JT's Response to CICRA's consultation on Retail Price Control Review

Non-confidential Version

8th May 2015

1 Introduction

1.1 This response is provided by JT (Jersey) Limited and JT (Guernsey) Limited referred to jointly as JT. JT welcomes the opportunity to provide its views on this very important topic of the Retail Price Control Review in Jersey and Guernsey.

1.2 The main section of this response sets out JT's position on a number of the key issues raised in the consultation. The specific questions from the consultation are answered in Annex 2, referencing the relevant sections in JT's main response.

2 Executive summary

2.1 Retail price controls for line rental are unnecessary

2.1.1 Regulating retail line rental prices is an anachronistic regulatory tool, which is not appropriate in 2015 in Jersey. The majority of our customers buy line rental and broadband together, with many using the line solely for broadband. It is inappropriate to try and regulate the line rental price in isolation. The wholesale regulations look at the combined monthly charge of these two products and it is unclear why any retail regulation should be different.

2.1.2 Moreover the introduction of the WLR wholesale product makes the concept of retail price controls inappropriate. In nearly all the major European countries, there has been a shift away from retail price regulation as the introduction of WLR "*significantly reduced the barriers to entry"* in the retail market. CICRA should remove these unnecessary retail regulations.

2.1.3 If CICRA maintain that retail-level controls need to remain in place, these should be set only as a temporary measure, with a continuation of the existing controls for a much shorter time period of 12 months. This aggressive three year retail price control may either act to stifle the development of the wholesale product, or end up being unnecessary if the wholesale product is effective.

2.2 The proposed control on JT is based on an unacceptable benchmarking process and is not supported by the evidence presented

2.2.1 The proposed price control has been justified based on simple benchmarking of line rental prices in comparable jurisdictions. The choice of comparators is inappropriate and instead the reference point should be competitive markets like the UK. Furthermore, the conclusions drawn by CICRA are not even supported by the evidence they present. JT's price is below the average benchmark price in most of the charts. This evidence cannot be used as a justification for the proposed price control.

2.2.2 The data used by Frontier in the benchmarking analysis is incorrect. The prices chosen for Sure and JT, and a number of the other comparators, are misrepresentative. The large proportion of JT's Prime Talk customers needs to be accounted for, bringing the average price for line rental in Jersey to only £10.59. CICRA has also inexcusably not accounted for Sure's recent price increase, which it was aware of prior to issuing this consultation. The significance of this mistake is exacerbated because of the unacceptable process, whereby JT's price control is set solely on the basis of this out-of-date Sure price.

2.2.3 It is inappropriate to have a process whereby Sure's price is used as the benchmark for JT's proposed price control. As Sure have acknowledged in their recent price increase, this out-of-date price was heavily subsidised and does not reflect a cost based or competitive price. Moreover there are a number of differences between the line rental products in the two islands which make comparisons unhelpful.

2.2.4 Our benchmark finds an average line rental price from the comparators chosen by Frontier of £13.06, with JT's average line rental price of £10.59 significantly below this. Moreover JT's average line rental price rental price is now over 12% lower than Sure. There is no evidence to show that JT's price is high compared to this set of comparators and no justification for JT's retail price control.

3 Retail price regulation of line rental is no longer relevant

3.1 Line rental and broadband should be considered together by CICRA

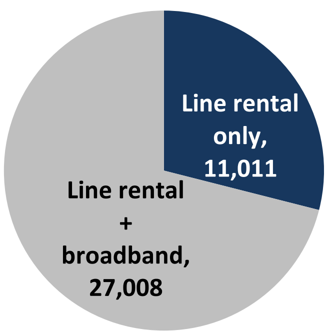
3.1.1 It is important that regulation considers which products consumers actually purchase. There has been a clear customer preference to purchase bundles of communications products and regulation needs to take account of this trend. The European Commission, in its Explanatory Note to the Recommendation on relevant markets recognises that when consumers prefer to purchase the services from a single supplier, given high transaction costs, the bundle "may become the relevant product market"[1].

3.1.2 Regulators have considered the propensity to bundle when determining the extent of the product market. For example, in its 2005 decision concerning mobile access and call origination, the Dutch regulatory authority, OPTA, concluded that mobile data services belong to the same relevant market as mobile access and call origination. This conclusion was justified on the grounds that "these services are virtually always in the bundle of services of the various service providers and competition between the service providers exists between the bundles, not the individually identifiable services"[2].

3.1.3 There is a business rationale for operators to look at the price of the total bundle purchased by consumers. Depending on the pricing strategy followed by the operator it can flex the prices of elements in the bundle. For example, prior to the liberalisation of telecoms markets, operators often priced line rental below cost, in order to bring more customers onto the network where the losses could be offset by higher call prices. Competition, and changing fixed call usage patterns, has led to the line rental subsidy being removed in most competitive markets. However, operators still often compete by reducing the price of one element of a bundle.[3] In all these cases, what is relevant is the total cost paid by consumers for all the products they buy.

3.1.4 It is now clear that line rental and broadband are no longer viewed as separate products by customers. It is simpler for consumers to treat these as a single product; the relevant point for consumers is how much they pay for this connection to phone and broadband services, as opposed to the price of the specific element. As shown in Figure 1, 68% of JT customers purchase line rental and broadband together.

Figure 1: Breakdown of JT's line rental customers, 2014



1 Explanatory Note (2007), Section 3.2
2 Paragraphs 119 to 122 of OPTA's market analyses concerning mobile access and call origination (14 November 2005)
3 In the UK, BT offers BT Sport free for Broadband customers. Sky offered free broadband for customers taking up Sky Sports.

3.1.5 Many of the customers who purchase both products together primarily purchase line rental in order to be able to access broadband services. This is shown through their low monthly spend on calls. As shown in Figure 2, over 20% of our customers only spend an average of £1 or less each month.

Figure 2: Average monthly spend of JT's line rental customers, Jan – Mar 2015

	No. customers	% customers
£0 spend per month	✂	✂
£1 or less spend per month	✂	✂
£3 or less spend per month	✂	✂
£5 or less spend per month	✂	✂
Greater than £5 spend per month	✂	✂
Total	**40,856**	

3.1.6 This implies that these customers are predominantly purchasing the line rental to use it for broadband services. Line rental and broadband need to be considered together by CICRA as this is the only frame of reference for how many of our customers view the products.

3.1.7 Given that customer behaviour in Jersey and Guernsey is very similar, we expect that this percentage is similar for Sure.[4] Therefore, the popularity of bundle purchases with Sure's customers is likely to be similar to ours.

3.1.8 Indeed the recent price changes announced by Sure reflect how these products are now considered as part of a bundled monthly bill. Sure has increased its line rental price from £9.99 to £11.99, whilst reducing the price of its broadband products by £2 "so that for the majority of customers, there will be no change in the total monthly bill".[5]

3.1.9 We believe the evidence justifies a reassessment of whether line rental and broadband should now be considered in the same market in Jersey, based on the principles outlined by the EC. Even if CICRA finds there is no separate market for the bundled offers, the increasing popularity of bundled offers should certainly be reflected in the analysis and decisions of competition and regulatory authorities. It is not appropriate to regulate the price of one of the monthly charges without reference to the other.

