which would make any and all frequency bands capable of providing LTE services, does this mean that all frequency bands allocated to an



operator would have to satisfy this requirement even if it is not actually being used to support 4G services, or only the 800MHz and 2.6GHz bands? This Requirement may be better expressed as “applicants must agree to provide 4G services capable of delivering a data download speed of 2Mbps...”.

Requirement 4 *Successful applicants will commit to a programme of customer information and interference mitigation (filters, etc.) to protect users of Digital Terrestrial Television (DTT) services.*

Sure agrees with this requirement in principle, but applicants must have clarity over what they will be expected to commit to. Is it that they should agree to produce a leaflet for customers and to agree to share the costs of providing filters to any genuinely affected customers?

As Sure has stated previously, we do not believe it appropriate for CICRA to embark on a costly modelling exercise to determine possible 4G interference. Instead, we believe that it would be appropriate for holders of 4G/LTE compatible frequencies to deal with any potential interference issues themselves. Sure would recommend that the cost of filters, if required, should be shared equally between the spectrum holders, providing spectrum is shared out equally. It would be unreasonable if the operator with the spectrum allocation nearest to the ‘interfered frequency’ were to be required to absorb all the costs of any such interference.

We note that research carried out by at800, the UK company tasked with mitigating potential interference issues, expects less than 1% of UK households to experience disruption caused by 4G at 800 MHz¹². Using the findings from at800 and with information published by the States of Guernsey & Jersey placing the total number of households at circa 70,000 across both islands, this equates to less than 700 homes possibly being affected by 4G at 800MHz. We believe this to be a manageable number for operators to deal with should interference be encountered.

Requirement 5 *Successful applicants will commit to contributing an amount to be determined per MHz of their 2.6 GHz spectrum holding to the States of Jersey to mitigate interference with the airport radars of Jersey Airport.*

As previously outlined in Sure’s response to CICRA’s consultation document 13/54, Sure does not believe that sole responsibility should be placed on operators to pay

¹² <https://at800.tv/press-releases/at800-updates-estimate-of-likely-impact-of-4g-at-800-mhz-on-freeview/>



for Jersey Airport filters. For example, we are aware that French mobile operators have recently commenced roll-out of 4G services along the Normandy peninsula, and whilst it is understood that currently there is no evidence of any “interference” resulting from these installations we would suggest that as these installations are relatively new that the situation be closely monitored.

Therefore, Sure’s position is that it does not believe that it is the sole responsibility of the Jersey mobile operators alone to cover the costs of filters for Jersey airport. More fundamentally, we understand that the work to Jersey radars to mitigate the interference has already been completed and approved by the Civil Aviation Authority (CAA). To charge operators for work that has been carried out and completed before any tender process for the possible award of frequency does not seem at all appropriate or justified. We therefore believe that this requirement should be deleted.

Requirement 6 *Applicants accept that allocations of new 800 MHz spectrum will be conditional on a 2x25 MHz cap being imposed on all spectrum holdings below 1 GHz in each Bailiwick.*

Sure believes that this is a fundamental requirement to ensuring that no operator is placed at an unfair advantage over any other and that all spectrum is used efficiently. We believe that CICRA should ensure that the tender document emphasises that this Requirement is a legally binding commitment that also requires applicants to comply with specific refarming and defragmentation requirements as set out in Requirement 7.

Requirement 7 *Applicants commit to participating in good faith and on a reasonable endeavours basis to the de-fragmenting and re-aligning of the spectrum holdings in the 900 and 1800 spectrum bands to maximise the size of potential contiguous blocks of spectrum in each band held by each operator.*

As with Requirement 6 we believe that this must be specified as a a legally binding commitment. Furthermore, we believe that CICRA will need to specify the exact realignments required of operators. As it is currently formulated, Sure does not see how CICRA can effectively enforce it and it could enable bad-faith applications to pass the minimum requirements tests.

