



# BUSINESS CONNECTIVITY MARKET REVIEW

## T1480GJ

---

### CALL FOR INFORMATION (Non Statutory)

**Document No: CICRA 19/51**

**Date: 25 October 2019**

Jersey Competition Regulatory Authority  
2<sup>nd</sup> Floor Salisbury House, 1-9 Union Street  
St Helier  
Jersey, JE2 3RF  
Tel 01534 514990, Fax 01534 514991  
Web: [www.cicra.je](http://www.cicra.je)

Guernsey Competition & Regulatory Authority  
Suite 4, 1st Floor,  
La Plaiderie Chambers, La Plaiderie,  
St Peter Port,  
Guernsey, GY1 1WG  
[www.cicra.gg](http://www.cicra.gg)

## CONTENTS

1. Executive Summary .....	3
2. Pre-Statutory Consultation: Call for Information .....	4
3. Background .....	5
Introduction .....	5
Legislative and Licensing Background.....	5
Jersey .....	5
Guernsey.....	6
Government Policy .....	7
CICRA Duties and Objectives.....	7
Requirement for a Market Review .....	8
4. Information Request – Licensed Operators.....	8
5. Information Request – Business Customers.....	10
6. Next Steps.....	11

# 1. EXECUTIVE SUMMARY

1.1 The Channel Islands Competition and Regulatory Authorities (the **Authority**)<sup>1</sup> is issuing this Call for Information, opening the non-statutory process at the start of a market review of the Business Connectivity Market in Guernsey and Jersey.

1.2 Many businesses and public sector organisations in Jersey and Guernsey rely on high quality and secure communications between business locations and with other stakeholders. For many applications, the ‘best efforts’ nature of the public internet does not offer the levels of security and reliability these organisations require. The wholesale products and services used by businesses fall under the European Commission’s ‘Market 4: Wholesale high quality access provided at a fixed location’. As these products are used for business communications, they are referred to here as the Business Connectivity Market.

1.3 The last review of the Business Connectivity Market in the Channel Islands was conducted in 2014<sup>2</sup>. There have been a number of developments in the markets since then that may have had an effect on competitive conditions. As it is now five years since that review, the Authority has decided it is appropriate to conduct new analysis, and is seeking to conduct a market review of Jersey and Guernsey in order determine the extent of any regulation which may be required, and has appointed SPC Network to carry out this review.

1.4 This Call for Information consists of 2 parts:

- Questions for licensed operators (Section 4)
- Questions for customers (Section 5)

1.5 Responses are sought from both licensees and businesses/public sector organisations that use business connectivity products such as leased lines and business grade broadband access to the public Internet.

1.6 The information requested in Section 4 is specifically from undertakings providing such products to end-users, whether on their own network or using the network of another undertaking. Answers in this section are not required from those only taking services.

---

<sup>1</sup> The Jersey Competition Regulatory Authority (JCRA) and Guernsey Competition and Regulatory Authority (GCRA) co-ordinate their activities in the Channel Islands. However, for the purposes of this document, the Authority refers to combined Channel Islands Competition and Regulatory Authorities (CICRA), unless the context requires otherwise.

<sup>2</sup> <https://www.cicra.gg/cases/2014/t1097gj-business-connectivity-market-review/>

1.7 The information requested in Section 5 is from commercial organisations and public sector bodies that buy business connectivity products. These questions are designed to help the consultants and CICRA understand the market from the customers' perspective.

1.8 Once the information gathering process has been completed, SPC Network will carry out the market review, following which there will be a further consultation process on the review and any remedies proposed.

## 2. PRE-STATUTORY CONSULTATION: CALL FOR INFORMATION

2.1 The Authority has published a process for consultations (see CICRA 18/29<sup>3</sup> and 19/15<sup>4</sup>) which outlines the process which may be undertaken before carrying out certain regulatory functions. The process includes a pre-statutory process which consists of a Call for Information, Draft Decision and Final Decision. This Call for Information represents the first stage of this process.

