



# Pan-Channel Islands Consultation on Spectrum Awards in the 2.1GHz Band

## Consultation Document

### Channel Islands Competition & Regulatory Authorities

**Document No: CICRA 17/03**

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Jersey Competition Regulatory Authority  
2nd Floor Salisbury House,  
1-9 Union Street,  
St Helier, Jersey, JE2 3RF  
Tel: +44 (0)1534 514990  
Web: [www.cicra.je](http://www.cicra.je)

Guernsey Competition and Regulatory Authority  
Suite 4, 1<sup>st</sup> Floor, Plaiderie Chambers  
La Plaiderie, St Peter Port  
Guernsey, GY1 1WG  
Tel: +44 (0)1481 711120  
Web: [www.cicra.gg](http://www.cicra.gg)

## 1. Introduction

- 1.1 The purpose of this consultation is to assess demand for the spectrum in the 2.1 GHz band that is still available, to confirm the long term objective for allocation in this band, and consider a request from Airtel for an additional allocation.
- 1.2 The effective use of the radio spectrum for telecommunications purposes is a matter of public interest for the Islands and, in this context, allocation of spectrum goes beyond the interests of one or more telecommunications operators. It is important that licences to use spectrum are granted in such a way as to make the most efficient use of it and render the maximum benefit to the Islands.
- 1.3 On 09 January 2017, the Channel Islands Competition and Regulatory Authorities<sup>1</sup> (CICRA) received a request from Airtel for an additional block of 2 x 5 MHz harmonised spectrum allocation in Jersey and Guernsey in the 2.1 GHz band. This would take Airtel's total allocation in this band to 20 MHz; the request is that this 20 MHz is contiguous.
- 1.4 Following an assessment of responses to this Consultation, CICRA will determine whether to proceed with a recommendation to Ofcom as requested by Airtel or, if there is excess demand, whether an alternative competitive process is required.

## 2. Structure and Timetable for Consultation

- 2.1 This consultation document is structured as follows:

Section 3	Legislative and licensing background	This section outlines the legal bases for the JCRA and GCRA's roles in the allocation of spectrum for telecommunications purposes as well as the role of UK legislation in this area
Section 4	CICRA's Objectives	Records the set of objectives that guide CICRA's processes in determining spectrum allocation generally and, in particular, assessing how to respond to Airtel's request
Section 5	2.1 GHz Spectrum	Discusses spectrum availability in Jersey and Guernsey and other issues to the extent that they are relevant to assessing Airtel's request
Section 6	Next Steps	Concludes the consultation

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<sup>1</sup> The Jersey Competition Regulatory Authority (JCRA) and Guernsey Competition and Regulatory Authority (GCRA) are together referred to as CICRA and unless otherwise stated, all references to CICRA in this Consultation are to each of the JCRA and GCRA.

2.2 Interested parties are invited to submit comments to CICRA in writing or by email on the matters set out in this paper to the following addresses:

2nd Floor, Salisbury House 1-9 Union Street St Helier Jersey JE2 3RF  Email: info@cicra.je	Suite 4, 1st Floor Plaiderie Chambers La Plaiderie St Peter Port Guernsey GY1 1WG  Email: info@cicra.gg
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2.3 All comments should be clearly marked 'Pan-Channel Island Consultation on Spectrum Awards in the 2.1 GHz Band' and should arrive by 5pm on 14 April 2017.

2.4 In line with CICRA's consultation policy, the regulators intend to make responses to the consultation available on the CICRA website. Any material that is confidential should be put in a separate annex and clearly marked as such so that it may be kept confidential. CICRA regrets that it is not in a position to respond individually to the responses to this consultation.

### 3. Legislative and Licensing Background

#### Legal Framework

3.1 The use of spectrum in the Channel Islands is governed by UK legislation and international agreements between the UK and other countries on the use to which various bands of radio spectrum can be put and the avoidance of interference across borders. The licensing of spectrum, in the UK and in the Channel Islands, is carried out by the Office of Communications (**Ofcom**), by virtue of powers given to it by the *Wireless Telegraphy Act 2006 (WTA)* and the *Communications Act 2003 (UK Communications Act)*<sup>2</sup>.