Requirement 8 *Applicants for Bundle A lots must present a roll-out plan for the intended network/service for both Guernsey and Jersey. The roll-out plan must as a minimum meet the following target dates for the LTE service:*



- *Commercial launch in both Jersey and Guernsey not later than 2 years from Recommendation made by CICRA to Ofcom*
- *Service offered on the 4 main islands of Guernsey and the island of Jersey, and in all parishes, not later than 3 years from Recommendation made by CICRA to Ofcom*
- *80% of the population (by domicile) in each of Jersey and the Bailiwick of Guernsey covered not later than 4 years from Recommendation made by CICRA to Ofcom*

The comments we make in respect to this Requirement are without prejudice to our views regarding the suitability of a two stage award process. Sure agrees with the criteria but suggests that CICRA needs to define what is meant by “commercial launch”, otherwise operators could claim that this requirement is met when just one customer is connected to the network. We also believe that any commitments that are made by applicants will need to be subject to a rigorous verification process by CICRA, which we assume will be through the interrogation of business cases submitted by applicants.

We note that Requirement 8 only applies to applicants for Bundle A. This suggests that there are no minimum requirements with respect to applicants for Bundle B, including apparently no timeframe within which commercial launch should take place, or any commitments in relation to coverage and whether this has to be pan-island. We recognise that Requirement 11 should ensure that applicants provide some LTE services within a reasonable timeframe, but this Requirement is itself quite loosely drafted. It does not refer to the commercial provision of LTE services or indeed the extent of the services that must be offered to avoid having to relinquish spectrum to Ofcom. We therefore suggest that CICRA should consider including some minimum commitments for applicants for Bundle B at least in relation to commercial launch (suitably defined as noted above) to prevent applicants from hoarding spectrum.

Also, in light of CICRA’s intention to extend technology neutrality across other frequency bands, would applicants be assessed to have met the coverage obligation if it has provided 4G services using frequencies other than, or in combination with, the 800MHz and 2.6GHz bands? Or would compliance with the coverage obligation be assessed by CICRA only in terms of the coverage provided using specific frequencies?



Requirement 9 *Applicants must present their business projections for the intended LTE services in the form of a business plan covering the first seven years following the grant of the WTA licence. The documentation supporting the application must include:*

- *the audited financial statements of the applicant's business for the past three years; or*
- *the audited financial statements of the investing entities providing the financing for the intended LTE services (in case the applicant was established for the purpose of this project), together with a letter of commitment from the investing entities consistent with the business plan.*

Sure would question whether a seven year period is appropriate and whether it would make more sense to use a five year period. This would be consistent with the average asset life of the equipment and also the usual business planning cycles. It is already quite difficult to forecast market developments over a 5 year period but this will be even more so if a 7 year period is used.

Requirement 10 *Applicants must commit to minimising the environmental impact of their activities connected with the new spectrum, in particular to the sharing of masts where feasible and best practice in terms of managing mast emissions*

For applicants to be able to commit to this Requirement – and for CICRA to be able to judge whether their application supports that commitment – CICRA will need to be a lot more specific regarding what it expects here. In the absence of more specificity, Sure proposes that this requirement is removed and environmental aspects are left to the comparative evaluation process.

Requirement 11 *Applicants accept that the licences in Jersey and Guernsey allowing applicants to provide LTE services in those jurisdictions will contain a condition that spectrum issued to the licensee will be returned to Ofcom if it is not used in the provision of LTE services (as defined above) by end of 2016.*

Sure agrees with this requirement in principle but requires more clarity, especially in terms of how CICRA would evaluate whether the spectrum is 'used'. The minimum requirements on coverage under Requirement 8 mandate network roll-out and service availability, but as noted above only seem to apply if an applicant has received Bundle A. If not all different spectrum bands are in use, could some be reclaimed? Also, could subsets of a band be reclaimed?



Requirement 12 *Applicants are required to submit supporting documentation that establishes their independence.*

Sure accepts this Requirement,

Question 5

Views are sought on whether the six evaluation criteria are the most appropriate for delivering on the objectives set out in this document and on the proposed weights in terms of whether they appropriately guide the award of spectrum?