2.2 Whilst the Authority considers any decision made as part of this pre-statutory process to be the starting point for any regulatory action and as a statement of its expectations, this stage is not binding where there is a requirement to undertake a statutory process.

2.3 This document is structured as follows:

Section 3	Background: sets out the duties of CICRA, government policy and the legislative and licensing background to this review
Section 4	Sets out the information request to licensed operators
Section 5	Sets out the information request to business customers
Section 6	Sets out the next steps in this process

<sup>3</sup> <https://www.cicra.gg/cases/2018/g1369gj-regulatory-consultation-process/g1369gj-regulatory-consultation-process-information-note/>

<sup>4</sup> <https://www.cicra.gg/cases/2018/g1369gj-regulatory-consultation-process/g1369gj-regulatory-consultation-process-information-notice/>

2.4 The information requested in Section 4 is specifically from undertakings providing such products to end-users, whether on their own network or using the network of another undertaking. This Section should not be answered by end-customers.

2.5 The information requested in Section 5 is from commercial organisations and public sector bodies that buy business connectivity products. These questions are designed to help the consultants and CICRA understand the market from the customers' perspective.

2.6 Interested parties are invited to submit responses to the Authority in writing or by email to the addresses on the front of this paper. All comments should be marked 'BCMR – Call for Information' and should arrive by **09:00** on **Monday 25 November 2019**.

## 3. BACKGROUND

### Introduction

3.1 Many businesses and public sector organisations in Jersey and Guernsey rely on high quality and secure communications between business locations and with other stakeholders. For many applications, the 'best efforts' nature of the public internet does not offer the levels of security and reliability these organisations require. The wholesale products and services used by businesses fall under the European Commission's 'Market 4: Wholesale high quality access provided at a fixed location'. As these products are used for business communications, they are referred here as the Business Connectivity Market.

3.2 To determine the extent of any regulation required, CICRA is seeking to conduct a market review of the Business Connectivity market in Jersey and Guernsey, and has appointed SPC Network to carry out this review.

### Legislative and Licensing Background

#### JERSEY

3.3 Telecommunication services are regulated in Jersey by way of the Telecommunications (Jersey) Law 2002 (the **Jersey Law**). The primary duty of the Authority with such regulation is to ensure that telecommunications services are provided both within Jersey and between Jersey and the rest of the world, so as to ensure that all current and prospective demands for such services are satisfied, so far as is reasonably practicable<sup>5</sup>.

---

<sup>5</sup> Telecommunications (Jersey) Law 2002, Article 7 – 'Duties of the Minister and Authority'

3.4 The Law contains a number of duties imposed on the Authority<sup>6</sup>, including the requirement to perform its functions in such a manner as to protect and further the short-term and long-term interests of users within Jersey and perform them by promoting competition among those engaged in commercial activities connected with telecommunications in Jersey. Further, the Authority shall have regard to whether services are accessible to and affordable by the maximum number of businesses and domestic users, innovation in services, and the provision of high quality and reliable services<sup>7</sup>.

3.5 Article 9 provides that the JCRA shall keep under review and gather information about the provision of telecommunications services in Jersey and elsewhere.

3.6 Article 23 of the Jersey Law provides a legal power for the Authority, for the purpose connected with the exercise of the functions of the Authority and by notice in writing, to require the provision of estimates, returns and other information. **For the avoidance of doubt, this Call for Information is not a notice under this Article, rather the Authority is seeking the voluntary provision of this information. However, if it is not possible to proceed with the market review on this basis, a formal notice will be issued.**

## GUERNSEY

3.7 Telecommunication services are regulated in Guernsey by way of the Telecommunications (Bailiwick of Guernsey) Law 2001 (the **Guernsey Law**) and the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 (the **Regulation of Utilities Law**). It is the duty of the GCRA to promote certain objectives including the protection of the interests of consumers and other users in the Bailiwick in respect of the prices charged for, and the quality, service levels, permanence and variety of utility services<sup>8</sup>.