3.2 Need for consistency between wholesale and retail approaches

3.2.1 The new wholesale regulation that has been introduced in the Channel Islands has set an equal bundled wholesale price for line rental and broadband access for JT and Sure, whilst allowing the specific individual price to vary by operator.

4 Both islands' broadband subscription numbers are roughly half of fixed line rental numbers(approximately 53% for Guernsey, 51% for Jersey) based on Figures 4.1 and 6.1 in "Telecommunications Statistics Market Report 2011" CICRA (May 2013) http://www.cicra.gg/_files/Market%20Statistics%202011%20-%20FINAL5625656323.pdf

5 "Sure Phone Line & Broadband price changes" letter from Sure to customers (9th April 2015). Letter included in Annex 1

3.2.2 The wholesale regulation has been set based on an equal WLR + WBA price of £24.90 (see Figure 3) across both Jersey and Guernsey, with the new Wholesale Line Rental price being set based on *the "difference between the total bundle price and the current WBA price"*[6]. The component parts differ by operator, to allow for differing cost structures.

Figure 3: Wholesale prices charged by JT and Sure

	Sure	JT
WLR	£14.90	£13.80
WBA	£10.00	£11.10
Total bundle	**£24.90**	**£24.90**

3.2.3 If CICRA acknowledges the need for this flexibility when regulating at a wholesale level, it follows that the same flexibility should apply when regulating at the retail level. It is appropriate for the retail regulation to also be considered on this basis of the combined broadband and line rental price.

3.2.4 Frontier explain that the wholesale regulation is "focussed on the ability of new entrants to offer a voice and broadband bundle" as "the most valuable customers are likely to also take a broadband service"[7]. However, when approaching the retail level they argue regulation should cover "a single basket of standalone services" to "ensure vulnerable users (who are likely not to use bundles) are protected"[8].

3.2.5 This distinction appears inappropriate as both pieces of regulation should be targeted at what customers actually purchase. Moreover, in Jersey, a large proportion of vulnerable customers are pensioners and JT already offers pensioners a heavily discounted line rental price of £2.09, something which is not typically provided so comprehensively by an operator to a group of vulnerable customers. Therefore, given the extent to which JT already protects vulnerable customers, it is unnecessary to regulate the standard price specifically with these customers in mind. The regulation of the retail line rental product should be focussed on the same basis as the wholesale regulation – i.e. what customers actually purchase.

3.3 Introduction of WLR makes retail-level price controls unnecessary

3.3.1 There has been a shift from retail to wholesale level regulation by regulators internationally. With the introduction of wholesale regulation planned for this year, CICRA should follow and remove its retail price controls.

3.3.2 Due to the market power of operators, the telecoms market requires some regulation to protect customers. However, this regulation must also enable competition to develop. The EC's 2003 Framework[9] encourages regulation at the wholesale level to encourage effective competition with the minimum intervention. The Commission's view is that when *"regulation cannot be rolled back entirely… regulation should still occur, but just*

6 "Retail Price Cap Review in the Channel Islands, a report prepared for CICRA" Frontier (March 2015) http://www.cicra.gg/_files/frontier%20report%20March%2015.pdf
7 "Retail Price Cap Review in the Channel Islands, a report prepared for CICRA" Frontier (March 2015) http://www.cicra.gg/_files/frontier%20report%20March%2015.pdf
8 "Retail Price Cap Review in the Channel Islands, a report prepared for CICRA" Frontier (March 2015) http://www.cicra.gg/_files/frontier%20report%20March%2015.pdf
9 The Regulatory Framework for Telecommunications of 2003

at the highest possible level of the value chain in order to let competition develop as much as possible in downstream markets."[10]

3.3.3 The EC methodology explains that remedies in the retail markets would only follow if, after the imposition of wholesale remedies, there is considered to be any residual competition problems in the retail market:

> *"In general, the market to be analysed first is the one that is most upstream in the vertical supply chain. Taking into account the ex ante regulation imposed on that market (if any), an assessment should be made as to whether there is still SMP on a forward-looking basis on the related downstream market(s)…A downstream market should only be subject to direct regulation if competition on that market still exhibits SMP in the presence of wholesale regulation on the related upstream market(s)*[11]*."*

3.3.4 Based on this regulatory principle, retail price controls have been removed from most fixed line markets in Europe. The EC considers that the alternative wholesale regulation, citing WLR as an example, has *"significantly reduced the barriers to entry"*[12] in retail calls markets, which has resulted in price reductions for customers. In 2006 Ofcom removed retail price regulation on BT in the UK due to increased competition, *"facilitated by the improved effectiveness of regulation of the wholesale telephony markets"*[13]*.* We consider that the introduction of WLR in the Channel Islands removes the barriers to entry which may have led CICRA to previously designate JT as having dominance in the retail market.

3.3.5 Frontier argues that three years of wholesale regulation are required in the Channel Islands before considering the removal of retail price controls. Their reasoning is based on a similar period between the introduction of WLR in the UK and the removal of retail price controls. However, this is an inappropriate comparison as in 2002 the effects of wholesale regulation were unknown, hence the need for a period of caution for Ofcom. Given that regulation needs to be forward looking, it is necessary for CICRA to take account of the expected benefits of wholesale regulation in the Channel Islands by considering whether retail regulation is required.

3.3.6 In 2011, when WLR proposals were in development, OUR considered that *"the time period in which sufficient competition might develop (due to wholesale regulation) … is such that the DG proposes to refrain from setting an entirely new price control for the next few years, given the resources involved and the possibility that the period of such a control would need to be relatively short"*[14]. As a result, the price control was set for one year only.

3.3.7 In contrast to this 1 year control, the current proposal is for a 3 year price control. It seems illogical to have become more cautious since 2011, despite having confirmed details of WLR and more international evidence providing foresight of its likely impact on the market.