Sure has discussed in some detail in response to question 2 its concerns about CICRA's proposed two stage award process. Sure believes that a one stage award process would be more effective in promoting CICRA's objectives. Notwithstanding this view we would make the follow comments on the proposed evaluation criteria and weightings.

As a general point we believe that for applicants to be fairly assessed against CICRA's evaluation criteria, there needs to be greater clarity on the criteria and how CICRA will assess applications. We consider this further in our comments on the specific criteria below:

Coverage

We note that applicants will only be scored in terms of by how much they exceed the minimum coverage requirements. However, it appears that Minimum Requirement 8 represents the minimum coverage requirements for applicants for Bundle A, and that CICRA is not proposing any minimum requirement for applicants of Bundle B. We have already questioned the appropriateness of this in our comments under Requirement 8 but we would also suggest that CICRA should be explicit about whether there are indeed any minimum coverage requirements associated with Bundle B so applicants will have utmost clarity on this evaluation criterion. As we have already mentioned in response to question 2 we do not see how an applicant could be effective in promoting competition if it only intends to offer limited coverage.

CICRA should also explain exactly how it will assess coverage. We note that the evaluation criterion refers to the extent of coverage provided by LTE services using the new spectrum allocations, which presumably refer to 800Mhz and 2.6GHz spectrum. But in other parts of this consultation CICRA discusses technology neutrality and allowing spectrum holders greater freedom in terms of the technology they employ. But does the phrasing of this evaluation criterion mean that if operators provide 4G services over 900MHz and 1800MHz frequencies that any such coverage would not be counted towards this score?



Quality of Service

We understand that the minimum quality of service requirement is that set out in Minimum Requirement 3, where a data download speed of 2Mbps is specified. We believe it is entirely appropriate for CICRA to evaluate applications in terms of the quality of service that will be delivered over and above this minimum requirement.

Credibility of business plan

Sure believes that applicants' business plan will be the main document that CICRA will be able to use to judge the credibility of applicants' commitments. Further to our comment under Minimum Requirement 9, we believe that a 5-year business plan would be appropriate and that little or no value would be added by developing a 7-year plan.

Promotion of Protection of the Environment

We note that the assessment of this criterion will be based across the whole of the Bailiwick of Guernsey (including the smaller islands) and Bailiwick of Jersey.

Providing effective competition and greater consumer choice

We believe that CICRA needs to be explicit about whether it is interested in the promotion of effective competition in relation to 4G/LTE services only – which are essentially data services – or whether it is taking a wider view of competition to also encompass a combined data and voice service. We have already registered our doubts about how an applicant could demonstrate that it would be increasing effective competition if it is only able to provide a data service.

We believe that the most effective way to promote effective completion is for CICRA to ensure that incumbent operators agree to relinquish some of their existing 900MHz allocations, and for all operators to agree to the defragmentation and rationalisation of the 1800MHz spectrum, as part of this process. This would enable CICRA to take a holistic approach to spectrum which will be in the best interests of consumers. We would suggest therefore that CICRA explicitly states that these are minimum requirements against which applicants will be assessed against this criterion. That is, Requirement 6 and Requirement 7 are the minimum commitments that have to be met against this evaluation criterion.

Performance Guarantees

Sure understands CICRA's motivation behind this criterion, and supports the principle that applicants should be held accountable for commitments made in applications. We do, however, not consider that



financial bonds are an appropriate means of achieving this. In particular, Sure considers it impractical to develop binding performance guarantees ahead of detailed technical discussions with vendors, confirmation of spectrum allocations or understanding of planning requirements.

Sure would welcome CICRA's clarification of whether it considers financial performance criteria to be a critical component of the applications.