3.8 Other duties include to secure the provision of utility services that satisfy all reasonable demands for such services, and to introduce, maintain and promote effective and sustainable competition in the provision of utility services in the Bailiwick.

---

<sup>6</sup> Telecommunications (Jersey) Law 2002, Article 7(a) – (f)

<sup>7</sup> Telecommunications (Jersey) Law 2002, Article 7(3).

<sup>8</sup> Regulation of Utilities (Bailiwick of Guernsey) Law 2001, section 2 ‘General Duties’

**3.9** Section 5 of the Regulation of Utilities Law provides that the Authority has the power to require the production of information. **For the avoidance of doubt, this Call for Information is not a notice under this Section, rather the Authority is seeking the voluntary provision of this information. However, if it is not possible to proceed with the market review on this basis, a formal notice will be issued.**

## Government Policy

3.10 In January 2018, the Government of Jersey published its telecoms strategy<sup>9</sup> which included a recommendation that CICRA should ensure that JT supplies other operators with wholesale access to the Gigabit network on a fair, reasonable and non-discriminatory (**FRAND**) basis, and that wholesale access seekers get access to wholesale products, which allow access seekers to compete based on differentiated retail services.

3.11 This is supported by an Action Plan<sup>10</sup> which identifies specific actions for CICRA, under the heading ‘Ensure that JT supplies other operators with wholesale access to the fibre network, which allows access seekers to supply and compete on differentiated retail services’. These actions includes an action to *‘as appropriate, direct JT to offer fibre wholesale products to allow for differentiated retail services’*.

3.12 The States of Guernsey has published ‘The Future of Telecoms – Committee for Economic Development’. This includes an objective to further the provision of fibre to business districts, and the provision of high quality super-fast broadband to all residential properties.

## CICRA Duties and Objectives

3.13 The Authority aims to ensure that there is an appropriate set of regulatory obligations in place for wholesale broadband (and leased line) network provision that comprehensively supports retail service providers’ ability to innovate and bring new differentiated retail products and services to Channel Islands markets. It aims to ensure that the provision of wholesale network infrastructure services is achieved in sustainable and equitable conditions.

---

<sup>9</sup> <https://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=3377>

<sup>10</sup> <https://www.gov.je/Industry/TelecomsStrategy/Pages/JerseyTelecomsStrategyActionPlan.aspx>

3.14 An efficient wholesale charging structure is also a prerequisite to allow downstream providers to innovate and drive consumer demand. This needs to be balanced with the need to ensure that wholesale network providers have the incentive to invest in order to maintain a sustainable business and protect national assets. It is vital to small economies such as those in the Channel Islands that investment is efficient and effective.

## Requirement for a Market Review

3.15 The Authority aims to conduct market reviews at regular intervals to ensure any changes are reflected in findings of dominance and appropriate remedies. Whilst it does not apply in the Channel Islands, the European Electronic Communications Code (EECC) sets the period for undertaking market reviews at five years.

3.16 The last review of the Business Connectivity Market in the Channel Islands was conducted in 2014<sup>11</sup>. There have been a number of developments in the markets since then that may have had an effect on competitive conditions. In addition, as it is now five years since that review, the Authority feels it is appropriate to conduct new analysis.

## 4. INFORMATION REQUEST – LICENSED OPERATORS

4.1 Responses to this Section are requested from licensed operators active in this market sector. **Note: Individual responses to this Section will remain in confidence to CICRA and its consultant unless otherwise agreed with the operator concerned.**

4.2 Please complete the attached spreadsheets setting out the number of circuits provided using different interfaces and different bandwidths.

(a) In Table 1, please provide the number of retail circuits provided to end-customers you provide to end-customers using your own network

(b) In Table 2, please provide the number of retail circuits you provide to end-customers using other operators' networks that you access on a wholesale basis. For example, if you rent a wholesale circuit from JT or Sure and then retail to your own customers this should be recorded in this table.

