



Case T-036

Calling Line Identity (CLI) facilities:
proposed telecommunications
licence review and potential for
limiting telephone-based fraud

Non-statutory Draft Decision
(consultation)

Document No: JCRA 21/48

Publication date: 23 November 2021

Closing date: 24 January 2022

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1 Introduction / executive summary

- 1.1 The Jersey Competition Regulatory Authority (the **Authority**) is carrying out a review of Calling Line Identity (**CLI**) facilities, which enable the telephone number of a person making a call to be displayed to the recipient of the call. CLI facilities provide important protection against telephone-based fraud, allowing consumers to make informed decisions on whether to answer or reject a call.
- 1.2 In July 2021, the Authority published a Call for Information document as the first step of this review and invited interested parties to respond with comments. The document sets out a proposal to review, clarify and establish expectations for the provision of CLI facilities, which may include amending existing operator licence conditions. And potentially further steps to limit CLI-based fraud through introducing a centralised system for blocking telephone numbers that may be associated with fraudulent activity
- 1.3 The Authority is grateful for responses received, which were positive, broadly supportive and underlined the importance of taking steps to protect islanders from any CLI-associated fraud. Respondents understandably also asked for further information and specific details, which this document intends to provide.
- 1.4 Having reviewed and considered comments received, the Authority has taken a Non-statutory draft decision on the next steps of this review, which is:

DRAFT DECISION

Following the Call for Information consultation, the Authority proposes:

- i. To proceed with the review of Calling Line Identity (CLI) facilities.
- ii. To modify telecoms licences to clarify expectations for the provision of CLI facilities, with the proposed new conditions set out in Annex A of this Non-statutory Draft Decision.
- iii. To work within the Authority's designated role, powers and resource constraints in support of efforts to limit local telecoms-based fraud.
- iv. To further evaluate the introduction of a centralised CLI-fraud mitigation system through a structured engagement with licensed operators, specifically considering:
 - (a) The benefits to islanders of introducing the Ofcom-driven Do Not Originate (DNO) blacklist system compared with the resources required from licensed operators to implement and manage; and
 - (b) The merits or otherwise of other centralised operator approaches to mitigating CLI-fraud for the benefit of islanders.

v. Not to publish specific CLI guidance within this review, but consider doing so in the future should the planned licence condition not sufficiently clarify expectations.

- 1.5 This Non-statutory Draft Decision document sets-out details of this decision and the basis upon which it is made. It is published for consultation, with comments welcomed from interested parties. These should be submitted to the Authority before 5.00 pm on 24 January 2022.
- 1.6 Following this, the Authority will consider responses and may publish a Non-statutory Final Decision confirming its intentions and setting out next steps.

3 Context

- 3.1 This section sets out information on this consultation and establishes the legal basis upon which it is undertaken.

The purpose of the consultation process

- 3.2 In undertaking its regulatory functions, the Authority has a statutory duty to progressively publish notice of its intentions and provide a consultation period during which interested parties can comment in response.

- 3.3 This consultation process contains five stages:

Call for Information;

Non-statutory Draft Decision;

Non-statutory Final Decision;

Statutory Initial Notice; and

Statutory Final Notice

- 3.4 This document is a Non-statutory Draft Decision, which is published to set-out the Authority's provisional decision on a regulatory matter under consideration and invite comments from interested parties. Any comments may be taken into account when arriving at a Non-statutory Final Decision.

Alignment with Authority's strategic plan and prioritisation principles

- 3.5 The initiative supports the Authority's Strategic Goal 3, which is to safeguard consumers, and is prioritised through its potential impact on consumer welfare, its enablement of strategically significant principles, the assessed low level of risk and acceptable use of resources.

Background to this consultation

- 3.6 In July 2021 the Authority published a Call for Information on the matter of CLI facilities¹, and a proposed telecoms licence review and potential for limiting telephone-based fraud.

- 3.7 CLI facilities enable the telephone number of a person making a call to be displayed to the recipient of the call. The increasing use and capability of Voice Over Internet Protocol (VoIP) and related technology potentially helps enable fraudsters insert false numbers to persuade recipients they are being called by an apparently valid organisation.

¹ <https://www.jcra.je/cases/2021/t-036-calling-line-identity-review/t-036-calling-line-identity-review-call-for-information/>

- 3.8 Recognising the long-established and important benefits CLI facilities provide, and the increasing potential for either unintentional or intentional misuse of CLI, the Authority plans to review, clarify and establish expectations for CLI facilities.
- 3.9 A 'Do Not Originate' (DNO) list exists in the UK, containing numbers that should be blocked to prevent their use for fraudulent or scam calls, and which could potentially be extended to Jersey. While not foolproof, the Authority is considering further exploring the protection the list offers.
- 3.10 In the context of this background, the Call for Information invited responses to four specific questions:

Question 1: Do you have any comments on the Authority's plan to review, clarify and establish expectations for the use of CLI facilities in Jersey?

Question 2: Do you agree the Authority should consider amending operator licences to include conditions covering the provision of CLI facilities?

Question 3: Do you have any comments on the importance or otherwise of protecting islanders from telephone-based fraud as far as practically possible?

