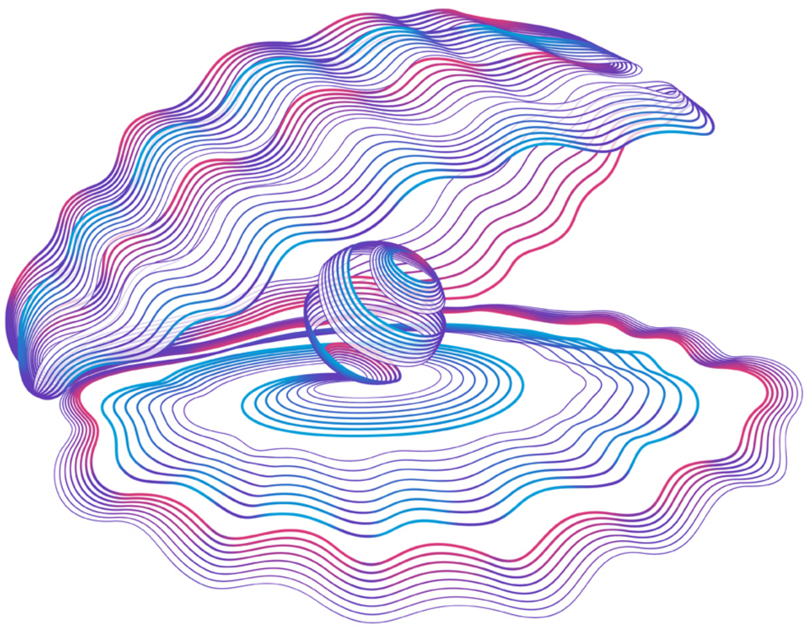
Cable & Wireless Jersey & Guernsey
Wholesale Line Rental

Response to CICRA documents 12/52 & 12/53



Overview

Cable & Wireless Jersey Limited ("CWJ") and Cable & Wireless Guernsey Limited ("CWG"), jointly referred to as C&W (also trading as Sure), are submitting this document in response to two documents issued by CICRA on 21 November 2012:

- CICRA 12/52 – Initial Notice of modification of licence of JT (Jersey) Limited
- CICRA 12/53 – Draft Decision regarding modification of licence of Cable & Wireless Guernsey Limited

These documents set out the high-level considerations for the implementation of Wholesale Line Rental (WLR) by the incumbent operators in Jersey and Guernsey, with a proposed deadline of 3 June 2013. Whilst C&W recognises the separate legislative requirements of the two jurisdictions, we are concerned that no formal link has been made explicit within CICRA's proposals to allow for (or to require) the implementation to occur on the same terms in both islands. C&W has, for some considerable time, been pushing for the introduction of WLR across the Channel Islands - at the same time and at the same price. We discuss the reasons for our approach below, but would urge CICRA to do all that it can to bring effective and efficient fixed line competition to the Channel Islands' telecommunications market as an outcome of this process.

Having waited a period of months for the progression of the WLR project, it is disappointing to note that CICRA has chosen not to be more instrumental in the shaping of the proposed service, particularly in terms of definition and price. JT had originally been the champion of WLR within the CIWAP[1] initiative, but when it stepped away from that role C&W agreed to take over. For that reason we believe that we are now best placed to propose solutions for the WLR service details that CICRA has yet to consider.

Background

WLR is one of the three short-listed services for potential implementation across the Channel Islands' fixed line markets (the others being Naked DSL Bitstream and Fixed Number Portability). C&W is keen for all of these services to be launched, but considers that the largest benefit to the consumer market across the islands can be brought about through the introduction of WLR, which would be available to around 95,000 customers. This is not least because, unlike Naked DSL Bitstream, WLR does not need to be accompanied by Fixed Number Portability in order for operators to be able to compete effectively.

In response to a request from CICRA (6 January 2012) C&W confidentially provided its proposals for the pricing of such a WLR service. We are happy to reproduce some of that content within this non-confidential submission.

