



## Sure's response to CICRA's Call for Information (19/08) regarding Wholesale Broadband Services – 50 & 100Mbps

Sure (Jersey) Limited ("Sure") is submitting this response to CICRA document 19/08: Call for Information – Wholesale Broadband Services – 50 & 100Mbps ("CFI"), which was published by CICRA on the 25<sup>th</sup> February 2019.

Sure welcomes CICRA's support and engagement in this matter, which we regard as an important interim step towards achieving the States of Jersey's stated policy aim of promoting differentiated retail competition<sup>1</sup>.

We are submitting this as a non-confidential response and are happy for CICRA to publish it on its website.

**Question 1: Does the respondent agree that the States of Jersey Policy is clear in its statement requiring "that wholesale access seekers get access to wholesale products, which allow access seekers to compete based on differentiated retail services"? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

Sure believes that the States of Jersey policy statement is absolutely clear on its requirement that JT should be supplying wholesale products that will allow differentiated competition at the retail level. We cannot see how any other possible interpretation could be put on the States of Jersey's Policy Principle 2. We also note that Policy Principle 2 states that JT is required to provide wholesale access to its Gigabit network on terms that are fair, reasonable and non-discriminatory (FRAND). Unfortunately, JT's strategy to date seems to have fallen far short of being compatible with either of these requirements. This is particularly concerning, given that JT has publicly expressed its support for the Jersey Telecoms Strategy, stating that it fits perfectly with its own ethos of being '*always on, always there, always enabling*'. Sure has yet to benefit from any 'enabling' on JT's part, even though our significant concerns in this regard were made explicit to JT more than six months ago<sup>2</sup>.

When JT first decided to withdraw the 100Mbps service from the market, it became evident that Sure has a very different retail broadband strategy to JT and it is one that we would contend is completely supportive of the States of Policy's Policy Principle 2, as it is intended to provide consumers in the Jersey market with significantly increased choice, in contrast to JT's strategy, which is to actively reduce choice as we reach 2020. Sure's retail strategy recognises that not all customers need, want – or indeed may be able to afford – a 1Gbps broadband product. So whilst Sure fully supports the availability of faster speed broadband services in Jersey, this cannot be undertaken in such a way that

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<sup>1</sup> Policy Principle 2 of:

[www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20A%20telecoms%20strategy%20for%20Jersey%20Oxera%20December%202017%2020180105%20TH.pdf](http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20A%20telecoms%20strategy%20for%20Jersey%20Oxera%20December%202017%2020180105%20TH.pdf)

<sup>2</sup> Sure's submission to JT of 20th August 2018, titled 'Sure's summary considerations re JT's proposed broadband changes'.

it disadvantages competitors and, more importantly, consumers, for whom such increased speeds have no relevance.

We keep asking ourselves this simple question – why should customers be forced by JT to take a service that they do not need and cannot actively benefit from?

JT intends to provide all consumer broadband services at only 1Gbps download speeds from 2020, as per its Wholesale Broadband Roadmap (16<sup>th</sup> February 2018). Around the same time, JT reported to Sure that less than 1% of Jersey broadband customers were even using a tenth of that bandwidth. That’s quite an admission and shows the ludicrous intent of JT’s plans. Within Sure we are very aware of JT’s seeming obsession with promoting to the world how great it thinks its fibre network is, without recognising the actual needs of its local customers (at both the wholesale and retail levels).

We therefore believe that JT’s current strategy of refusing to provide the wholesale access products that would enable Other Licensed Operators (‘OLOs’) to differentiate their retail offerings is completely counter to the States of Jersey’s policy. As such, we very much welcome CICRA’s support in terms of making it a requirement for JT to reintroduce the 100Mbps product, as well as a 50Mbps product, with the key aim of facilitating an interim solution, until the availability of Bitstream.

**Question 2: Does the respondent agree that JT should be required to reinstate the 100Mbps wholesale broadband service? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority’s considerations and next steps.**

Yes.

As CICRA recognises in this CFI, Sure objected to JT’s withdrawal of the 100Mbps wholesale broadband service in 2018, as we believed that JT was not acting in a way that took account of OLOs’ requirements or the States of Jersey Telecoms Strategy. In stating our objections, we set out information from JT themselves that ‘less than 1%’ of Jersey broadband customers had any current usage requiring speeds greater than 100Mbps.”<sup>3</sup>

From Sure’s experience, and JT’s own admission from 2018, there appears to be almost entirely no customer demand-based requirement to move to 1Gbps speeds for all. This aligns with the States of Jersey policy of ensuring that access to 1 Gbps speeds is *available*, rather than being a minimum *requirement* for 1 Gbps. Sure therefore fully supports the reintroduction of services that align with actual customer requirements rather than vanity services that are materially detrimental to competition in Jersey, whilst also not delivering measurable consumer benefit.