Weightings for evaluation criteria

With regards to the weightings proposed by CICRA, we have already commented in response to question 2, that a two Stage process using different weightings will make it a very complex process for applicants and CICRA alike as well as unfair to applicants for Stage 1 frequencies. If CICRA still decides to proceed with a two Stage process, however, Sure offers the following comments and suggestions

Stage 1 weightings

- Coverage - Sure agrees that this criterion is very important and should be given a high weighting. ☹
- Quality of Service – Sure agrees that this is a very important criterion ☹
- Credibility of Business Plan – Sure is surprised at the low weighting to this criterion by CICRA. ☹
- Promotion of Protection of the Environment – Sure agrees with CICRA that this is a very important component of the process and is committed to protecting the environment. It is however hard to compare commitments in this area and it is also often very hard to measure and enforce compliance with commitments made by applicants. Sure therefore suggests that the weighting of this criterion be reduced ☹, possibly counter-balanced by more specific minimum requirements in this area;
- Promotion of Competition – This is an incredibly important criterion and Sure is surprised at the low weighting allocated by CICRA. ☹;
- Performance Guarantees – Sure agrees with CICRA that it is important that applicants are held accountable to the commitments made in applications ☹.

Stage 2 Weightings

- Coverage - Sure understands why CICRA has chosen to not impose minimum requirements for network coverage on Stage 2 applicants (although CICRA's attention is drawn to Sure's strong concerns over the two-Stage process and the impact on bidders interested in the Stage 1 allocation packages). It is however difficult to understand why CICRA puts so little weighting on coverage at the comparative evaluation Stage. This suggests that CICRA does not think that



increased coverage by Stage 2 applicants will have any value to consumers of the Channel Islands. ☒;

- Quality of Service – for similar reasons as explained above under the coverage criterion, Sure proposes that the weighting for this criterion ☒;
- Credibility of Business Plan – Sure considers that the Business Plan forms an equally important part of Stage 1 and 2 applications and therefore ☒;
- Promotion of the Protection of the Environment – As Stage 2 applicants are likely to have less network coverage, their ability to influence the environment is likely to be less. However, as many existing masts may be full and therefore a new entrant may need to erect new towers for its services, there should still be an incentive for Stage 2 applicants to focus on protecting the environment. ☒;
- Promotion of Competition – Sure does not understand why this criterion is weighted so heavily for Stage 2 applications. Although ‘niche players’ with less network coverage may be able to introduce innovative pricing and products, it is not clear that they would have the ability to very significantly promote competition. Indeed, the Analysys Mason report suggests that it could take up to 13 years before a new entrant would have a significant impact on the market. Sure therefore proposes that ☒;
- Performance Guarantees – As CICRA’s proposed weightings on coverage and quality of service were very low, Sure is not certain what types of performance guarantees CICRA was expecting Stage 2 applications to contain. It seems counter-intuitive that Stage 2 applications would have more weight on performance guarantees than Stage 1 applications. ☒

In summary, if CICRA decided to proceed with a 2-Stage process, which Sure considers to be inappropriate, unfair, and unduly complex, Sure suggests the amended weightings as set out below:

Stage 1 Weights	Stage 2 Weights	Criterion description
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☒

Question 6



Views are sought on the above, in particular whether respondents are in agreement with this proposal and any issues this raises for operators?

Sure agrees with CICRA's proposals to include "lose it or use it conditions" within the operating licences issued as part of this process. We note that CICRA states that it will consult on the parameters of these conditions, suggesting that this process will only take place once CICRA has decided which applicants have been successful in this process. As already stated in our comments on Minimum Requirements 11, we would suggest that CICRA needs to give some clarity now on the parameters that will be used. Otherwise applicants will be asked to commit up-front to yet unknown parameters, which could conflict with the spectrum roll-out plans made by the individual applicants.

Question 7

Views are sought on the draft tender document in Annex A and whether the specific elements raise issues for respondents?

Sure has detailed its concerns regarding the draft tender document and process throughout the previous pages of this response. We have included an extract from our summary page below as we feel that these key issues need to be addressed before proceeding with the competition.