We stated that:

"Our concerns were not only that CICRA appeared to be seeking to steer the consideration of the WLR pricing strategy by proposing only Retail Minus price points, but that it may not have fully considered the implications of such a proposal. This was compounded by the lack of any statement as to which

[1] CIWAP – Channel Islands Wholesale Access Products

was the relevant retail rental price for operators to use for their estimates – the £12.75 standard price in Jersey, or the £8.99[2] *standard retail price in Guernsey, or a common pan-island price derived from combining the two different prices in some way.*

Assuming that CICRA intended each of the incumbent operators to use their respective current retail price points the actual monthly WLR charges of the two incumbent operators would be:

WLR product	**Low**	**Medium**	**High**
Price point	**Retail -5%**	**Retail -20%**	**Retail -40%**
Jersey Telecom	£12.11	£10.20	£7.65
Cable & Wireless	£8.54	£7.19	£5.39

For the avoidance of doubt, and to re-iterate C&W's consistent position, we believe that any wholesale products launched as a result of CIWAP initiatives must be made available at the same time and at the same price(s) in Jersey and Guernsey, recognising efficiently incurred costs.

We simply cannot believe that Jersey Telecom's standard monthly charge of £12.75 for retail line rental is reflective of efficiently incurred costs and so in our view it would be entirely inappropriate to use this as a basis for establishing any wholesale charges.

As indicated in our response to the CIWAP Consultation Document[3]*, we believe that the appropriate monthly wholesale charge, on a pan-island basis, should be based on efficiently incurred costs, which should result in a charge in the region of £8.00. At this price point we consider that an efficient operator should be able to recover its wholesale line rental costs, including any WLR project set-up costs (which we believe to be minimal). We therefore fail to see how the CICRA could conceive that a monthly wholesale charge of £12.11 (on a Retail -5% basis) for WLR in Jersey could ever be appropriate.*

Furthermore, we do not consider that any (CI) operator could cover its retail-specific costs within the values of 64p (Jersey) or 45p (Guernsey) were a retail minus 5% price point to be adopted. In relation to customer billing costs, the postage rate alone in Guernsey is 36p[4]*!*

C&W also has issues with the two other WLR price points provided by the CICRA, not least because of the disparity that would continue to exist between the incumbent operators' charges for the provision of near-identical products. We believe that any acceptance by the CICRA as to the validity of Jersey Telecom's current 42% price premium over C&W Guernsey's product (for retail exchange lines) would show a clear disregard to the relevance and recognition of efficiently incurred costs.

Having expressed our concerns to the OUR about the apparent use of a Retail Minus WLR pricing methodology, we received clarification on 19 January 2012, along with the suggestion that we use alternative figures for the take up of WLR products - £12, £10 and £7.50. These price points are very similar to those that would be relevant to Jersey Telecom on a Retail Minus basis (as shown in the

[2] In preparation for the potential introduction of WLR C&W received approval from the GCRA (OUR) to increase retail exchange line pricing to £9.75 per month in April 2012. Based on C&W's costs at the time this resolved a potential margin-squeeze issue, by increasing C&W's retail margin from 11% to a more sustainable 18%.

[3] www.cicra.gg/_files/CICRA%201101.pdf

[4] Increased to 39p with effect from May 2012.

second table[5] above). Should the indication be that these may be suitable prices, this would suggest that for two of the three price points indicated C&W Guernsey would need to significantly increase its retail charge for exchange lines (currently £8.99), to avoid having to provide a wholesale service at a charge higher than that of the equivalent retail service. If the OUR is suggesting that C&W's retail line rental charge should be allowed to increase to cover a high WLR charge, on the face of it, this could be seen as a beneficial position to CWG. However, even in the unlikely scenario where the OUR would let such a situation occur, we believe that this could have a detrimental effect on our business, as customers, at the very time that this bill-shock would occur (with the implementation of WLR), would have the facility to move to another provider, who would very likely compete on price and therefore be viewed as an attractive proposition to any disgruntled C&W customers. We, on the other hand, could be subject to margin squeeze concerns if our revised retail price were too closely aligned to the WLR charge, suggesting that we may not be able to fairly compete.

Based on the above scenarios we are sceptical that any outcome, other than one where the pan-islands wholesale line rental charge is in the region of £8.00 per month, can achieve the appropriate outcome for the Channel Islands telecommunications market.

