



Sure's response to CICRA's Call for Information (19/07) regarding Wholesale Broadband Services – Bitstream

Sure (Jersey) Limited ("Sure") is submitting this response to CICRA document 19/07: Call for Information – Wholesale Broadband Services – Bitstream, which was published by CICRA on the 25th February 2019.

Sure welcomes CICRA's support and engagement in this matter, which we regard as an important step towards achieving the States of Jersey's stated policy aim of promoting differentiated retail competition¹.

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"* and that a wholesale Bitstream service could address the States of Jersey policy? 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 ago².

When JT first decided to withdraw its 100Mbps service from the market, it became evident that Sure has a very different retail broadband strategy to JT – ours being one that we would contend is completely supportive of the States of Jersey's Policy Principle 2, as it is intended to provide consumers in the Jersey market with significantly increased choice. This is in stark 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 service. So whilst Sure fully supports the availability of faster speed broadband services in Jersey, this cannot be undertaken in such a way that it disadvantages competitors and, more importantly, end users, 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?

¹ Policy Principle 2 of:

www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20A%20telecoms%20strategy%20for%20Jersey%20Oxera%20December%202017%2020180105%20TH.pdf

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

JT intends to provide all consumer broadband services at only 1Gbps download speeds from 2020, as per its Wholesale Broadband Roadmap (16th February 2018). Around the same time as it published this Roadmap, JT reported to Sure that less than 1% of Jersey broadband customers were even using a tenth of that bandwidth. That is 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 good 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 introduce Bitstream based services.

Question 2: Does the respondent agree that a Bitstream solution would provide retail broadband suppliers with a cost effective way of providing 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.

There is certainly the opportunity for Bitstream to provide a cost-effective solution for broadband services in Jersey, but based on JT's obstructiveness to date, it appears that this is not a view that it shares. Indeed, JT's repeatedly uncooperative stance in relation to Sure's wholesale service requests is one of the key reasons why Sure believes that Bitstream is the only viable solution for the medium/long term to enable fair and effective broadband competition in Jersey.

CICRA will well remember JT's refusal to continue to provide a 100Mbps broadband variant, after a formal request from Sure – JT Wholesale's second largest broadband customer – when JT introduced its 250Mbps wholesale broadband service. In addition, few will forget the well-publicised refusal of JT to develop Sure's formal request for Wholesale Line Rental, which led to a court case and an 18 month delay in its introduction, as a result of JT's significant resistance.

Sure's more recent wholesale service requests have also been flatly refused by JT. This repeated and very clear resistance from JT reinforces why Sure (and other Jersey service providers) need access to a Bitstream service, so that JT Wholesale's key commercial customers (Other Licensed Operators, 'OLOs') are no longer 'held to ransom' by JT. If the broadband service criteria of download/upload speeds, contention rates and Quality of Service (QoS)/Class of Service (CoS) can be managed by OLOs themselves then JT will lose its ability to place the severe limitations on service differentiation that it plans to increasingly apply (leading to a position where consumer services are only provided at one speed – a hugely unnecessary 1Gbps).

Neither Sure (at the wholesale level), nor its end users (at the retail level), should be forced to purchase significantly greater broadband bandwidth than they require. We find it astounding that JT refuses to accept this point. In addition, JT should not be scaling its entire network to provide such high speeds by default, until there is proven throughput demand for a material volume of JT's wholesale broadband users base, which we would suggest must be at least 20% of the market.

JT has so far failed to acknowledge that if it were to actively support the formal request for a Jersey Bitstream service its network would then not have to allow for anywhere near the capacity that it has planned for. Sure has provided JT with examples of the types of product range (by speed & contention)

that it wishes to provide in the market and, more recently, has also set out to JT minimum contention ratios for the two underlying types of Bitstream related customer that we need JT to cater for, these being:

- Customer Type A – Minimum contention ratio of 5:1 (forecast for 10% of Sure customer base)
- Customer Type B – Minimum contention ratio of 20:1 (forecast for 90% of Sure customer base)

We have no idea whether JT Retail will choose to deviate from its well-publicised aim of making all of its customers take a minimum of a 1Gbps broadband service, but were it to do so, and provide its own minimum contention requirements and associated forecasts for its customer base, then JT Wholesale would be able to considerably down-scale its current Bitstream forecast capacity requirements. This could be materially cost effective in constraining JT's broadband core network infrastructure requirements over many years to come.

We have recently sought key information from JT, as we believe that it is important to ascertain the *actual* requirements of Jersey broadband customers, rather than users being actively misled through JT's puffery. JT appears obsessed with outwardly marketing Jersey as a 1Gbps island, whilst inwardly ignoring the significantly smaller actual bandwidth needs of its customers. Unlike our counterparts at JT, we recognise that Jersey broadband users' speed requirements can, in most cases, be fulfilled at speeds of 50 or 100Mbps – way under JT's current standard speed of 250Mbps. We have our own evidence of the material proportion of our Jersey customers with a speed requirement of less than 100Mbps, but to ascertain the full picture (as relevant for both Bitstream and CICRA's associated consideration of interim 50 & 100Mbps broadband services¹) we asked JT to calculate:

- The proportion of JT wholesale broadband services where the network speed throughput does not exceed 100Mbps; and
- The proportion of JT wholesale broadband services where the network speed throughput does not exceed 50Mbps.