Question 4: Do you agree the Authority should pursue introducing a centralised CLI-fraud mitigation system?

- 3.11 The Call for Information consultation period ended on 24 September 2021, with comments received from:
- Jersey Airtel Limited (**Airtel**)
 - Jersey Office of the Information Commissioner (**JOIC**)
 - JT (Jersey) Limited (**JT**)
 - Newtel Limited (**Newtel**)
 - Sure (Jersey) Limited (**Sure**)

- 3.12 The Authority is grateful for the time taken by these respondents and has considered all their comments when arriving at its Non-statutory Draft Decision.

Legal background and regulatory framework

- 3.13 The Telecommunications (Jersey) Law 2002 (the **Law**) requires the Authority to carry out its functions in such manner as it considers is best calculated to ensure that (so far as is reasonably practicable) telecoms services are provided, both within Jersey and between Jersey and the rest of the world, as to satisfy all current and prospective demands for them.
- 3.14 The Law prohibits anyone using a telecoms system for the purpose of causing annoyance, inconvenience or needless anxiety to another, and sending a message that the person knows to be false.

3.15 The Authority has granted Class II and Class III telecoms licences with specific conditions applicable to licensees providing public telecoms services in Jersey. Article 18 of the Law allows the JCRA to modify any condition contained in a licence, which includes inserting a new condition, as well as amending or deleting an existing condition.

4 Consideration of responses to the Call for Information

4.1 This section contains summaries of responses received to Call for Information questions², the Authority's analysis of these and conclusions drawn, and the draft decisions made.

Call for Information Question 1: Do you have any comments on the Authority's plan to review, clarify and establish expectations for the use of CLI facilities in Jersey?

Summary of responses received

- 4.2 The Authority's plan was welcomed and supported by Airtel, JT, Sure and the JOIC, with Newtel raising no specific objection.
- 4.3 JT in particular underlined the value of CLI as a means of protecting call recipients in Jersey from potential harm caused by nuisance calls, elaborating on the existence of a wide range of CLI-associated fraudulent activities and their potential impact on Jersey.

The Authority's analysis of responses and conclusion(s)

- 4.4 The Authority finds general recognition of the importance of CLI facilities as a means of mitigating telephone-based fraud, and firm support for its plan to review, clarify and establish expectations for the use of CLI facilities in Jersey.
- 4.5 Given welcome level of support, the Authority will proceed with the initiative, taking into account the potential breadth of CLI fraud mitigation activities already active or being considered.

Draft Decision 1: To proceed with the review of Calling Line Identity (CLI) facilities.

Call for Information Question 2: Do you agree the Authority should consider amending operator licences to include conditions covering the provision of CLI facilities?

Summary of responses received

- 4.6 There was broad support from Airtel, JT and Sure for considering amendments to operator licences as proposed, caveated by a requirement to see more detail on any proposed change before fully endorsing, a position supported by Newtel.
- 4.7 JT and Sure highlighted the approach already taken by UK communications regulator Ofcom (**Ofcom**) on CLI facilities, with JT suggesting the Authority follow this approach.
- 4.8 Airtel noted that in addition to regulating licenced operators, minimising the impact of fraudulent CLI ideally requires the Authority to work alongside other agencies to raise public awareness on the matter and how to combat.

² Full responses available on the JCRA website www.jcra.je.

4.9 The JOIC highlighted need to ensure that any licence changes did not adversely impact on the rights and freedoms of the individual.

The Authority's analysis of responses and conclusion(s)

4.10 The Authority finds no objections to considering amending operator licences to include conditions covering the provision of CLI facilities, while noting the caveats around providing further detail upon which a full endorsement can be based.

4.11 The Authority notes references to the approach already taken by Ofcom to clarify use of CLI facilities in the UK and the potential positive benefits of using these as guidance when considering changing licence conditions in Jersey.

4.12 Given welcome level of supportive comments, the Authority intends moving ahead to modify the licences of existing and any new operators in Jersey to include specific conditions covering the provision of CLI facilities.

4.13 For clarity, the proposed conditions, which are based on those of Ofcom, are set out in Annex A of this document with inspection and comments welcome within this Non-statutory Draft Decision consultation process.

Draft Decision 2: To modify telecoms licences to clarify expectations for the provision of CLI facilities, with the proposed conditions set out in Annex A of this Non-statutory Draft Decision.

Call for Information Question 3: Do you have any comments on the importance or otherwise of protecting islanders from telephone-based fraud as far as practically possible?

Summary of responses received

4.14 There was agreement in principle on the importance of protecting islanders against telephone-based fraud, with several operators noting their active involvement in local fraud prevention initiatives and active commitment to industry-wide bodies engaged in monitoring and countering telecoms-related fraud.

4.15 JT in particular highlighted the wide range of CLI-based fraudulent activity it encounters or is aware of, including misuse of presentation CLI within calls, inclusion of false information within an SMS message and the use a malware capable of taking over smartphones.