We also believe that Jersey Telecom's current retail exchange line price is not compliant with the requirements of the Memorandum of Understanding (MOU) in place between the States of Jersey Minister for Treasury and Resources "(T&R") and Jersey Telecom. The first aim listed within the objectives of that MOU is "to be as profitable and ***efficient*** *as comparable telecommunications businesses that are not owned by the States of Jersey" [emphasis added]. We would suggest that C&W is a comparable operator, which is not owned by the States of Jersey and which provides exchange lines on a significantly more efficient basis. As such, any agreement between the JCRA and Jersey Telecom, which is not reflective of efficiency in relation to exchange line pricing, could be seen as harmful to the MOU between two States of Jersey bodies (T&R & Jersey Telecom). We would question whether the JCRA would want to associate itself, as a third States of Jersey body (albeit operating independently), with the continuation of that seemingly non-conformist position. We would therefore urge the JCRA (and CICRA) to take the opportunity which has been created through the CIWAP initiative to require both Jersey Telecom and C&W to implement a WLR product at a price in the region of £8.00.*

Our views can be summarised as follows:

- *We believe that it would be grossly unfair for the CICRA to support a different WLR pricing strategy in each island*
- *We believe that the current difference in retail exchange line pricing measures the charges of an inefficient operator (Jersey Telecom, at £12.75) against those of an efficient operator (Cable & Wireless Guernsey, at £8.99)*
- *We believe that the WLR product should be priced on the basis of efficiently incurred costs*
- *We believe that the appropriate WLR charge should be in the region of £8.00"*

C&W's comments were made in January 2012 and our position has not changed since that time.

[5] First table not reproduced here. The 'second table' is the one shown.

WLR Charging Considerations

C&W considered the possible WLR charging structure as part of its response to the CICRA document 11/01[6], issued on 24 November 2011. We are disappointed to note that our fairly detailed submission (23 pages) does not appear to have been shared with the other CIWAP participants, as that document may have helped to kick-start the charging consideration debate.

We draw on data from our submission within our proposals below. A summary is provided at the end of this section.

Line rental charge

The CIWAP project has been facilitated by CICRA, but the path towards the proposed implementation of WLR has been primarily influenced by the participating Channel Islands telecommunications providers. C&W, Y-Tel (Newtel) and Airtel Vodafone all expressed a preference for WLR pricing to be undertaken on a Cost-Plus basis. Only JT sought a Retail-Minus approach. With the support of C&W as the incumbent operator in Guernsey, plus all main non-incumbent operators in Jersey (including C&W) we fail to see how anything other than a Cost-Plus pricing strategy for WLR could be envisaged. As highlighted above, we believe that the cost base of the more efficient incumbent operator (C&W) should be used to establish the exact price. We intend to provide a cost justification for the proposed monthly rental charge, although we are hopeful that this value will not change significantly from the indicative £8.00 mentioned above. Should other operators consider a monthly WLR charge of around that amount to be appropriate it may be prudent for them to reinforce that view to CICRA.

JT often seems to refer to the fact that, whilst its headline retail exchange line charge is £12.75, it provides line rental services to pensioners for £1.81 per month. In a media release[7] of 28 November 2012 Graeme Millar commented that the cost of providing such subsidised lines was around £1.2m per year. Based on that it is possible to estimate that in the region of 9,141 JT customers currently receive a subsidy[8]. That equated to 16% of JT's exchange line customer base (using the last published figure of 57,708 lines[9]). Further analysis provides an estimated average monthly rental revenue for JT of £11.02[10]. That ignores the fact that many of JT's customers pay more than the standard £12.75 for their line rental (for example, on older style tariffs). We would welcome any analysis by JT, but we suspect that its actual average revenue is still significantly higher than CWG's current standard monthly rental of £9.75, which is provided profitably at that value. We would reiterate our view that an efficient operator's wholesale line rental charge should be in the region of £8.00 per month.