10"Solving problems at the sources: why telecommunications regulation should focus on wholesale, not on retail, markets" Iratxe GURPEGUI and Przemyslaw KORDASIEWICZ (2007) http://ec.europa.eu/competition/publications/cpn/2007_1_49.pdf

11 Explanatory Note to the European Commission Recommendation on Relevant Product and Service Markets, 13 November 2007, p6 found at https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/sec_2007_1483_2_0.pdf , p13

12 "Solving problems at the sources: why telecommunications regulation should focus on wholesale, not on retail, markets" Iratxe GURPEGUI and Przemyslaw KORDASIEWICZ (2007) http://ec.europa.eu/competition/publications/cpn/2007_1_49.pdf

13 "Retail Price Controls: explanatory note" Ofcom (2006) http://stakeholders.ofcom.org.uk/consultations/retail/statement/

14 "Cable and Wireless Guernsey Price Control: consultation paper" OUR (November 2010) http://www.cicra.gg/_files/OUR1015.pdf

3.3.8 If CICRA insist on the need for retail price controls for an interim period, they should be a continuation of current controls only for a period of 12 months, to avoid additional uncertainty in the market. The proposed controls are instead much more restrictive for JT. Past price controls have been set to ensure *"both the incumbent and potential new entrants will have a degree of certainty regarding the range of future price levels, which will assist them in their business planning."*[15]

3.3.9 With the introduction of WLR in the Channel Islands, creating certainty is even more important. The proposed controls will instead shift JT's retail prices down to an uncompetitive level, with significant cuts required over three years, bringing uncertainty to the sustainable long term values. This will prevent the controls achieving their aim of certainty and protection for customers, especially the more vulnerable. This aggressive three year retail price control may stifle the development of the wholesale product, or end up being unnecessary due to the presence if the wholesale product is effective. Either way, setting a three year control will create regulatory risks.

4 Benchmarking shown in CICRA report is inappropriate

4.1 The benchmark and conclusions presented by Frontier are not fit for purpose

4.1.1 Notwithstanding our view that retail price regulation is unnecessary, we do not agree with the benchmarking process which has been used by CICRA to set the price cap.

4.1.2 If CICRA maintains their view that retail regulation is required until the effects of WLR are known, their proposal must be a continuation of current controls. The purpose of the benchmark is to ensure current JT prices are in line with what would be expected of a competitive market. As the benchmark confirms this is the case, a continuation of controls is appropriate. It would be inappropriate to use benchmarking as the basis for setting the rate.

4.1.3 However, the price benchmarking presented by Frontier is based on an inadequate selection of comparators and incorrect date from those countries. We believe the most important criteria for understanding which countries are appropriate benchmarks should be whether the market is competitive. Instead, Frontier has focused on "GDP per capita, population density and fixed line penetration"[16] and chosen predominantly small island economies.

4.1.4 If the costs and pricing of line rental on small island economies were unique, due to a lack of economies of scale, it would be sensible to compare only these types of countries. However, as the benchmark shows, this is not the case and in fact prices are often lower than in larger economies, due to factors other than costs (for example subsidies to line rental charges). It would be inappropriate to benchmark against a price which is artificially lower than it should be.

4.1.5 Of the comparator countries used, BT in the UK best resembles a competitive benchmark. The high number of firms with access to network infrastructure make it one of the most internationally competitive telecoms markets. It is not clearly explained why BT is only partially considered during Frontier's benchmarking. We believe it should instead be the obvious main comparator when considering if the price of line rental is higher than would be achieved competitively.

4.1.6 It appears that CICRA and Frontier have approached the benchmarking analysis with a specific result in mind. The conclusion drawn in the report, that JT's prices are

15 OUR, Proposals for the Price Regulation of Fixed Telecommunications Services (November 2001)
16 "Retail Price Cap Review in the Channel Islands, a report prepared for CICRA" Frontier (March 2015) http://www.cicra.gg/_files/frontier%20report%20March%2015.pdf

internationally high, is not supported by the evidence presented by Frontier[17]. JT's prices are below the average in four of the charts presented by Frontier and only slightly above the average in one chart[18]. Any independent person, presented with the figures shown in this report, would not conclude that JT was pricing higher than the comparator countries. This analysis does not warrant any tightening of the retail price control on JT

4.1.7 We believe the analysis conducted by Frontier is not fit for purpose and insufficiently detailed. In previous CICRA consultations (e.g. the business connectivity market review), it has carried out an open and transparent process, and has provided clear explanations for proposed changes, with appropriate justifications. This process is notable for its difference and is disappointing after such constructive engagement with CICRA's consultants IBEX on the business connectivity market review.

4.2 **Inappropriate to directly compare Sure and JT's line rental prices**

4.2.1 Despite the pretence of carrying out a benchmarking analysis, when setting the proposed price, CICRA have instead merely compared JT's price with Sure's price and have proposed reducing JT's price so that it is the same. It is inappropriate to compare the prices charged in this way for a number of reasons.

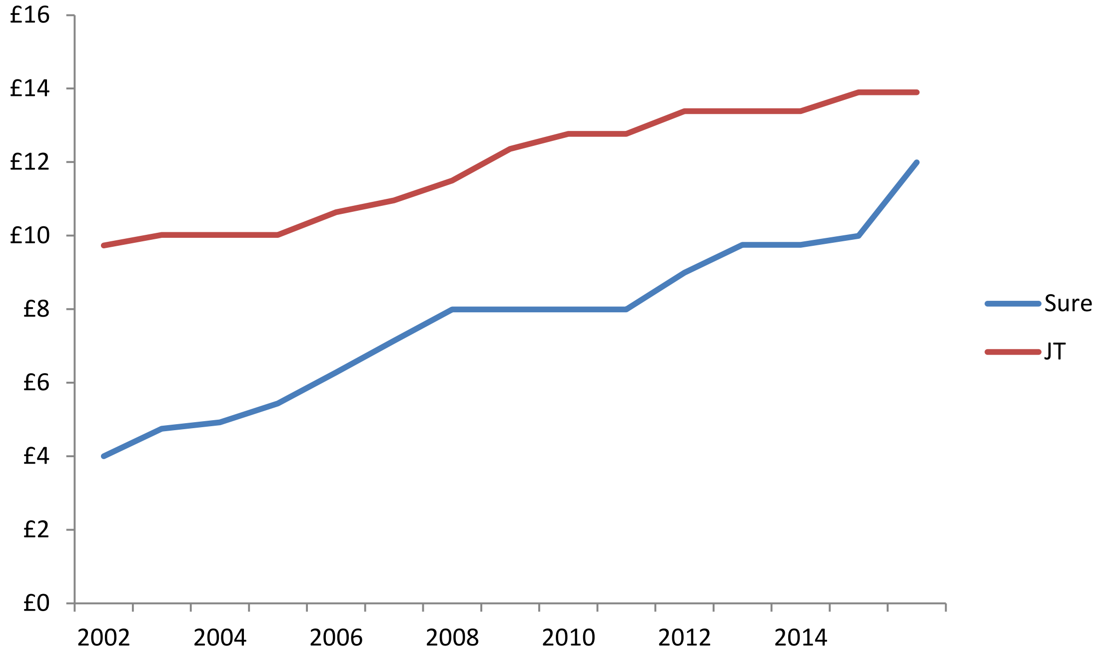
4.2.2 Historically, JT and Sure line rental prices have differed. As Sure explained when justifying the recent price increase of £2, the line rental price has traditionally been subsidised, and now they need to realign prices due competition.

