



Response by Sure (Guernsey) Limited and Sure (Jersey) Limited to CICRA's Draft Determinations on Retail Price Control (CICRA 15/54 & 15/55)

Sure (Guernsey) Limited and Sure (Jersey) Limited, collectively referred to as 'Sure', is submitting this response to CICRA's Draft Decision (Guernsey) and Initial Notice (Jersey) in relation to its retail price control proposals.

CICRA is welcome to share this document with other interested parties and publish it on its website.

General comments – relevant to both Guernsey & Jersey

Relevant quarter for annual RPI application

Both the States of Guernsey and the States of Jersey issue updates to their Retail Price Index (RPI) annual inflation measures on a quarterly basis. CICRA is yet to define which quarter's RPI figure is to be used annually by Sure (in Guernsey) and JT (in Jersey) for Price Control compliance purposes. This could have a material impact on the allowable return of each operator. For example, had CICRA required a new Price Control framework to begin on 1st January 2016, would operators have been expected to base their compliance calculations on the June or September quarter's RPI? In the case of Guernsey, the June 2015 RPI was 1.9%, whereas the September 2015 RPI was 0.7%. In that scenario it would be beneficial for Sure to use the less recent RPI, which would have been the only one available when it started its pricing review cycle, but the latter would have become available before it was completed. Clearly, if left to operators to decide, they will choose the one more beneficial to their business.

We believe that CICRA should clearly set out within its Decision Notice (for each jurisdiction) the specific RPI quarter (March, June, September or December) that is to be used by operators for Price Control compliance purposes.

Comments in relation to CICRA's proposed Guernsey Price Control

RPI should be stated as capped increase rather than a reduction

We note that CICRA makes reference to Frontier Economics' proposal and its own intention to limit the **increase** [emphasis added here and in bullet points below] in Sure's retail prices to RPI – 0%. For example:

- Page 4 - The GCRA's proposed determination is that **increases** in the basket of charges levied by Sure for its retail fixed line services shall be limited by no more than RPI – 0% for the three year period of this price control.

- Page 15 - Frontier Economics recommended a safeguard control on Sure, allowing for price **increases** in line with inflation, of RPI - 0% each year during a price control period of three years.
- Page 18 - The GCRA proposes to impose the following retail price control on Sure in Guernsey where **increases** are limited to no more than. Year 1: RPI – 0%, Year 2 : RPI – 0% and Year 3: RPI – 0%.

We are therefore concerned to note that CICRA’s Draft Decision ends by stating that Sure’s prices ‘shall be **reduced** [emphasis added] by RPI – 0% for the three year period of this price control’. This wording appears to have been copied from the equivalent Jersey document, where the proposed requirement is for JT to reduce its charges, but unless the wording is changed we believe that Sure could be unfairly penalised, due to CICRA’s error in this regard. If, during the next three years, the RPI were to reflect a position of deflation, rather than inflation, then, as currently worded, Sure would be required to reduce its charges. Based on all wording apart from that proposed in the Decision, this cannot be what is intended, nor is it in any way appropriate, taking account of the framework that has been followed within this retail price control review process.

As we have already highlighted to CICRA¹, Sure is very unlikely to be able to reduce its underlying costs (predominantly salaries) as a direct result of any negative RPI, so could be unfairly penalised if it were forced by CICRA to reduce its retail charges.

It would appear that Frontier Economics’, CICRA’s and Sure’s views are aligned, provided that an appropriate RPI mechanism for Guernsey is based on a limitation of price increases. As a result, we believe that CICRA needs to change the wording used in its Decision from that currently proposed in its Draft Decision²:

From:

*... the charges levied by Sure for the retail services set out under the ‘Scope of price control going forward’ section shall be **reduced by** RPI – 0% for the three year period of this price control and will remain in place until replaced or removed following a review.*

To:

*... the charges levied by Sure for the retail services set out under the ‘Scope of price control going forward’ section shall be **limited to increases of no more than** RPI + 0% for the three year period of this price control and will remain in place until replaced or removed following a review.*

Should CICRA be minded not to change its proposed Decision wording then Sure would request an opportunity for formal discussion with CICRA prior to its Decision being finalised.

¹ As per page 3 of [www.cicra.gg/ files/1%20Sure%20Non-Confidential%20Response.pdf](http://www.cicra.gg/files/1%20Sure%20Non-Confidential%20Response.pdf)

² Page 20 of [www.cicra.gg/ files/CICRA%201554%20Retail%20Price%20Control%20Gsy%20DD.pdf](http://www.cicra.gg/files/CICRA%201554%20Retail%20Price%20Control%20Gsy%20DD.pdf)

Broadband pricing

On page 17 of its Draft Decision CICRA refers to *'the key tenet of the argument put forward by Sure is that they consider that their broadband pricing is too high'*, but it is incorrect to assert that this is Sure's own view. We would draw CICRA's attention to the exact wording of our response (to its Consultation³), in which we explained that local customers drew comparison between prices in the Channel Islands and the UK. We used the words 'too high' in the context of customers' views towards what they perceive as high broadband charges across the Channel Islands, when compared to the UK. It is not appropriate to suggest that Sure believes that its own broadband charges are too high.