As both incumbent operators are subject to accounting separation requirements, the respective Retail Business would be obliged to purchase standard WLR services from the Access Network Business. We believe that the Access Network should incur the efficient costs of the provision of the WLR service and then recover them within the monthly line rental charge (from all WLR service-

[6] www.cicra.gg/_files/CICRA%201101.pdf
[7] www.jtglobal.com/Jersey/super-footer/Latest-News/2012/JTs-response-to-the-Initial-Notice-on-wholesale-Line-Rental
[8] £1.2m x (£12.75-£1.81)/12 months) = 9,141 customers
[9] Page 24 of: www.cicra.gg/_files/100514%202009%20Telecom%20stats%20in%20Jersey%20REVISED%20.pdf
[10] 9,141 customers paying £1.81 = £16,545 per month. Therefore 48,567 customers paying £12.75 per month. Total revenue (£635,774) divided by total customers (57,708) = £11.02

takers). We therefore do not agree with CICRA's proposal that "the Licensee shall be entitled to share the efficient costs of the provision of the WLR service **equally** [emphasis added] with each of the Other Licensed Operators that seek WLR[11]". Such a proposal would not incentivise an incumbent operator to minimise WLR related costs, but rather, the opposite. It would actively encourage the greater enhancement of systems and resources, with the opportunity to recover a large proportion of those costs from other operators. We would urge CICRA to review its proposal and consider a requirement for WLR management costs to be included in the monthly recurring charge.

Specifically with regard to JT's separated accounts, if its Retail Business were to purchase wholesale exchange lines from its profitable Access Network business at around £8.00 per month the retail margin should then be such that exchange line services would be provided profitably at the retail level (thereby addressing Graeme Millar's concerns about JT's reported loss-making Retail Exchange Lines Business). C&W strongly believes that within the separated accounts JT should not seek to recover the Jersey fibre network rollout costs from exchange line services (either at the wholesale or retail level). Fibre should only be considered a requirement for fast data services. There can be nothing more than minimal (if any) benefit in providing voice services over a fibre (rather than copper) exchange line. In fact, in terms of exchange line stability, a copper network can be more resilient, as it continues to provide exchange line services to all subscribers during power outages.

Finally, for other rental charges, such as exchange facilities, which are much less used, we suggest that it may be appropriate to implement the lower of the two operators' charges for each facility (on a pan-CI basis). C&W would be keen to investigate a reduction of such wholesale charges through the implementation of either Cost-Plus or Retail-Minus pricing, but is conscious of the need for charging simplicity at this stage.

Non-recurring charges

There are significant disparities between the main non-recurring exchange line charges of the two incumbent operators, as can be seen below. The activities required, whether provided by JT or C&W would be almost identical and therefore one must question how JT considers it appropriate to charge up to 127% more for an equivalent service (connection without engineering visit).

We are mindful that cost-justification of each non-recurring activity may be considered too onerous, but as the more efficient operator, C&W would suggest that as a minimum its current charges, rather than JT's significantly higher equivalents, should form the basis for the pan-CI WLR related connection charges. For lesser-used non-recurring facility/service charges, we propose using the lower of the two operators' charges, but would be keen to discuss other charging methodologies (such as Cost-Plus or Retail-Minus, as with other rental charges, above).

Activity	**JT (Jersey)**	**C&WG**	**Proposed wholesale charge**
Connection (with engineering visit)	£120.49	£69.99	**£69.99**
Connection (without engineering visit)	£49.99	£21.99	**£21.99**
Other one-off exchange line charges	Various	Various	**Lower of the two operators' charges**

[11] Annex C of www.cicra.gg/_files/IN%20-%20WLR%20-%20JT%20(PDF).pdf and Annex D of www.cicra.gg/_files/Draft%20Decision%20-%20WLR%20-%20CWG.pdf

Service takeovers

C&W had originally considered the need to recognise a takeover charge for customers who wished to transfer their exchange line service from their current provider. This is because per-customer provisioning and billing system changes are required to associate each account with a new provider. However, after further consideration, we believe that there is no need for this cost to be recognised. C&W's cost estimate for the ongoing provision of a WLR service (£30,000-£40,000 per annum) already allowed for the cost of a dedicated employee to manage the WLR provisioning function. As part of the accounting separation requirements placed upon both incumbent operators, once WLR exists, both JT and CWG would need to recognise the purchase of wholesale exchange line services from their respective Access Network business at the underlying wholesale rates. This would appropriately place them on the same footing as any other service provider.

