



Initial Notice

Marathon Telecom Limited

Revocation of Class II Telecoms Licence

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Channel Islands Competition & Regulatory  
Authorities

**Document No: CICRA 18/27**

**19 June 2018**

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## 1. Introduction

1.1 This Initial Notice sets out the reasons CICRA<sup>1</sup> is minded to revoke the Class II Telecoms Licence<sup>2</sup> (the **Licence**) issued to Marathon Telecom Limited (**Marathon**) under the Telecommunications (Jersey) Law 2002 (the **Law**).

1.2 CICRA has concluded that Marathon has breached Condition 4 of its Licence, and subsequently failed to act on a Direction issued by the JCRA, and is therefore minded to revoke the Licence.

## 2. Structure and Timetable

2.1 This Initial Notice is set out as follows:

Section 3: Legal background and telecoms licence

Section 4: Marathon telecom

Section 5: Proposed action

Section 6: Next steps

Annex A: Initial Notice

2.2 Responses to this document should be submitted in writing and should be received by CICRA before midnight on 17 July 2018. Submissions can be sent by email to [info@icra.je](mailto:info@icra.je).

2.3 In accordance with CICRA's policy, non-confidential responses to the consultation will be made available on CICRA's website [www.icra.je](http://www.icra.je)). Any material that is confidential should be put in a separate annex and clearly marked as such.

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<sup>1</sup> The JCRA and GCRA co-ordinate their activities with respect to competition law enforcement in the Channel Islands. For the purposes of this document, the JCRA and GCRA are together referred to as CICRA, and all references to CICRA should therefore be read as references to each of the JCRA and GCRA unless the context otherwise requires.

<sup>2</sup> <https://www.icra.gg/media/2982/marathon-class-ii-original-signed.pdf>

### 3. Legal Background and Class II Telecoms Licence

3.1 The Telecommunications (Jersey) Law 2002<sup>3</sup> (the **Jersey Law**) prohibits a person from operating a telecommunications system in Jersey unless that person has a telecommunications licence. The body authorised to grant telecommunications licences in Jersey is the Jersey Competition Regulatory Authority (**JCRA**). Such conditions may be included in a telecommunications licence as the JCRA considers necessary and desirable.

3.2 Article 19 of the Law provides that where, in the opinion of the JCRA, a licensee is in contravention of a condition contained in a licence, the JCRA shall give a Direction to the licensee to take steps to ensure compliance with that condition. The JCRA must give notification to the licensee before giving such a direction

3.3 Article 20 of the Law provides for revocation of a licence where the licensee has failed to comply with a Direction given under Article 19.

#### **Marathon Class II Telecoms Licence**

3.4 Marathon holds a Class II Telecoms Licence dated 5 December 2016, having initially been granted a Class I Telecoms Licence in August 2010.

3.5 Condition 4 of the Licence contains Conditions concerns the provision of information:

*4.1 For the purpose of monitoring the Licensee's compliance with the Conditions and the Law, the Licensee shall provide to the JCRA in the manner and at the times required by the JCRA, any documents, accounts, returns, estimates, reports or other information (whether financial, operational, technical or 10 otherwise) including but not limited to the documents, accounts, returns, estimates, reports and other information specified in this Licence.*

*4.2 The Licensee shall, within ninety (90) days of the Licence Commencement Date, provide the JCRA with a comprehensive report on its use of the radio frequency*

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<sup>3</sup> [https://www.jerseylaw.je/laws/revised/Pages/06.288.aspx#\\_Toc503540355](https://www.jerseylaw.je/laws/revised/Pages/06.288.aspx#_Toc503540355)

*spectrum, and the anticipated future use, and provide updates on the report as requested by the JCRA from time to time.*

## **4. Marathon Telecom**

### **2.1GHz Spectrum**

4.1 Following a recommendation given by CICRA, Marathon holds an Ofcom licence for spectrum in the 2.1GHz band<sup>4</sup>, originally issued to Colt Telecom Jersey Limited on 31 March 2010.

4.2 In December 2014, CICRA issued a Statement of Intent for spectrum awards in the 2.1 and 3.6GHz bands<sup>5</sup>. This Statement was designed to make the most efficient use of available spectrum in the 2.1GHz band. The reconfiguration was justified by spectrum management objectives – spectrum is a scarce resource, and must be used as efficiently as possible.