> *"Sure's head of product, Mike Fawkner-Corbett, said the changes were made in line with the new competitive environment. 'It's an exciting time for us,' he said. 'Competition will soon be introduced in the Channel Islands fixed-line market and to ensure that all operators can compete fairly, Sure has to remove the subsidy from fixed-line rental prices.'*
>
> *He explained that the subsidy, that had been developed over a number of years, had been introduced to maintain low prices for fixed-line customers. 'Up until now, fixed-line rental prices in Guernsey have been a lot less expensive than in the UK, so we are experiencing a kind of price realignment through these changes. The subsidy needs to be removed so that we can compete fairly, making sure the retail price is higher than the wholesale price."*[19]

17 We also consider that this evidence is based on inaccurate data as explained in section 4.3 below.
18 In Figures 12 of Frontier's report JT's price is only slightly above the average line, and still to the right of centre. Figures 13, 14, 15 and 16 all show JT as below the average price.
19 Guernsey Press, April 10 2015

4.2.3 This realignment is clearly visible in Figure 4, with Sure's line rental price significantly lower than JT's price, rising fast to catch up. In contrast, JT has seen minimal, price increases over the last ten years, with the price today practically the same in real terms than it was in 2001[20].

Figure 4: JT and Sure prices for Standard Line Rental, 2002 -2015[21]



4.2.4 CICRA has given no indication why JT's prices would now be seen as problematic, when they have been at the same real level for the last fourteen years, whilst Sure's price has risen substantially over the same period. The proposed price controls aim to push JT's price down to what we know was a subsidised price; despite Sure itself explaining that it can no longer maintain this price due to competition. This is not the logical regulatory solution, potentially limiting competition.

4.2.5 Furthermore, JT and Sure's differing cost structures make direct comparisons difficult. As Frontier's own analysis shows, although the total retail operating expenditure costs per subscriber are the same for both operators (Figure 17); the split between costs allocated to retail calls and retail line access varies greatly (Figures 18,19). This demonstrates how the costs structure of the two operators of the operators differs, making it inappropriate to try and fix one element of the pricing.

4.2.6 Another key difference between Sure and JT's line rental is our significant investment in fibre. Our customers pay for a much higher quality service than Sure's customers, which much be accounted for when directly comparing prices. Using a fibre line gives extra resilience which was not provided by our traditional copper line, which has often been vulnerable to bad weather.

4.2.7 The Frontier report states that *"as the fibre was installed to support higher speed broadband services, on the basis of cost causality, it would seem reasonable that this investment cost should be recovered from broadband customers, rather than fixed*

20 Based on the UK's CPI data, £9.73 in 2001 would be worth £13.22 in 2014
21 Due to missing data, the trend line has been based on the continuation of trends in part, see Table 2 in Annex 1 for a full break-down of prices. The prices for JT include all GST when relevant.

voice services."[22] Whilst fibre was set up for broadband services, it is also used by line rental services, meaning it is appropriate to now share the cost. CICRA is aware that JT's fibre investment is recovered 50% via broadband and 50% via fixed line rental and has not noted previously that it should be recovered in any other way.

4.2.8 Finally the price of Sure's line rental used in Frontier's analysis misrepresents the price paid by their customers for this service. Additional charges are common and highlighted in CICRA's recent open letter to Sure[23], alongside the discontent amongst customers. There are a number of regular additional charges paid by Sure's line rental customers, which JT does not impose on its customers:

- Sure charges £1 for payments made by anything other than direct debit
- Sure charges £1 for paper bills
- Sure charges £7.50 fee for late payment of bills[24]

4.2.9 These additional charges will lead to an additional cost for many Sure customers, which needs to be factored in when looking at the line rental price they charge. As a demonstration of the extent of these costs, we have calculated the average additional revenue received per customers, assuming that the proportion of JT customers eligible for these charges is similar for Sure in Guernsey. This is shown in Figure 5.

Figure 5: Estimating extra charges for Sure customers

Reason for charge	Sure's charge	% of JT customers affected	Average extra cost
Alternative payment method to direct debit	£ 1.00	31%	£ 0.31
Paper bills	£ 1.00	76%	£ 0.76
Late payment	£ 7.50	18%	£ 1.35
Average additional line rental price			***£2.43***

4.2.10 This analysis indicates that the additional charges add £2.43 to the average charge for Sure's customers. This is a considerable monthly difference. Whilst there would obviously be JT customers who change their payment or billing methods if these charges were introduced, this analysis does show that it would be inappropriate to only consider the headline line rental price charged by the two operators.

4.2.11 All these differences mean that it is inappropriate to undertake a simple comparison of the price charged in Jersey and Guernsey. We expect CICRA to provide much more robust analysis to justify the significant changes that it is proposing.

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22 "Retail Price Cap Review in the Channel Islands, a report prepared for CICRA" Frontier (March 2015) http://www.cicra.gg/_files/frontier%20report%20March%2015.pdf
23 See Annex 1 for copy of letter
24 Whilst JT charges interest of "3% above the UK base rate" for late payments, this results in a much lower charge based on the line rental charge. If a customer was late paying the bill by one month, the extra cost would be 3p

4.3 **The benchmark is based on incorrect data**

4.3.1 We have replicated the benchmark presented by Frontier using the correct and current line rental prices. There were a number of issues we have identified with the data presented by Frontier in their analysis.

4.4 ***JT line rental price***

4.4.1 JT's standard rental price cannot be used in isolation; Prime Talk must be accounted for within JT's price. Prime Talk is a discounted rate of £2.09 given to pensioners. However, unlike other operators' discount rates provided for customers on benefits[25], a large proportion of JT's customers take up this tariff and therefore it needs to be factored when comparing JT's line rental to those of other operators. As shown below in Figure 6, 28% of JT's line rental customers pay this heavily discounted rate. When accounting for this proportion, the average JT line rental tariff falls to £10.59[26].

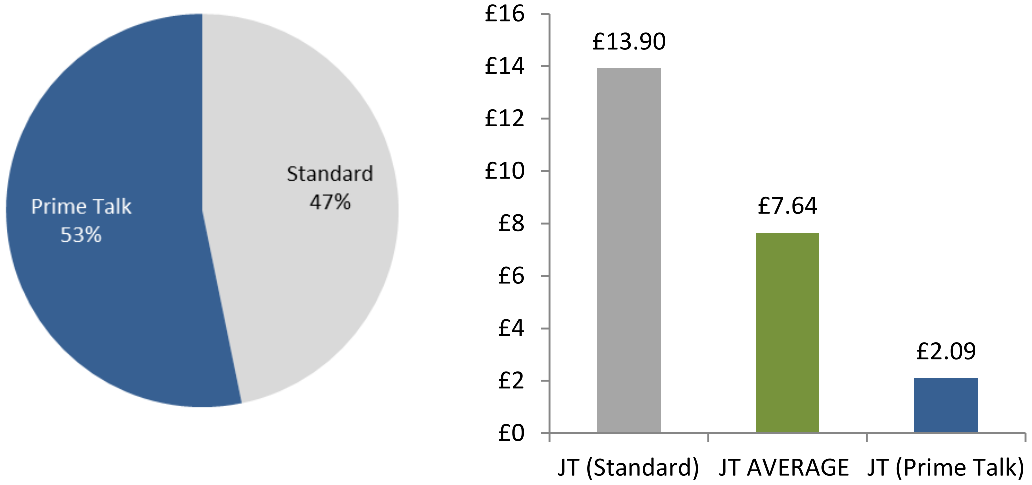
Figure 6: Proportion of JT's line rental customers on Prime Talk tariff and impact on average charge

4.4.2 Furthermore, if you consider line rental only customers, which as discussed above appears to be the most relevant set of customers for Frontier, 53% are paying the Prime Talk rate as shown in Figure 7. The average line rental charge for these customers falls to £7.64.