However, JT has been either unable or unwilling to provide us with that data and without it the true capacity requirements of Jersey broadband users cannot be verified. With JT's assertion last year that less than 1% of Jersey broadband customers were exceeding a speed of 100Mbps JT seemingly has absolutely no evidence that default minimum broadband speeds need to be anywhere near as high as 250Mbps, let alone its planned increase to 500Mbps during 2019 and to 1Gbps during 2020.

In contrast, Sure's intention for Bitstream provisioned broadband services is that customers would choose which download and upload speeds suit them (with Sure discreetly managing contention and QoS/CoS), in line with their actual requirements, rather than them being forced by JT to pay for much more than they need, based on JT's skewed focus – seemingly solely on its own commercial preferences.

It is highly likely that many customers will be influenced more by price than speed and therefore be willing to have their bandwidth constrained. For example, a customer with a current speed throughput of 70Mbps may wish to take up a Sure 50Mbps service and actively reduce their usage, so as to access a better value broadband variant. Sure would seek to match customers' preferences with the most relevant Bitstream-provisioned variant, thereby allowing us to pass on wholesale cost savings to our retail customers. This could result in a much more cost-effective outcome than JT's current

¹ www.cicra.gg/media/597996/t1453gj-50-and-100mbps-broadband-access-call-for-information.pdf

requirement that all Jersey broadband users must pay for at least 250Mbps speeds, regardless of whether they consume anywhere near that speed or not.

Question 3: If a Bitstream service is the correct solution then what is the correct technical definition for such a service?

Sure considers the Bitstream product to be an extension of the fibre products already offered by JT, but with the management of speed, contention and QoS being passed from JT to the ISP.

Sure is reasonably comfortable with JT's proposed technical design for the service, based on Version 1.01 of its 'Wholesale Bitstream Technical Considerations Document', however if this design is used to justify increased costs for Bitstream, Sure would expect to be given a clear explanation of the cost model to understand where design changes may be feasible to reduce cost impacts on JT without removing the fundamental benefits of Bitstream introduction.

Sure wishes to re-emphasise that JT has stated that their network is scaled in such a way that even in failure scenarios they have confirmed that QoS within their network would not be required. Sure takes this statement in good faith, and would therefore be comfortable managing QoS on the Broadband Network Gateway ('BNG').

Question 4: If Bitstream is the correct wholesale service then what pricing methodology should be applied to this service to ensure it allows operators to compete with the dominant broadband supplier?

Sure has its own view on Bitstream pricing principles, but is willing to consider any reasonable methodologies that JT wishes to propose. It appears that there are three main elements that could be flexed and we would not wish to be seen to become rigid in our requirements, without first giving JT the opportunity to set out its own proposals in this regard. Those elements cover the likes of:

- A port charge (either fixed irrespective of throughput, or flexed by throughput);
- A core network variable data charge, based on usage; and
- The usage of the Service Provider interconnect link (the link(s) between JT's network and the relevant ISP.

There is one fundamental principle that must be adhered to though, regardless of the methodology chosen, which is that this must not result in a revenue-generating reward for JT from its wholesale broadband customers for providing them with less.

The proposed version of Bitstream for Jersey (which must not include the access element of the broadband service – Sure having never requested this) would see the speed, contention and QoS control handed from JT to Sure, and should therefore lead to a *reduction* in wholesale cost incurred per service for Sure (and ultimately, its customers). It should certainly not afford JT with the opportunity to recover any additional costs in relation to its fibre network investments, particularly when it was JT's sole decision (with no consultation with Sure or Newtel) to invest in a network that provides hugely greater network capabilities than could be required of that infrastructure within the next decade, and possibly ever, based on the significantly increasing demand for mobile data instead.

Sure would propose that the port charge for the Bitstream service is set 20% below the proposed price for the re-introduced 50 Mbps service in CFI 19/08 - £12.98 per month per port. JT would then recover capacity-based charges through the SP interconnect, which would grow in line with customer usage over time, ensuring a fair return for JT.

As with CICRA's recently proposed pricing for 50 and 100 Mbps wholesale services, Sure would expect this price to be fixed for a period of 3 years. Any subsequent price increases should be capped at the level of annual Jersey RPI.

Question 5: What do respondents believe is a reasonable implementation timescale following the agreement of a technical definition. Respondents should provide evidence based justification for their proposed timescales.

JT has been aware of Sure's request for Bitstream for some time. This was formalised in December 2018, and we would consider it entirely reasonable for JT to develop and launch the service by 1st November 2019, at the very latest.

Question 6: Do respondents believe that it is appropriate for the JCRA to intervene at this stage to ensure that a service, such as, Bitstream is introduced in a timely manner and the final solution is binding under JT's license conditions. 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, based on JT's proven obstructiveness to date, we need CICRA's intervention and ongoing support to ensure appropriate product development from JT to meet the States of Jersey policy statement. JT has repeatedly failed to consider the requests of its second largest wholesale purchaser (after its own retail arm). We have 30% of the Jersey broadband market and as such JT cannot be allowed to continue to disregard our views. JT's headlong push and insistence on 1Gbps minimum broadband speeds for all, without consideration for the needs of customers and competition in the market, demonstrates that without there being binding licence commitments placed upon it JT would continue with its long-held strategy of favouring its own retail business and scoping its services solely for their preferences.

Sure (Jersey) Limited