3.2 Ofcom's principal and secondary duties are in S.3 of the UK Communications Act ('General Duties of Ofcom'), which provides that:

- (1) *It shall be the principal duty of OFCOM, in carrying out its functions –*
  - (a) *To further the interests of citizens in relation to communications matters; and*
  - (b) *To further the interests of consumers in relevant markets, where appropriate by promoting competition*
- (2) *The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following:*
  - (a) *The optimal use for wireless telegraphy of the electro-magnetic spectrum;*
  - (b) (...)

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<sup>2</sup> For the Channel Islands, as and to the extent that these Acts are extended to Jersey by *The Wireless Telegraphy (Jersey) Order 2006* and Guernsey by *The Wireless Telegraphy (Guernsey) Order 2006*.

3.3 Moreover, S.3 of the WTA ('Duties of OFCOM when carrying out functions') further specifies Ofcom's duties as follows:

- (1) *In carrying out their radio spectrum functions, OFCOM must have regard, in particular, to –*
  - (a) *The extent to which the electromagnetic spectrum is available for use, or further use, for wireless telegraphy;*
  - (b) *The demand for use of the spectrum for wireless telegraphy; and*
  - (c) *The demand that is likely to arise in future for the use of the spectrum for wireless telegraphy*
- (2) *In carrying out those functions, they must also have regard, in particular, to the desirability of promoting –*
  - (a) *The efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy;*
  - (b) *The economic and other benefits that may arise from the use of wireless telegraphy;*
  - (c) *The development of innovative services; and*
  - (d) *Competition in the provision of electromagnetic communications services.*

3.4 Licences granted by Ofcom for the Channel Islands are issued subject to there being in force a licence granted to the Licensee by either the JCRA or GCRA for the provision of a telecommunications service in that territory.

3.5 For the purposes of spectrum allocation, the respective roles of CICRA and Ofcom in coordinating the award of spectrum licences in the Channel Islands are as follows:

- CICRA ascertain the level and nature of demand for the spectrum which is on offer. When the assessment and selection process is completed, a recommendation is provided to Ofcom.
- Ofcom issues licences for spectrum use under the WTA where it is satisfied CICRA's recommendation is consistent with its own statutory duties.

## **Government Policy**

3.6 In Jersey, the Digital Policy Framework was issued in February 2017. This provides that the delivery of advanced digital infrastructure will be supported by a telecommunications strategy that will describe the specific steps to be taken, including the optimal use of spectrum so that consumers have access to the range of services they require. The framework also confirms that the States of Jersey will encourage a competitive market that promotes affordability and high quality products and services.

3.7 In Guernsey, an equivalent document is under development.

## **CICRA's Objectives**

3.8 CICRA has previously proposed the following objectives to guide process and criteria for joint allocation of spectrum in the Channel Islands:

- i) To further consumers' interests in the short and long term, having regard to prices and costs, and the availability and range of services suitable to consumers' different needs
- ii) To promote competition as a mechanism to further its consumer interest objective

- iii) To have regard to and, where it lies within its powers and is practicable, to lessen the impact of the spectrum dependent activities it regulates on the environment
- iv) To the extent allowed by legislation, to deal with the Jersey and Guernsey Bailiwicks as a single economic and social entity
- v) To seek to ensure the processes and criteria adopted by CICRA are consistent with Ofcom's duties, including the duty to secure the optimal use of wireless telegraphy of the electromagnetic spectrum

3.8 The first three objectives summarise the duties that CICRA has, in one form or another, in the Islands' respective legislation. The last one is necessary to ensure that Ofcom is able to act on CICRA's recommendations, as they need to be made in furtherance of similar objectives to those assigned to Ofcom.