We would note that the situation in Jersey also accords with Sure’s own experience in Guernsey where we can see that there is significant demand for lower priced services, rather than headline speeds. In particular, we note that despite Sure’s up to 40 Mbps service being available to over 75% of the market, less than 30% of broadband customers have taken the faster service, choosing instead our entry level “Basic” broadband service with maximum attainable speeds of 20Mbps.

Sure would propose that the upload speed on this 100Mbps service would be 10 Mbps (as it had been before the service was withdrawn), along with contention of 40:1.

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<sup>3</sup> As informed by JT’s Head of Networks and Infrastructure Services, March 2018.

**Question 3: Does the respondent agree that JT should be required to introduce a 50Mbps wholesale broadband service? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

Yes.

We believe that the introduction of a 50Mbps wholesale service would also be consistent with the policy aim of supporting differentiated retail competition.

The same justifications for this lower speed product apply as for the 100Mbps service, in terms of the significant demand we see for lower priced services, providing speeds that are perfectly adequate for the needs of the vast majority of customers.

Sure would propose that the upload speed on this service be set at 5 Mbps and contention at 40:1 (in line with JT's other consumer based broadband services).

**Question 4: Does the respondent consider that, if JT includes (a) the 100Mbps and (b) the 50Mbps in its wholesale broadband product portfolio, this would meet the respondent's requirements for wholesale products in order to effectively compete in the market with differentiated retail services? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

In the short term the re-introduction of 50 and 100Mbps services to the market, would meet the immediate customer demand for speeds that are significantly more aligned with customer requirements, however this must be at a reasonable price differential, and with sufficient wholesale margin to enable and encourage competition.

In the mid to long term, Sure would question the ability of this broader range of "white label" wholesale products meeting the States of Jersey policy statement to enable differentiated retail services. With the current, and expanded product portfolio, the main meaningful differentiation of the broadband service would be price. This would not compare well to Guernsey, where Sure already offers a broad range of wholesale products and is actively planning to expand that range (i.e. the exact opposite of what JT is currently intent on doing in Jersey – contracting its range to just one speed for consumers).

Considering JT's track record on changes to the wholesale product portfolio Sure would also be concerned that whilst a short-term fix could be delivered, JT could in future roll back changes, or significantly amend the wholesale catalogue to again reduce differentiation opportunities in the market.

**Question 5: Does the respondent agree with The Authority's conclusion that the potential introduction of (a) a 100Mbps and (b) a 50Mbps service does not require any product development and impacts only on systems? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

From Sure's perspective, we would expect JT's re-introduction of 50 and 100 Mbps services to require little more than configuration changes to existing systems. This would effectively be cloning an existing product, and then amending features as required – particularly easy when both the 50 and 100Mbps speeds have previously existed in JT's broadband portfolio. We would expect this work to be completed by a combination of in-house staff, from its Billing and Technology teams.

Based on our experience of working with JT in the development of WLR, we would anticipate JT claiming that the required reconfiguration work on its broadband services would be significant, but we would draw attention to the numerous changes that JT chooses to make for itself with its many product changes and promotions, with a minimum of five such events having occurred already this year (according to JT's Licence Condition 33 notifications).

**Question 6: Does the respondent consider that if a decision were made by the Authority to direct JT Wholesale to introduce (a) the 100Mbps and (b) the 50Mbps wholesale broadband services, this should be undertaken within 3 months of the completion of the Authority's statutory process on this matter? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

Yes.

Sure sees no valid reason why these simple changes should take any longer than this to implement, especially given that they relate to the reintroduction of products previously offered by JT (with the minor amendment to allow for 5Mbps upload on the 50Mbps variant).

Sure would be required to make some configuration changes itself, however we would expect to comfortably complete this work and carry out all required testing within 8 weeks, following the completion of CICRA's statutory process.

As highlighted above, JT has proven that it is more than willing to act in a reasonable timeframe when it is for the benefit of its own retail business. We would expect to receive the same level of focus in relation to the reintroduction of lower speed broadband variants, which would benefit thousands of Jersey broadband subscribers.