- CICRA's objectives for the allocation of 4G/LTE spectrum would be best met by a one stage rather than two stage award process;
- CICRA should not delay the consideration of the 1800MHz frequency until the 800MHz and 2.6GHz allocation process is completed. As we have noted in previous responses and discussions with CICRA, the allocation of this frequency is critical to ensuring that customers (including roaming customers) obtain an excellent 4G experience as soon as possible. The current consultation does not pay sufficient regard to the importance of this spectrum to the success of 4G services in the Channel Islands;
- Sure would recommend that the allocation of 1800MHz takes precedence over the allocation of the 2.6GHz band or at least happens as part of this current process;
- CICRA should prioritise the redistribution and refarming of spectrum in the 1800MHz and 900MHz spectrum bands. Within the 1800MHz frequency band CICRA must redistribute spectrum to remove the current issues of non-contiguous and smaller allocations held by Sure and Airtel, which give JT, which has a larger contiguous allocation, an unfair advantage. It should also ensure that unallocated spectrum in this frequency band is distributed fairly so as to remove the advantage that JT currently also enjoys in this respect.
- ✂
- CICRA must make the requirement for the incumbents to relinquish some 900MHz spectrum more definitive and legally binding. Otherwise there is a real risk that the whole allocation



process will be jeopardised should one operator decide not to co-operate. Sure has already indicated its willingness to relinquish some 900MHz spectrum in exchange for 800MHz spectrum and would suggest that CICRA is explicit that this will be a legally binding ex ante requirement of the respective incumbents that will be enforceable regardless of their success or failure in the allocation of spectrum;

- CICRA should implement technology neutral licences across the Channel Islands for all relevant frequency bands - including 800MHz, 900MHz, 1800MHz, 2100MHz and 2.6GHz – and work with Ofcom to ensure the Wireless Telegraphy Act (WTA) licences also support this principle. However, technology neutral licences should only be available to those operators that have been granted an operating licence by CICRA to offer 4G services and have complied with any requirements to relinquish or refarm existing spectrum;
- Some Minimum Requirements are too vague and need to be more specific in nature;
- Sure would recommend changes to the evaluation weightings;
- Sure continues to believe that a fourth operator is counter to the objective of increasing competition as it will result in a denigration of the customer experience as well as having an adverse environmental impact. Further to this we get the impression that CICRA is regarding the promotion of competition as an end in itself rather than as a means by which to achieve its primary objective of promoting consumers' interests;
- Sure is disappointed that CICRA seems to be persisting in its belief that there will be widespread interference issues associated with the DTT spectrum and is proposing to load extra and unnecessary costs onto operators (and therefore consumers) as a result. This is despite strong evidence to the contrary, which Sure has shared with CICRA.
- It is inappropriate for operators to be expected to subsidise the costs of radar mitigation in Jersey especially when we understand this work was necessary to resolve interference issues with France, and more fundamentally, that the work has already been undertaken.

Sure notes that as part of the tender document CICRA has identified that in order to support its four objectives and in order to establish a more even playing field for competing providers it must re-balance "...historic allocations of spectrum now biased in favour of incumbents in each island". We would hope that CICRA takes on board Sure's comments that are detailed above regarding 1800MHz as part of this process.

Sure would also comment that we have had no visibility of Appendix 3 as detailed within the tender document. Although we can see the structure CICRA wishes operators to follow from section 20.1 we are unsure as to what data will be required as part of the mandatory tables.

Finally we note that Annex B to CICRA's consultation reproduces a joint letter from both the States of Guernsey & Jersey. Within it a number of points are raised by the Guernsey Commerce and



Employment department & Jersey Department of Economic Development. Firstly the departments recognise that "...it will be beneficial to operators and consumers if spectrum used for 4G services in the Channel Islands is aligned with that of the UK and France (800MHz, 1800MHz and 2.6GHz). Further the departments "... also consider it is appropriate to review opportunities to re-organise existing 900MHz and 1800MHz assignments."

Sure therefore finds it curious as to why CICRA has decided to include the 900MHz frequency as part of this tender process but not the 1800MHz frequency.

Question 8

Respondents are asked to comment on any other issues they wish to raise arising from the matters set out in this consultation?

As we have noted in various parts of this response we are concerned that CICRA seems to have completely disregarded some important issues raised in response to previous consultations – specifically the issues surrounding the 1800MHz frequency. We hope that CICRA will fully consider all issues raised by respondents to this consultation.

Sure (Guernsey) Limited and Sure (Jersey) Limited

4th February 2014