4.3 Following further requests for spectrum in this band, on 5 December 2017, CICRA wrote to Marathon, at its registered office in Jersey, seeking co-operation from Marathon in moving its current spectrum allocation in line with the 2014 Statement of Intent. Marathon failed to respond to this letter.

4.4 The JCRA wrote again in March 2018 enclosing a copy of the letter, and seeking clarification on information received that Marathon may be in the process of being sold. As the Licence is personal to the Licensee, it cannot be transferred without the written consent of the JCRA. This letter was signed for, but again Marathon failed to respond to the letter.

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<sup>4</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/85202/j\\_3g\\_licence\\_marathon\\_telecom\\_0290805-2\\_31-03-10w.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/85202/j_3g_licence_marathon_telecom_0290805-2_31-03-10w.pdf)

<sup>5</sup> <https://www.cicra.gg/media/2032/t1063gj-information-notice-statement-of-intent-regarding-21-ghz-and-3.6-ghz-spectrum.pdf>

#### Licence Condition 4

4.5 The JCRA wrote again on 10 April 2018, giving formal notice under Condition 4 of the Licence to provide certain documents and information including:

- i) details of any Change of Control of Marathon Telecom which may have taken place in the past year as defined in Licence Condition 2.5 to 2.7;
- ii) confirm that the administration and management of the running of the Licensed Telecommunications System is conducted from Jersey (Licence Condition 2.10);
- iii) a comprehensive report on its use of radio spectrum, and the anticipated future use (Licence Condition 4.2); and
- iv) information on what steps it would need to make to re-plan spectrum usage in the 2.1 GHz band in order that the JCRA can complete the 2014 Statement of Intent for this spectrum band (Licence Condition 20.4).

4.6 No response was received from Marathon by the deadline of 23 April, and the JCRA now considers that Marathon is in contravention of Condition 4 of the Licence.

#### Article 19(2) Notice

4.7 On 25 April, the JCRA gave notice that it intended to issue a Direction to Marathon under Article 19, directing it to provide the information requested, and inviting Marathon to either make written representations about the proposed Direction or to comply with the requirement to provide information.

4.8 An email was received on 2 May from an individual stating that they were assisting the owners of Marathon to sell to an investment company and that it had been brought to his attention that Marathon had some outstanding information that it needed to respond to CICRA. Although suggestions were made for a meeting, this fell through.

4.9 No written response was made to the JCRA by the deadline of 25 May 2018. The Direction was therefore formally issued to Marathon on 29 May 2018, and signed for on 30 May 2018. No response has been received.

## **5. Proposed Action**

5.1 The JCRA now proposes to revoke the Licence issued to Marathon under Article 20 of the Law.

5.2 The JCRA has concluded that Marathon is in breach of its Licence by failing to provide the information outlined above, and has failed to comply with a Direction given under Article 19 of the Law.

5.3 The JCRA will revoke the Licence 29 days after the issue of this Initial Notice

## **6. Next Steps**

6.1 If any representations or objections are made within the 29 day period, these will be considered by the JCRA before making either a Final Notice or a further Initial Notice with respect to this specified regulatory function.

**MARATHON TELECOM LIMITED**

**Revocation of a Telecommunications Licence in Jersey**

The Jersey Competition Regulatory Authority (**JCRA**), in exercise of its powers under Article 20 of the *Telecommunications (Jersey) Law 2002* (the **Law**), intends to revoke the Class II licence (the **Licence**) granted to Marathon Telecom Limited (**Marathon**).

Marathon has failed to respond to a Direction made under Article 19 of the Law. This Direction required provision of certain information and documents under Condition 4 of the Licence.

Copies of the existing licence arrangements and this notice are available for inspection at the offices of the Channel Island Competition and Regulatory Authorities (**CICRA**) at 2<sup>nd</sup> Floor, Salisbury House, 1-9 Union Street, St Helier, Jersey, JE2 3RF, between the hours of 9:00 and 17:00 Monday to Friday.

It is intended that the licence will be revoked on 18 July 2018.

Written representation or objections to the exercise of this specified regulatory function may be made by letter and delivered to 2<sup>nd</sup> Floor, Salisbury House, 1-9 Union Street, St Helier, Jersey, JE2 3RF or by email to [info@bicra.je](mailto:info@bicra.je) on or before midnight on 17 July 2018.

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