25 Other operators offer discounts such as the BT Basic tariff of £5.10 a month for those on income support or similar benefits. We do not know how many customers take up this offer, but given that only approximately 5% of households in the UK have people claiming these benefits, many of which would not be aware of this tariff or want to avoid the stigma of applying for it, the scale of take-up will be much smaller than for JT.
Similarly we understand that Sure has 300 customers on its £4.99 tariff for customers on benefits (details of the tariff are not available for on its website). This represents approximately 1% of line rental customers.

26 Frontier have not included 5% GST within their JT prices; it has been included in all the prices we provide.

Figure 7: Proportion of JT's line rental only customers on Prime Talk tariff and impact on average charge



4.4.3 It is clear that the JT price used in this benchmarking needs to take account of this significant proportion of customers. The appropriate line rental charge that should be used for JT is £10.59. Alternatively, the weighted average drops to £7.64 if only line rental customers are considered, as implied by Frontier's reasoning.

4.5 Sure line rental price

4.5.1 As explained above, Sure has recently increased the price of line rental by £2 whilst reducing the price of broadband, also by £2. As a result, line rental now costs £11.99. CICRA was aware of these changes in advance of issuing the consultation and these were mentioned at a meeting with JT on 26th March, four days before issuing the consultation. Despite this knowledge, the old line rental price is included in the benchmarking analysis. It is appropriate for the new price of £11.99 to be used instead.

4.5.2 Using an out-of-date price in a benchmarking analysis is a fundamental material mistake and should have been corrected prior to publication. However using a single price as the basis for the price control for another operator, as has been done with this Sure price, when CICRA was aware that this price was changing is inexcusable. We do not understand how CICRA was able to sign off an aggressive price control proposing a 33% reduction, when it was aware that the information this was based on was not relevant any more.

4.5.3 Given the significant errors in the comparisons contained in the Frontier report and the fact that the significant increase to the Guernsey rental price was known to CICRA (although not in the public domain until three days later), JT is obviously disappointed that the CICRA press release announcing the consultation unjustifiably and unfairly commented on the findings of the 'benchmarking'. As we have mentioned on more than one occasion, this leaves JT in the exceptionally difficult position of having to undo the damage to its name and reputation in the market[27] (see Figure 11 in the Annex).

[27] http://www.cicra.gg/_files/Retail%20Price%20Control%20media%20release%20Jsy%20300315.pdf

4.6 *Other line rental prices*

4.6.1 There are a number of other prices included in Frontier's analysis which appear to be erroneous:

- Frontier included a line rental price of £4.75 for Manx in the Isle of Man. This is the wrong price to use. The £4.75 product.is Manx's "social inclusion" tariff (Low User Choice) which is offered as an emergency lifeline and has a number of restrictions and higher call charges. This product is similar to JT's Primetalk tariff, priced at £2.09. Manx's standard line rental (Choice) is currently £12.75 including. VAT and is the appropriate comparator.

- The recent increase in BT's prices has been recognised in the Frontier report, but excluded from Figure 12. This seems counter-intuitive and no valid reason has been given. The chart should show the BT price as £16.99. In addition, BT should show one line rental price, as opposed to three. The distinction between Infinity, Broadband and BT lies only in the other products combined in the bundles; the line rental is a component part of each bundle and priced the same.

- TI San Marino's current line rental price is £17.93, whereas Frontier stated it as £16. This reason for this difference is unclear.

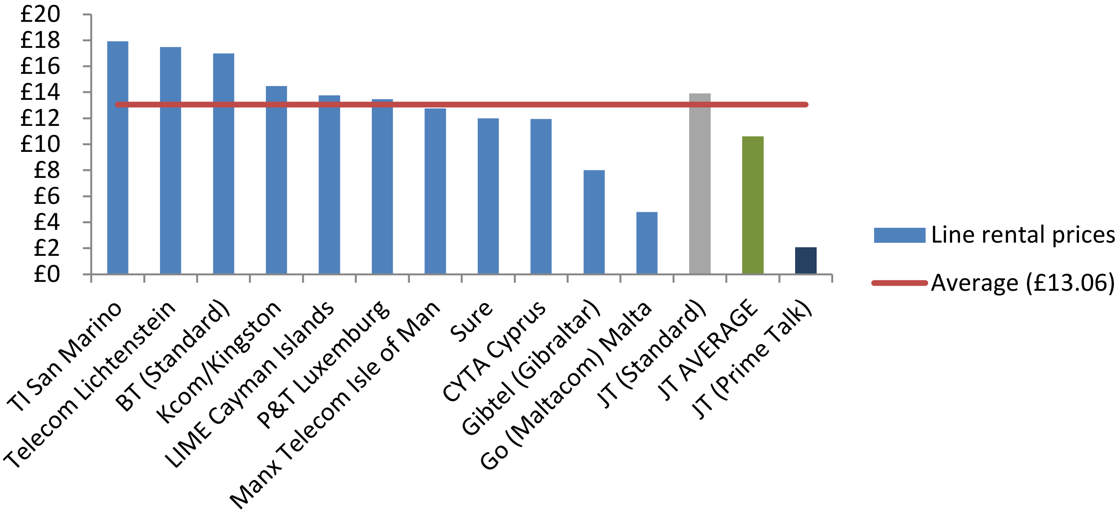
- Similarly, the current price for LIME Cayman Islands customers is £13.77, whereas Frontier gave £9.50. The reason for this difference is also unclear.

4.6.2 Despite Frontier's report being prepared in March 2015, the benchmarking used prices from August 2014; they only acknowledge recent price changes in the written text.[28] This means they have not only used the wrong prices, but the exchange rates are also different. See Annex 1 for further details of the changes we think are necessary to the prices used by Frontier.

28 The line rental prices in Figure 5 for Telecom Liechtenstein, TI San Marino, P&T Luxemburg, CYTA Cyprus, LIME Cayman Islands and Go (Maltacom) Malta all differ slightly from Frontier's original benchmark. We believe this is due to a combination of price changes and exchange rate changes. We have used current exchange rates, as opposed to August 2014 rates, and this will have caused some differences. See Table 3 in Annex 1 for a detailed break-down of data used in Figure 3.

