



Change of control of 2e2 Jersey Limited and 2e2 Guernsey Limited

Final Decision

Channel Islands Competition and Regulatory Authorities

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1. Introduction

On 22 April 2013, the Channel Islands Competition and Regulatory Authorities (**CICRA**)¹ received a notification of the change of control of 2e2 Jersey Limited and 2e2 Guernsey Limited (together, **the Licensees**), respectively a Class I Licensee under the *Telecommunications (Jersey) Law 2002* and a Fixed Telecommunications Services Licensee under *The Telecommunications (Bailiwick of Guernsey) Law, 2001*.

The change of control resulted from the acquisition of the entire share capital of their parent company, 2e2 Offshore Limited, for a cash consideration by Logicalis Group Limited (**Logicalis**).

Following the acquisition, the names of the licensees have changed to Logicalis Jersey Limited and Logicalis Guernsey Limited.

Logicalis is an international IT solutions and managed services provider with expertise in communications and collaboration, data centre and cloud services, and managed services. It has annualised revenues of over \$1.4 billion, from operations in Europe, North America, South America and Asia Pacific.

Logicalis is a 100% owned subsidiary of Datatec Limited (**Datatec**), listed on the Johannesburg and London AIM Stock Exchanges, with revenues of over \$5 billion. For the purpose of this change of control, Datatec is considered as ultimate controller of the Licensees.

The Licensees are both obliged under their respective licences to notify CICRA of the change of control. CICRA is then required to consider whether to approve or reject the change of control, or to approve the change of control with conditions (eg by modifications to the licences or other regulatory action).

On 1 May 2013 CICRA issued a provisional decision to approve the change of control of the Licensees (CICRA 13/25).

¹ CICRA comprises the Jersey Competition Regulatory Authority (JCRA) and the Guernsey Competition and Regulatory Authority (GCRA), and all references in this document to CICRA should therefore be read as references to each of the JCRA and the GCRA, unless the context otherwise requires.

2. Legal Background

Change of control provisions in licences held by telecommunications operators in the Channel Islands

Telecoms licences in Guernsey and Jersey each contain change of control provisions, in very similar form. As an example, Conditions 2.5 and 2.6 of Class I licence granted to 2e2 Jersey Limited, and originally granted to XKO Communications Systems (Jersey) Limited, provide as follows:

2.5 The Licensee shall notify the JCRA:

(a) of any proposed Change of Control of the Licensee forthwith upon the Licensee, or its Chairman, Chief Executive Officer, Chief Operating Officer or any Director becoming aware of the proposed change; and

(b) in any event, on the occurrence of any Change of Control of the Licensee, within thirty (30) days of that event.

2.6 On receipt of notification of Change of Control the JCRA may:

(a) approve, in writing, the change or the proposed change;

(b) disapprove, in writing, the change or the proposed change, giving reasons; or

(c) approve the proposed change or the change subject to the Licensee accepting a modification of the Licence under Article 18 of the Telecommunications (Jersey) Law,

and, or in addition to any of the above measures, the JCRA may issue such directions to the Licensee or invoke any of the sanctions, penalties or remedies in the Law or the Licence as the JCRA considers necessary or appropriate.

In taking action under this section, the JCRA may have regard to whether or not the JCRA would have awarded the Licence to the Licensee had the Change of Control taken effect prior to the award.

The concepts of control and change of control are defined in Condition 2.7 of Class I licence granted to 2e2 Jersey Limited (and equivalent provisions in other telecoms licences):

In this Condition 2, "Control" shall mean any direct or indirect possession of any power or right that enables a person or group of persons to direct, or cause the general direction of, the management or policies of the Licensee by any means and in any event. A person or group of persons shall be deemed to Control the Licensee if:

(a) he or they exercises or controls the exercise of fifty (50) per cent or more of the votes able to be cast at general meetings of the Licensee on all, or substantially all, matters; or

(b) he is or they are able to appoint or remove directors holding a majority of voting rights at board meetings on all, or substantially all matters or is able to appoint or remove a majority of the governing body of the Licensee; or

(c) he or they exercises or controls the exercise of fifty (50) per cent or more of the partnership or other ownership interests of the Licensee,

and, in each case, reference to the Licensee shall include any person or group of persons who Controls the Licensee in any of such ways, and "Change of Control" shall mean any change as a result of which any other person or group of persons acquires Control.

3. Decision

After reviewing the information provided in the notification of the proposed change of control of the Licensees, CICRA issued on 1 May 2013 a provisional decision to approve the notified change of control of the Licensees resulting from their acquisition by Logicalis, a wholly owned subsidiary of Datatec.

As no responses were received in relation its provisional decision during the consultation period, CICRA has decided to confirm its provisional decision, and to approve the notified change of control. No changes are sought to the existing conditions of the licences held by the Licensee.

CICRA will now reissue the telecommunications licences held by the Licensees in their new names: Logicalis Jersey Limited and Logicalis Guernsey Limited.