**Question 7: Does the respondent agree that the potential 50Mbps wholesale broadband service should be priced at £16.23 per month? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

Sure is somewhat disappointed at the pricing proposed by CICRA, compared to the current 250 Mbps service, however in order to enable faster progress on these services, we would be willing to consider the proposed price as a cap for a minimum duration, as outlined in our response to Question 9.

Sure considers this price to be adequate for the recovery of wholesale costs by JT and to allow some limited differentiation to the market. However, based on the proposed price, we would not expect the take up to be as high as we had been planning for. Customers need a lever to encourage them to

take action. A minimal reduction in wholesale (and therefore our associated retail) price is unlikely to achieve that.

**Question 8: Does the respondent agree that the potential 100Mbps wholesale broadband service should be priced at £17.84 per month? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

Sure is disappointed at the low discount proposed, compared to the current 250 Mbps service, however in order to enable faster progress on these services, we would be willing to consider the proposed price as a cap for a minimum duration, as outlined in our response to Question 9.

Sure certainly deems this price to be reasonable for the recovery of costs by JT and would at least allow some limited differentiation to the market.

**Question 9: Does the respondent agree that it is appropriate that the potential wholesale prices included in this Call for Information should remain fixed for a period of three years? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

Yes, although we very much hope that the implementation of Bitstream services would occur well with a three-year period, therefore negating the need for JT to directly offer 50 and 100Mbps speed variants.

Sure would need the wholesale pricing to be capped, so as to actively create a more compelling price difference over time, as the price of higher bandwidth variants rises. This approach would increase the differentiation of entry and mid-tier services compared to the premium, and largely unrequired higher speed services. Sure considers that those customers with a true requirement for speeds over 100Mbps should not be subsidising other broadband users.

Without this future incentive for Sure and our customers to select a lower speed, the re-introduction of these services is unlikely to deliver any significant benefit to the market. Fixing these prices would provide certainty for OLOs in cost management and therefore the onward promises that we can make to our retail customers.

Committing to lower priced services in Jersey will not only support the States of Jersey Telecoms policy, it will also reduce the risk of digital exclusion from those members of society least able to carry the burden of ever-increasing broadband prices to deliver a service far in excess of the requirements of the vast majority of islanders.

**Question 10: Does the respondent agree that JT Wholesale should enter into a consultation process to remove the 50, 100 and 250Mbps service only following the successful introduction of a Bitstream service? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform the Authority's considerations and next steps.**

Yes. These lower speed wholesale services will be required until such time as effective retail differentiation can be achieved at the retail level. As a reminder, it is clear that JT's and Sure's strategies have long since diverged, with JT adamant that it needs to offer only a 1Gbps service to users (who have no need for it), with the exception of 1% of the market (generously estimated), whilst Sure wishes to focus almost entirely on the lower end of the market, where the remaining 99% of customers actually do have a need.

Sure considers that any product withdrawal or material change to 50, 100 and 250Mbps wholesale services should require consultation with OLOs. For the avoidance of doubt – material changes would include at least the following:

- Speed (upload or download)
- Contention
- Introduction of, or changes to, Quality of Service or any form of traffic shaping.
- Changes to one-off or recurring charges related to provision of the service.
- Detrimental changes to the SLA for the service.

This consultation process should not, however, be under the sole control of JT. Sure would propose that CICRA actively oversees the process, so as to minimise the risk of disputes and therefore potential disruption to end users' services.

The timing of any changes to services is key to not detrimentally impact OLOs or their retail customers, particularly those customers still within a minimum contract term. All retail operators are currently required by CICRA to provide a minimum of 60 days' notice of any changes of material detriment, so this needs to be taken into account.

**Other relevant information**

To aid the consideration of the proposals in this response, we provide the following information in relation to Sure's plans to work with those customers who would benefit most from a migration of their service from the current 250Mbps variant:

Based on Sure's migration plans:	Q1	Q2	Q3	Q4
Subs on 50 Mbps	150	500	800	1500
Subs on 100 Mbps	5400	5300	5200	5100
<b>Total subs on lower speed services</b>	<b>5550</b>	<b>5800</b>	<b>6000</b>	<b>6600</b>

These figures do not include Sure's forecast in relation to any new customers that Sure would intend to gain as a result of it offering these lower speed services within its standard retail portfolio.

**Sure (Jersey) Limited**

18<sup>th</sup> March 2019