Comments in relation to CICRA's proposed Jersey Price Control

Impact of incorrect pricing on JT's RPI minus framework

JT raised concerns, as highlighted within its response to CICRA's consultation on JT's Price Control, that *'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.'*

As CICRA is quick to point out, within its Initial Notice⁴, it could not have based its analysis on Sure's increased line rental price as Sure only submitted its notification to the GCRA on 9th April 2015, with the consultation having been issued on 30th March 2015. CICRA has however taken the increase into account in its revised proposal (as set out in the table on Page 21 of its Initial Notice), stating that it was *'taking into account the changes since the consultation was issued'*. Unfortunately, CICRA's latest review has led to two errors within its revised RPI calculations:

1. JT increased its monthly line rental to £13.50, with effect from 28th December 2015 – the notification to the JCRA having been submitted by JT on 27th November 2015. It is important to note that this was before CICRA issued its Initial Notice and therefore it should have reflected JT's increased price in its revised RPI calculation within that document.
2. CICRA has misquoted Sure (Guernsey) Limited's line rental charge as £12.49, when it is £11.99. It has also become evident (only by the inclusion of this table within the Initial Notice) that CICRA also continues to ignore the fact that Sure's charge includes the provision of free off-peak local calls, whereas JT's charge does not. We believe that CICRA should allow Sure the appropriate opportunity to submit evidence of its line rental specific element of its monthly charge. This will require analysis of Sure's call data records, but it is certainly an achievable undertaking, which we believe to be important for CICRA to take account of, considering how it appears to have derived its proposals for JT's RPI – X% value.

Notwithstanding that Sure will need to provide its line rental specific charge to CICRA, the correction of the two misquoted headline prices shows that the percentage difference between JT's and Sure's charges is 18.4%, rather than the 13.9%, as per below.

³ www.cicra.gg/files/Pan%20CI%20Retail%20price%20control.pdf

⁴ Page 21 of www.cicra.gg/files/CICRA%201555%20Retail%20Price%20Control%20JSY%20IN.pdf

Existing (as reported by CICRA):

Component	JT	Sure Guernsey	% Difference
Monthly line rental	13.24	12.49	6%
One-off connection (1)	0.88	0.88	0%
Calls	7.07	5.24	34.9%
Total	21.19	18.61	13.9%

Corrected (prior to Sure's required further analysis):

Component	JT	Sure Guernsey	% Difference
Monthly line rental	13.50	11.99	12.6%
One-off connection (1)	0.88	0.88	0%
Calls	7.07	5.24	34.9%
Total	21.45	18.11	18.4%

(1) The underlying line connection charges are £52.60 for JT and £52.60 for Sure and are amortised over a 5 year period

This material variance will be proven to increase further if Sure is allowed the opportunity to submit its additional information to CICRA. On that basis, we would strongly urge CICRA to temporarily put its current proposal for an RPI – 7% Price Control (to be applied to JT in Years 1 & 2 of the new framework) on hold. As the process is being undertaken on a pan-CI basis, we would also request that the equivalent Guernsey process be held, so as to keep the framework timings aligned. There is no gain or detriment to the Guernsey market, as Sure's current Price Control is already operated on an RPI only basis.

Summary of Sure's position

Sure is generally supportive of an RPI + 0% Price Control framework in Guernsey, although we believe that CICRA's pessimistic stance in relation to the potential benefits of tariff rebalancing towards those offered by UK providers is becoming increasingly out of kilter with the expectations of local fixed line consumers. Without regulatory support in this area it is unlikely that Channel Islands fixed line providers will be able to make material improvements in the rebalancing of their tariffs between fixed line rental, calls and broadband services, so as to become better aligned with UK style tariffs.

In Jersey, where there is clear evidence that JT's charges over recent years have been allowed to increase beyond those of an efficient operator, it is important that CICRA's new Price Control framework be applied on a significantly more stringent basis than its current RPI control. Based on the need to correct the erroneous RPI – 7% proposal we would expect the RPI minus figure to increase. Whether this can be undertaken without the need for a re-issue of an Initial Notice is a matter for CICRA to consider.

Submitted on behalf of Sure (Guernsey) Limited and Sure (Jersey) Limited

18th January 2016