(c) In Table 3, please provide the number of circuits you provide on a wholesale basis to other operators and to your own retail operation (self-supply). **Please record circuits provided to mobile**

---

<sup>11</sup> <https://www.cicra.gg/cases/2014/t1097gj-business-connectivity-market-review/>



**operators for backhaul (i.e. where the one end is in a mobile base station) in this Table. Include circuits provided to all mobile operators including any affiliated to your company in this section.**

(d) In Table 4, please provide current prices for the retail and wholesale circuits indicated. These should be list prices before any discounts are applied.

4.3 Please provide your own overview of the business connectivity market in Jersey, Guernsey or both jurisdictions.

4.4 What evidence do you have that suggests business customers are using retail broadband access products as substitutes for leased lines? What type of customers are switching to broadband and for what type of application? Please provide any evidence you have to support this view.

4.5 How many dark fibre/wavelengths circuits do you provide to customers? If none, is this because you do not offer dark fibre / wavelengths or because customers have not asked for it?

4.6 What is the total core network capacity allocated to leased line usage in each jurisdiction if appropriate.

4.7 Please provide details of the extent of your own fibre network in each jurisdiction:

- (a) For the core network, please provide the exact postcode of the fibre nodes.
- (b) For access networks, please provide a map showing the area covered by your own fibre network
- (c) Please indicate any planned extension to the access network over the next five years.

4.8 What regulations (if any) imposed by any government entity might prevent your company extending its network further over the next five years?

4.9 Are you aware of any changes in the ownership of submarine cables since 2014? How have such changes, if any, affected the market?

4.10 Please provide copies of the following:

- (a) Reports of the results of any market research you have commissioned since 1 January 2018 to understand the requirements of business customers
- (b) Documents concerning leased line pricing and marketing strategy for information or approval at Board level since 1 January 2018

## 5. INFORMATION REQUEST – BUSINESS CUSTOMERS

5.1 Responses to this Section are requested from customers in this market sector. **Note: Individual responses to this Section will remain in confidence to CICRA and its consultant unless otherwise agreed with the respondent.**

5.2 Please provide a brief overview of your company and the activities you undertake in the Channel Islands.

5.3 Which of the following products do you buy for your company and for what purpose do you use them? Are the products used for business critical or non-critical purposes?

Product	Bandwidth(s)	Purchased/not purchased	Purpose/use	Business critical/non-critical
Residential broadband				
Business broadband				
TDM Leased lines				
Ethernet leased lines				
Other				

5.4 When choosing between a leased line and broadband access, which of the following characteristics do you require that would make you choose a leased line rather than broadband?

- (a) Dedicated capacity
- (b) Known routing
- (c) Security
- (d) Lower latency
- (e) Lower jitter
- (f) Other, please specify

5.5 **Jersey Only** Now that Jersey is a full fibre Island, are you considering switching any leased lines to fibre broadband access? If so, why? If not, why not?

5.6 When choosing a business connectivity product, which of the following statements concerning price is generally most applicable to your decision?

- (a) Price is the most important criterion
- (b) Price and service quality are equally important
- (c) Price is important, but service quality is even more important

(d) The service has to be able to do the job. If it does, price is not that important.

5.7 Is there enough choice of supplier of business connectivity products on Jersey/Guernsey?

5.8 Is there enough choice of connectivity products on Jersey/Guernsey? If not enough, what products can you not buy that you would like to be able to? How does any lack of choice constrain your business activities?

5.9 Do you have experience of buying business connectivity products in other countries? If so, how would you compare the choice, quality and price of products in the Channel Islands compared with other countries where you have experience?

5.10 Overall how well do you think the market on Jersey/Guernsey works for business customers like your business?

## 6. NEXT STEPS

6.1 Once the information gathering process has been completed, SPC Network will carry out the market review. We anticipate that this will be presented to stakeholders towards the end of January 2020, following which there will be a further consultation process on the review and any remedies proposed as a result.

6.2 The results of the Market Review arising from this Call for Information will inform any future regulatory action by the Authority. Any such action will be subject to the further Pre-Statutory Decision process for further consultation, before any statutory action is taken.