## 4. 2.1 GHz Spectrum

### Previous CICRA Decisions on this Band

4.1 The following are previous CICRA decisions on spectrum allocation in this band:

Consultation	Decision Reference	Date
Realignment of 2100 MHz Allocations between Jersey and Guernsey – Invitation to Comment	11/08	April 2011
Pan CI Consultation on Spectrum Award in the 2.1 and 3.6 GHz Bands	14/21	April 2014
Statement of Intent on Pan CI Spectrum Awards in the 2.1 and 3.6 GHz Bands	14/61	December 2014

### 2015 Allocation

4.2 In its 2014 Statement of Intent, in balancing its objectives in 3.7, CICRA proposed a two-stage process for the allocation of spectrum in this band. The final stage being to divide the 2.1 GHz Band between five operators to optimise spectrum as follows and shown below:

- One operator with 14.8 MHz worth of spectrum, equivalent to 3 wideband channels (Airtel)
- Three operators with 2 x 10 MHz (Clear Mobitel, JT, Sure), two of which might expand to 14.8 MHz
- One operator with 2 x 5 MHz in Jersey only (Marathon, as already licensed)

Guard Band	Marathon (Jsy Only)	Airtel	Clear Mobitel, JT or Sure	Clear Mobitel, JT or Sure	Clear Mobitel, JT or Sure	Guard Band
2110.0 – 2110.3						2169.7 – 2170.0
0.3	5	14.8	10	14.8	14.8	0.3

4.3 The arrangement proposed would satisfy all demand for the 2.1 GHz spectrum that had been expressed in response to the April 2014 consultation.

4.4 To achieve this arrangement would require all existing users to move. However, CICRA believed that such a re-allocation of spectrum could be justified by spectrum management objectives – spectrum is a scarce resource and, as such, must be used as efficiently as possible.

Question 1: Respondents are invited to comment on the proposed objective for permanent allocation in the 2.1 GHz Band as described above, in particular, on whether the 2014 Statement of Intent remains appropriate, providing reasons for any position.

4.5 In the short term, it was not possible to issue spectrum to Clear Mobitel and Airtel for the frequencies they would eventually use. Both organisations were therefore asked, as a condition of the recommendation to Ofcom, to confirm that they were prepared to receive a temporary bloc of spectrum for use until the 2.1 GHz Band could be optimised.

4.6 On 27 February, Ofcom accepted the recommendation from CICRA and made an allocation on a temporary basis pending a longer term solution.

### Current Allocation

4.7 The current allocation in this band is:

Jersey Guernsey	Guard Band		Marathon	Airtel		JT	Sure	Clear Mobitel	Guard Band
	2110.0 – 2110.3	2110.3 – 2115.0	2115.0 – 2120.0	2120.0 – 2134.8	2134.8 – 2140.0	2140.0 – 2150.0	2150.0 – 2160.0	2160.0 – 2169.7	2169.7 – 2170.0
	0.3	4.7	5	14.8	5.2	10	10	9.7	0.3

4.8 The request for additional spectrum from Airtel represents an opportunity to progress the re-organisation of this band for better efficiency, and CICRA is therefore also seeking to assess the level of demand for this spectrum.

Question 2: Respondents are invited to comment on, with supporting evidence and explanation, current and prospective demand for spectrum in the 2.1 GHz Band that CICRA should consider in making any spectrum recommendation in this band.

### Airtel Request

4.9 On 09 January, the CICRA received a request from Airtel for an additional block of 2 x 5 MHz harmonised spectrum allocation in Jersey and Guernsey in the 2.1 GHz band. This would take Airtel’s total allocation in this band to 19.8 MHz. The additional spectrum has been requested due to greater demand and to improve reliability.

Question 3: Following on from questions (1) and (2) above, respondents are asked for any further comments on Airtel’s request for additional spectrum in this band.

## 5. Next Steps

5.1 The purpose of this consultation is to invite comments from interested parties in order to:

- (a) assess demand for spectrum in this band
- (b) gauge whether the 2014 proposed organisation of this band is still appropriate or needs to be revisited
- (c) receive comments on Airtel's specific request for additional spectrum in line with (a) and (b) above

5.2 CICRA will use responses to the above matters in order to inform its views as to the re-organisation of the spectrum allocation in this band and demand for the spectrum sought. The decision whether to recommend an additional allocation to Airtel will be dependent on these factors.