4.6.3 Our benchmark analysis, using the correct, most up-to-date prices[29], is shown in Figure 8.

Figure 8: Updated benchmarking of line rental charges



4.6.4 Our benchmark finds an average line rental price from the comparators chosen by Frontier of £13.06, with JT's average line rental price of £10.59 significantly below this. There is no evidence to show that JT's price is high compared to this set of comparators. Moreover JT's average line rental price rental price is now 12% lower than Sure.

[29] We assume, where not specified, that all current prices have included any sales taxes which apply.

Annex 1: Tables

Table 1: Break-down of JT customers

	Standard	Prime Talk	Total
Line rental only	✂	✂	11,011
Line rental + broadband	✂	✂	27,008
Total line rental customers			**38,019**

Table 2: JT and Sure line rental prices 2002-2014, relating to Figure 2

[Prices appearing in red are estimates based on the trend over time, due to a lack of data.]

	Sure	JT
2001	£4.00	£9.73
2002	£4.75	£10.02
2003	£4.92	£10.02
2004	£5.43	£10.02
2005	£6.28	£10.64
2006	£7.14	£10.96
2007	£7.99	£11.50
2008	£7.99	£12.36
2009	£7.99	£12.77
2010	£7.99	£12.77
2011	£8.99	£13.39
2012	£9.75	£13.39
2013	£9.75	£13.39
2014	£9.99	£13.90
2015	£11.99	£13.90

Table 3: Updated benchmarking of line rental prices, relating to Figure 3

	Line rental	Frontier's Line rental[30]	Difference	Exchange rate differences[31]	Explanation
JT (Standard)	£13.90	£13.24	-	£0.66	5% GST not included by Frontier
JT (Prime Talk)	£2.09	£1.99	-	£0.10	5% GST not included by Frontier
JT AVERAGE	£10.59	-	-	-	
Sure	£11.99	£10.00	£1.99	-	Recent price rise
Telecom Lichtenstein	25.35 SF £17.49	£17.00	£0.49	£16.73 in Aug14	Due to exchange rate change
TI San Marino	24.90 EUR £17.93	£16.00	£1.93	£19.92 in Aug14	Unknown reason
BT (Standard)	£16.99	£16.00	£0.99	-	Recent price rise
BT (Infinity)	£16.99	£16.00	£0.99	-	Recent price rise
BT (Broadband)	£16.99	£16.00	£0.99	-	Recent price rise
P&T Luxemburg	18.72 EUR £13.48	£15.00	-£1.52	£14.98 in Aug14	Due to exchange rate change
Kcom/Kingston	£14.49	£14.49	-	-	
CYTA Cyprus	16.58 EUR £11.94	£13.50	-£1.56	£13.26 in Aug14	Due to exchange rate change
LIME Cayman Islands	$17 £13.77	£9.50	£4.27	£12.24 in Aug14	Unknown reason
Gibtel (Gibraltar)	£8	£8.00	-	-	
Go (Maltacom) Malta	5.99 EUR £4.79	£4.79	-	-	
Manx Telecom Isle of Man	£12.75	£4.99	£7.76	-	Frontier have incorrectly used their Low User Choice rate

[30] As viewed in Figure 12 of Frontier's report. These figures are therefore approximate as no exact numbers are provided.
[31] Source of exchange rates: http://www.xe.com/currencytables/?from=GBP&date=2014-08-01 [5/May/2015 and 1/Aug/2014]

Figure 9: Open Letter to Sure

CICRA
CHANNEL ISLANDS COMPETITION & REGULATORY AUTHORITIES

18 October 2013

Eddie Saints
Sure Guernsey
PO Box 3
Upland Road
St Peter Port
Guernsey
GY1 3AB

Dear Eddie,

Billing Practices for Fixed Telecommunications Services

I am writing this open letter following an unprecedented amount of correspondence received by CICRA from fixed line telecoms customers in Guernsey and Alderney dissatisfied with Sure's processes for billing and collecting payments for its services. As you will be aware, CICRA initiated a review of this aspect of the telecoms market in a consultation document (CICRA 12/47) following changes made by Sure to payment terms in 2012. Subsequent changes introduced by Sure earlier this year – in particular, the imposition of a £1 monthly charge for receiving paper bills – have only heightened customers' concerns.

CICRA received a large number of written responses to its first consultation (CICRA 12/47). In addition, we have taken dozens of phone calls from residential customers giving their views on the same issues raised in the consultation. Several of Sure's customers have gone further and requested meetings with CICRA to discuss their concerns, aggrieved by the behaviour of Sure in this area.

To assess these concerns, CICRA commissioned Island Analysis to undertake a benchmarking exercise, identifying the extent to which practices in the area of billing adopted by Sure and JT are consistent with those adopted by other utility companies, both in the Channel Islands and elsewhere. This exercise has also informed our views on general good practice. This open letter is intended to provide

Page 1

you with details of the benchmarking assessment of the billing practices of Sure and JT, as the dominant telecommunication companies in the Channel Islands (and to that end, I will also be writing to JT on these issues).

A public version of the Island Analysis report will be placed on the CICRA website alongside this open letter today, together with the non-confidential responses to our earlier consultation.

To be clear, these benchmarks do not show Sure and JT to be the worst performers when it comes to billing practices. Nevertheless, they do indicate that significant changes to the practices of both companies are required in order to meet best practice. Given that there are likely to be trade-offs between different aspects of customer billing, it is CICRA's hope that Sure will, of its own accord, alter its current approach materially to improve its performance without the need for regulatory prescription. In CICRA's view, the extent of customer dissatisfaction cannot continue and measures are required urgently and materially to address the current level of customer concern.

This benchmarking report by Island Analysis identifies a number of best practice principles that CICRA believes should guide a dominant telecommunication operator such as Sure in conducting its billing and payment collection activities so as to treat customers in a fair and reasonable way. A brief description of the study and a comparator table is set out in the Annex to this open letter.

In addition to providing you with the results of the benchmarking study by Island Analysis, I believe there are several other issues that appear to warrant particular consideration by Sure.

Firstly, it has come to CICRA's attention that certain Sure customers in Guernsey continue to pay for a second exchange line when it is no longer required. This appears to be a legacy of the internet dial-up service where customers took a second exchange line from Sure to allow calls and internet services to be received at the same time. There is a view from certain of these customers that they should have been informed of the redundancy of the second exchange line rental when they moved away from internet dial-up to ADSL broadband. In our view, Sure should address this through appropriate communication with its customers as a matter of some urgency.

Secondly, numerous customers of Sure are unconvinced by the environmental justification for the £1 charge for paper bills, citing the fact that it was a previous decision by Sure, and not customers, to increase the frequency of bills dispatched from quarterly to monthly. At that time, Sure did not appear to have regard to environmental costs when it chose to triple the number of paper bills issued. Certain customers are concerned that the £1 charge, indirectly, is in fact motivated by a desire to move as many customers as possible to direct debit; a payment option that many of them do not want to use. Certainly, CICRA has considerable sympathy for the view that there are alternatives Sure might have considered prior to levying this £1 charge, including discounts to promote online billing or a reassessment of the actual billing format. It is not apparent to customers or CICRA that these options were fully considered. I am therefore writing to urge Sure to reconsider the imposition of the monthly £1 charge for paper billing and undertake a review of alternatives to address the environmental concerns that Sure cited in support of the charge. An inclusive and transparent process with Sure's stakeholders would seem to provide an appropriate way forward.