We therefore propose that all WLR service takeover costs (which would be incurred solely by the Access Network) should be recovered within the standard wholesale line rental charge, again with the expectation that this would not significantly affect the indicative £8.00 monthly value. Not doing so would place JT and CWG, i.e. the two current exchange line providers, at a competitive advantage.

Call charges

Incoming calls:

- From on-island – the existing RIO/RO interconnection receipts provided to the incumbent operators should continue to be associated with the network cost of incoming calls, i.e. costs and revenues associated with calls made to OLOs' WLR subscribers should be excluded from the regulated WLR service.

- From off-island – revenue from these calls is provided through commercial arrangements with the likes of BT, CWW and FT. We believe that no charge should be payable to OLOs for the conveyance of traffic to wholesale exchange line subscribers. This would be consistent with the current position in relation to CWG's retail exchange line customers.

Outgoing calls:

Calls would continue to be placed on the incumbent operator's network and would need to be actioned in the same way as calls from its retail customers. A Carrier Select facility would still need to be available on the line, regardless of which operator held the billing relationship with the customer.

- On-island – these calls should be charged at the prevailing RIO/RO rates, using the defined services of on-island origination, termination, transit and mobile termination. For example, a local call should be charged as an origination and a call termination, whilst a call to a local mobile should be charged as an origination and a mobile termination. This would negate the need for separate charging mechanisms, should some WLR customers choose to continue making use of carrier select auto-dialler boxes.

- Off-island – these calls would make use of commercially agreed interconnect rates (with the likes of BT, CWW and FT). We consider that the only charging mechanism possible for this particular aspect of WLR would be Retail-Minus. We suggest that the setting of such rates may have to be defined on a call-type basis, as margins vary across those types. For example, the margin available on a premium rate call can be very different to the margin on an international call. It may therefore be appropriate to define different levels of Retail-Minus discount for the following (draft) call types:
    - 00 – International
    - 01/02 – UK geographic numbers
    - 03 – UK wide numbers
    - 05 – Corporate numbers & location independent services
    - 07 – personal, paging and mobile numbers
    - 08 – special services
    - 09 – premium rate services

  Once structured, there should be little need for review of this framework.

  At the retail level both JT and CWG apply a minimum fee on chargeable calls. JT charges 7p (5p on its Prime Talk plan), whilst CWG charges 2p. These charges are generated at the retail level and do not form part of the wholesale cost base. Calls should therefore only be billed to operators on a per-second basis (and with no minimum duration), with the exception of specific services where the interconnect rate has a two-part charging mechanism.

Special call types:

- Free calls - Revenue due to incumbent operators to cover the network origination costs for such calls should continue to be received by them. Therefore no costs should be incurred by operators using the WLR service (or by any end customer, irrespective of operator).
- Emergency calls – Calls should be charged to operators at the standard RIO/RO rates and should be routed directly to the emergency call centre, rather than via the alternative exchange line provider and then to the call centre.
- Directory enquiry calls – Almost all traffic to '118' providers incurs a fixed charge per call, along with a per-minute charge. Many of these services are provided with low retail margins and C&W knows from experience that calls can be frequently re-priced, leading to a risk of under-recovery of costs. Consideration will need to be given as to whether a Retail-Minus approach offers the best solution.
- Telephone directory entry – Historically both incumbent operators have provided a white page directory listing as part of their exchange line service. Customers whose line is provided via the new WLR service are likely to expect that their directory entry will continue to be listed in the incumbent operator's phone book.