Thirdly, payment by BACS or internet banking is widely used by other suppliers, yet Sure does not make this available to its customers. If Sure wishes to draw on electronic technology to provide more online billing options to customers, it is not unreasonable for its customers to expect Sure to lead by example and provide a payment option through BACS. I am therefore also requesting that Sure implement this change at the earliest opportunity and inform customers of its availability.

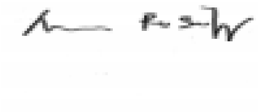
Fourthly, there is a concern about whether Sure's tariff changes are publicised sufficiently widely. While Sure did publish the last change to tariffs in the Gazette Officielle, it appears that many of its customers do not necessarily see such notices. Given modern technology and the billing cycle available to Sure, there is a case for wider publicity in this area to inform its customers, and CICRA would ask Sure to address this. This situation was made worse by the fact that Sure only published notice of its most recent change in prices after they came into effect; a situation I have been assured by members of your team will not be repeated.

Sure will be aware of CICRA's powers in respect of the terms and conditions that accompany the provision of its regulated services and Sure's customer code of practice. To be clear, CICRA does not favour defining specific commercial practices in this area, nor do we wish to prescribe the level of charges related to billing. We would instead seek that Sure undertake a thorough review of existing practices in this area with appropriate stakeholder engagement and then sets out for CICRA a plan of action to address the concerns and assessment outlined in this letter, by the end of November.

I am confident that Sure is committed to best practice in its provision of telecommunications services to customers in the Bailiwick of Guernsey. Our analysis together with the concerns expressed by many customers, strongly suggests that changes are required to Sure's current billing practices in order to meet that commitment.

I look forward to your response.

Yours sincerely



Andrew Riseley
Chief Executive

ANNEX

Work by Island Analysis

CICRA has sought to collect benchmarking information to obtain objective evidence of billing practices elsewhere. To this end, we commissioned Island Analysis with the primary objective of assessing the terms and conditions of a range of companies. A detailed analysis of relevant aspects of these terms and conditions has been provided to CICRA.

Of the nearly 30 organisations worldwide that Island Analysis surveyed, 11[1] were reviewed in detail (primarily those demonstrating good practice), plus JT and Sure. Island Analysis also drew on relevant standards such as ISO 14452:2012, conditions and guidelines published by Ofcom (the telecommunications regulator in the UK) and the industry code published in Australia by the Communications Alliance, the main telecommunications industry body. Around 15 aspects of billing and payment collection were reviewed (7 shown below), including security deposits, the levying of charges for various purposes (itemised bills, failed direct debit....) and billing dispute procedures

In addition to the clarity of policies described on utilities' websites, and how accessible information was to customers, Island Analysis noted actual practices by the 11 companies that it believed demonstrated good practice. A summary table is provided in this communication to illustrate the performance of Sure and JT relative to other organisations.

Based on these results, it is evident that Sure and JT practices are considered 'good' or 'very good' in less than half of the practices that Island Analysis assessed.

The table below shows which operators, in the opinion of Island Analysis, display best practice in selected aspects of their billing and payment procedures. Best practice, in this instance, is a combination of clarity of policy and deemed equity to the customer. Information has been sourced from terms and conditions, bills and operators' websites.

[1] *Bell Aliant, Prince Edward Island; BT, UK; Eircom, Ireland; Melita, Malta; Optus, Australia; Telecom New Zealand; Telstra, Australia; UK-Telecom, France; Guernsey Electricity; Guernsey Water; Jersey Electricity.*

	Very Good		Good		Adequate		Not Stated
Different charges for different billing options	Bell Aliant	no charges for any billing options	Melita, Optus	If operator requested that customer move to online billing but customer chooses to retain paper billing, a charge is made	Telstra	Paper bills for certain plans incur billing charges	Eircom, Telecom New Zealand, JT
	Jersey Electricity	Discount for online billing	Guernsey Water, Guernsey Electricity	Paper billing is the only option	UK-Telecom, Sure, BT	Paper bills incur a charge (Sure: from 01/09/13)	
Different charges for different payment options	JT	No charges for any payment options	Optus, Telecom New Zealand, Telstra, Guernsey Water	Charges for credit card payment	UK-Telecom	Direct debit is the only option	Eircom
	Bell Aliant	Operator imposes no charges but there may be charges from financial companies			Jersey Electricity	Credit cards are not accepted	
	Guernsey Electricity	Discount for paying directly into operator's bank			BT, Melita, Optus, Sure	Charges for anything other than direct debit payment	
Charges for requesting past paper bills					BT, Optus, Telecom New Zealand, JT	All charge approximately the same (£4.80, A$5.50, NZ$5.11, £5.00)	Bell Aliant, Eircom, Melita, Telstra, UK-Telecom, Jersey Electricity, Guernsey Water, Guernsey Electricity, Sure

	Very Good		Good		Adequate		Not Stated
Length of time given for payment	Bell Aliant	30 days after billing date	Eircom, UK-Telecom	14 days from issue of account	Melita, Optus, Telecom New Zealand, Telstra, Sure	As stated on invoice	
	JT	21 days after posting	Guernsey Water	Within 14 days	BT, Jersey Electricity	Immediately unless otherwise agreed	
	Guernsey Electricity	21 days after billing date					
Penalties for direct debit refusal			BT	£10	Optus	A$ 22 plus bank charges	Bell Aliant, Eircom, Jersey Electricity, Guernsey Water, Guernsey Electricity, Sure, JT
			Melita	€12	UK-Telecom	€20	
			Telstra	A$ 10			
Charges for itemised billing	Telecom New Zealand	Bills are itemised	Optus, Sure	Free of charge if requested prior to bill being produced [Sure: £5 for one-off request]	JT	Free of charge online or £1.50 per month on paper bills	Bell Aliant, BT, Eircom, Melita, UK-Telecom
			Telstra	Charges may be made for some itemisation up to A$5.50 for one-off request			

	Very Good		Good		Adequate		Not Stated
Penalties for late payment	Guernsey Electricity	long period of notice before possible termination or installation of meter	Bell Aliant	3% interest per month plus possible termination	Malta	Interest charged at maximum allowed plus late fee plus possible disconnection fee	Guernsey Water
	Eircom	Possibility of account suspension or termination	BT, Sure	£7.50 late fee, possible suspension or termination, possible debt collection fees	Optus	Late fee plus interest , possible suspension fee, third party debt collection fees	
			UK-Telecom	1.5% interest per month plus possible suspension or termination	Telecom New Zealand	Late fee plus interest , possible suspension, third party debt collection fees	
			Jersey Electricity JT	Possible termination with termination fee Interest of 3% above UK base rate plus possible termination			