Based on the GCRA's 2004 Regulatory Accounting Guidelines[12] CWG recognises the costs and revenues associated with its (retail) exchange lines within its 'Retail – Exchange Line Rental and Connection Business', whilst white page directory listing costs and revenues are reported within the 'Retail – Remaining Activities Business'. The reported businesses operate independently, but both are within C&WG's 'Retail Business'. With the likely implementation of WLR it may be more appropriate to recognise that regardless of whether the line is rented by CWG's Retail – Exchange Line Rental and Connection Business or by another WLR service-taker a directory entry forms part of that service. C&WG's 'Access Network Business' could then pay, through a transfer charge to the Retail – Remaining Activities Business, for a directory entry for every exchange line (regardless of retail provider). That would appear to offer a fair and consistent solution for the provision of a white page entry for each exchange line customer. The process for recording and updating directory entries would need to be discussed as part of the WLR project, but we are confident that the requirements can be fully defined and tested within a reasonable period.

We are open to the consideration of other methodologies, but should the above be considered appropriate it would need approval by the GCRA, as the reported profitability of the separated accounts would be impacted. CWG would seek consistency of reporting across the Channel Islands and would therefore look to the JCRA to require JT Jersey to undertake the same.

SUMMARY OF PROPOSED PAN-CI WLR CHARGES:

Activity	Proposed Charge/Mechanism
Wholesale line rental	£8.00 per month
Wholesale line rental facilities	Lower of incumbent operators' retail charges
Connection (with engineering visit)	£69.99
Connection (without engineering visit)	£21.99
Non-recurring WLR charges	Lower of incumbent operators' retail charges
Service takeover	Free (assuming six month minimum term)
Incoming calls	Not relevant to WLR service
Outgoing on-island calls	RIO/RO rates
Outgoing off-island calls	Retail-Minus charges
Free calls	Free
Emergency calls	RIO/RO rates
Directory enquiry calls	Potentially Retail-Minus charges
Telephone directory entry	Within WLR service (by default)

Other considerations

- Minimum term – Both JT and CWG currently require a twelve month minimum term for retail exchange line contracts. As C&W's proposal is that no service takeover charge is applied it is important that wholesale contract periods are not set too short, resulting in the inability to recover costs associated with provisioning/billing changeover requirements

[12] www.cicra.gg/_files/our0425.pdf

within the contract term. For that reason we are minded to suggest a minimum of a six month wholesale exchange line term, but we would be interested in other operators' views in this regard.

- A process will need to be agreed for the inter-operator transfer of Call Detail Records (CDRs) in relation to calls made from WLR services. C&W had proposed to CICRA in previous correspondence that as a minimum this should occur every 24 hours. To assist in the early identification of high-usage concerns we now propose that CDR data is transferred at least every 12 hours. Once testing has been completed between each incumbent operator and WLR service-taker it may be appropriate to further shorten the frequency of CDR transfers. Again, we would be interested in other operators' views.

- Draft commercial agreements will need to be prepared, as part of the next phase of the WLR implementation project. C&W has already begun to progress this requirement. We would anticipate a need for input/guidance from CICRA, should any operational matters not be resolvable between CIWAP related operators.

Proposed next steps

It is clear from JT's response to the Initial Notice regarding Wholesale Line Rental[13], along with its earlier views, captured within documents CICRA 12/52 and CICRA 12/53, that it does not welcome the likely implementation of WLR. We therefore consider that for this process to be successful on a pan-island basis it must be actively driven by CICRA. Any delay in JT complying with the Initial Notice would have effects in Guernsey too, as C&W would not be prepared to implement WLR in Guernsey unless and until it is implemented on the same terms in Jersey.

We would therefore suggest that CICRA holds a formal workshop in January 2013 to define and agree the operational steps required. C&W remains committed to working within CICRA's timelines, so that WLR can be launched in Guernsey by 3 June 2013. However, for this to be achievable JT must equally be prepared to act in good faith and introduce WLR in Jersey at the same time and at the same price. Contrary to what JT infers, WLR should not get in the way of network changes. There are no network changes. WLR is solely about provisioning and billing practices.

We look forward to working with the other members of the CIWAP initiative over the coming months, so that the three years of discussion and negotiation can finally bring to fruition the opening up of the consumer fixed line markets in the Channel Islands. C&W believes that the opportunity to bring the benefit of choice to around 95,000 exchange line customers needs to be embraced by all parties.

[13] www.jtglobal.com/Jersey/super-footer/Latest-News/2012/JTs-response-to-the-Initial-Notice-on-wholesale-Line-Rental