Figure 10: Notification letter of Sure price increase

9th April 2015

Dear Customer

Sure Phone Line & Broadband price changes

You may be aware that competition will shortly be introduced in the Channel Islands fixed line market. In order to ensure that competitors can compete fairly, Sure will now have to remove the subsidy from fixed lines prices and therefore increase the price of phone lines. However, we will reduce the price of broadband services so that for the majority of customers, there will be no change in their total monthly bill. With effect from 1st May 2015, the monthly charge for standard phone line will increase by £2.00, and all Sure Broadband services will reduce by £2.00. The new charges are shown in the table below:

Product	Current monthly charge	Monthly charge from 1st May
Standard Line Rental	£9.99 (free off-peak local calls)	£11.99 (free off-peak local calls)
Unlimited Broadband	£24.99	£22.99
Superfast Broadband	£34.99	£32.99
Unlimited Pro Broadband	£49.99	£47.99
Superfast Pro Broadband	£69.00	£67.00

If you are in receipt of supplementary benefit from the States of Guernsey, you may also be eligible for Sure's Telephone Assistance Scheme. For more information on this, please contact Social Security, Citizens Advice Bureau or Age Concern (Gsy).

All changes will be reflected on your May bill.

Yours sincerely,

Eddie Saints
Chief Executive Officer

Figure 11: CICRA Press Statement

CICRA media release

EMBARGOED TO 00:00 MONDAY 30 MARCH

27 March 2015

CICRA reviews retail price control in Jersey

The Channel Islands Competition and Regulatory Authorities (CICRA) has published a consultation seeking views on what price controls may be needed in future for JT in Jersey for fixed line services such as calls and exchange lines.

Price controls are a tool by regulators in markets where there is limited competition, as has historically been the case with fixed line services in Jersey, to ensure that prices to customers are appropriate.

Retail fixed-line services include call charges using fixed-line phones, exchange line rentals and a range of related fees associated with having a fixed-line phone service.

CICRA has worked with consultants Frontier Economics to determine whether continued price controls are justified and, if so, to assist in the determination of what those controls should be.

As part of the process the prices JT currently charge for fixed-line service were benchmarked against those of comparators to assess whether JT's pricing levels are justified. The benchmarking found that JT's retail prices were on average considerably higher than the most direct comparator, namely Sure in Guernsey.

CICRA is therefore proposing to bring JT's retail prices more closely in line with appropriate comparators and is seeking views on how much and how quickly prices should be brought into line to achieve that.

CICRA chief executive, Michael Byrne, said: "While we acknowledge that different market features might support different average prices between jurisdictions, we do not find compelling evidence to explain why Jersey consumers are paying significantly more for their fixed-line phone services than those in a comparative jurisdiction such as Guernsey."

"We are particularly keen to hear interested parties' views on any price control to be imposed and the length of time over which any price control should be imposed".

The closing date for responses to CICRA's consultation is 8 of May. The full details of the consultation and how to make a submission can be found on CICRA's website www.cicra.je.

CICRA will consider all responses received if appropriate will issue an Initial Notice – part of the statutory process required to implement a price control on JT – shortly thereafter.

ENDS

About CICRA:

The Channel Islands Competition and Regulatory Authorities or 'CICRA' is the name given to the Jersey Competition Regulatory Authority (JCRA) and the Guernsey Competition and Regulatory Authority (GCRA) (formerly the Office of Utility Regulation). The JCRA was established under the Competition Regulatory Authority (Jersey) Law, 2001, and the GCRA was established under The Guernsey Competition and Regulatory Authority Ordinance, 2012. In Jersey, the telecoms and postal sectors are regulated by the JCRA, which is also responsible for administering and enforcing the Competition (Jersey) Law 2005. In Guernsey the telecoms, postal and electricity sectors are regulated by the GCRA, which is also responsible for the administration and enforcement of the Guernsey competition law since it came into force on 1 August 2012.

By working together and sharing resources and expertise between the islands, CICRA strives to ensure that consumers in all the Channel Islands receive best value, choice and access to high quality services.

Annex 2: Detailed answers to consultation questions

Here we provide a detailed list of where the answers to specific consultation questions can be found within this document.

1. **Does the respondent agree that a dominant position is held by Sure and JT in the provision of retail fixed line access services? If the respondent does not agree then please provide a full justification for the response citing relevant evidence.**

   See paragraphs 3.3.1 - 3.3.9 for our response to this issue

2. **Does the respondent agree that there continues to be a need for ex-ante price controls for Sure and JT's retail fixed access line services in the respective jurisdictions of Guernsey and Jersey? If the respondent does not agree then please provide a full justification for the response citing relevant evidence.**

   See paragraphs 3.1 – 3.3.9 for our response to this issue

3. **Does the respondent agree that given the strong positions held by both Sure and JT in the provision of retail fixed call services there continues to be a need for ex-ante price controls for Sure and JT' retail fixed call services in the respective jurisdictions of Guernsey and Jersey? If the respondent does not agree then please provide a full justification for the response citing relevant evidence. What alternatives would you suggest and why?**

   See paragraphs 3.1 - 3.3.9 for our response to this issue

4. **Does the respondent agree that CICRA should set a price control for a single basket consisting of retail fixed access line services and retail fixed call services? If the respondent does not agree with this then please provide a full justification for the response. What alternative would you suggest and why?**

   See paragraphs 3.1 - 3.3.9 for our response to this issue

5. **Does the respondent agree that if CICRA sets a price control for a single basket consisting of retail fixed access line services and retail fixed call services then the duration of the price control should be three (3) years? If the respondent does not agree with this then please provide a full justification for the response. What alternative would you suggest and why?**

   See paragraphs 3.3.5 - 3.3.9 for our response to this issue

6. **Does the respondent agree that any price control should be set primarily on the basis of retail price benchmarking? If not why and what alternative would you suggest?**

See paragraphs 4.1. – 4.6.4 for our response to this issue

7. **Does the respondent agree that CICRA should apply a RPI – 0% price control for Sure (Guernsey)? If the respondent does not agree with this then please provide a full justification for the response and suggest an alternative**

Not addressed in our response

8. **Does the respondent agree that CICRA should apply a RPI – 10% price control for JT (Jersey)? If the respondent does not agree with this then please provide a full justification for the response and suggest an alternative.**

See paragraphs 4.1. – 4.6.4 for our response to this issue

9. **Does the respondent agree that this price control should apply for a period of three (3) years? If the respondent does not agree with this then please provide a full justification for the response and suggest an alternative**

See paragraphs 3.3.5 - 3.3.9 for our response to this issue

10. **Does the respondent agree with the price control compliance methodology proposed by CICRA? If the respondent does not agree with this then please provide a full justification for the response and suggest an alternative**

Not addressed in our response