The Authority's analysis of responses and conclusion(s)

4.16 The Authority welcomes the general and understandable support towards protecting islanders from telephone-based fraud – in all its forms - and a commitment to cooperate in doing so

- 4.17 The Authority further notes views that the threat from CLI-based fraud is sophisticated and growing, the merits of a collective approach in mitigating and the Authority's potential role within this.
- 4.18 For clarity, the Authority believes that responsibility for helping protect islanders from the impact of telecoms-based fraud rests with a range of entities, including operators, government, arms-length bodies, private and other agencies and regulators, which should work to individually and collectively mitigate threats.
- 4.19 As Jersey's telecoms regulator, the Authority will work within its designated role, powers and resource constraints in support of efforts to limit local telecoms-based fraud. For clarity, the Authority considers its position in this matter to be:
- (a) To reduce telecoms fraud where it is perpetrated through non-legitimate use of telecoms services – e.g. misusing presentation CLI to mislead call recipients; and
 - (b) To support efforts to reduce telecoms fraud where it is perpetrated through legitimate use of telecoms services – e.g. using telephone calls to entice call recipients to handover personal details.

Draft decision 3: To work within the Authority's designated role, powers and resource constraints in support of efforts to limit local telecoms-based fraud.

Call for Information Question 4: Do you agree the Authority should pursue introducing a centralised CLI-fraud mitigation system?

Summary of responses received

- 4.20 There was general support for the Authority pursuing introducing a centralised CLI-fraud mitigation, conditional to understanding more about the Ofcom-driven Do Not Originate (DNO) blacklist referred to in the Call for Information consultation document.
- 4.21 While supportive, JT drew attention to the potentially limited value of the DNO blacklist, suggesting it would have only a minor impact in reducing the volume of fraudulent calls. Expanding, JT proposed going further and exploring other collaborative anti-fraud systems that could be more beneficial to Jersey.
- 4.22 Sure also noted the presence of other anti-fraud initiatives that exist to help telecoms companies identify and block invalid telephone numbers and that efforts should go beyond simply implementing the Ofcom DNO blacklist system.
- 4.23 Sure further urged the Authority to be mindful of forthcoming efforts needed to implement outcome of future telecoms security requirements (TSR) and high-risk vendor (HRV) reviews, which may limit resources available to implement anti-fraud systems.

The Authority's analysis of responses and conclusion(s)

- 4.24 The Authority welcomes the general support expressed for centralised CLI-fraud mitigation and fully understands the need for more exploration and detail before any unconditional commitment to the Ofcom DNO blacklist system, including an evaluation of its benefits in protecting islanders compared with the potential resources required to implement and manage.
- 4.25 The Authority notes JT's comments about alternative collaborative approaches to mitigating against CLI fraud, and importance of strategic discussions taking place within related bodies and forums.
- 4.26 The Authority is mindful of the need to balance working within its designated role, powers and resource constraints, as set out in section 4.19 above, and the need to protect islanders from telecoms-based fraud. Its general position is that operators should always seek to minimise the impact of any form of telecoms-based fraud, through being aware of threats, diligence in detecting, and implementing systems designed to mitigate.
- 4.27 The Authority may, however, involve itself in the general understanding and assessment of threats posed by telecoms-based fraud and engage with operators on the implementation of specific fraud-mitigation systems such as the Ofcom DNO blacklist system.

Draft decision 4: To further evaluate the introduction of a centralised CLI-fraud mitigation system through a structured engagement with licensed operators, specifically considering:

- (a) The benefits to islanders of introducing the Ofcom-driven Do Not Originate (DNO) blacklist system compared with the resources required from licensed operators to implement and manage; and
- (b) The merits or otherwise of other centralised operator approaches to mitigating CLI-fraud for the benefit of islanders.

Other relevant information

- 4.28 Three respondents provided other information believed relevant to the subject under consultation. Sure requested that its submission remained confidential.

Summary of responses received

- 4.29 JT raised the subject of CLI guidelines, which do not presently exist in Jersey but are provided in the UK by Ofcom³ in part to establish what is considered the legitimate use or otherwise of Presentation CLI⁴. JT believes the Authority should be providing further clarity on the subject,

³ Guidance on the provision of Calling Line Identification facilities and other related services - see <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/telecoms-industry-guidance/calling-line-identification>.

⁴ A presentation number is an alternative number inserted by a telecoms operator or system that may be displayed to the call recipient.

highlighting several scenarios to illustrate its concerns encompassing assuring number validity, lawful intercept and assured access to emergency services.

4.30 Newtel commented that 'number portability is a must have if competition is to be encouraged'.

The Authority's analysis of responses and conclusion(s)

4.31 The Authority welcomes all additional information offered within the consultation.

4.32 The Authority has carefully considered JT's points on the subject of providing CLI guidance, recognising the important value of published guidance in helping operators to more fully understand and comply with licence conditions.

4.33 On the matter of specific CLI guidance, while appreciating the approach adopted by Ofcom, the Authority has decided against publishing something comparable in Jersey at this time nor insisting local operators abide by those of Ofcom. The proposed licence amendment establishes general expectations on the provision of CLI facilities, leaving operators free to collaborate and agree on matters such as using Presentation CLI within legitimate services that benefit islanders. It should be noted, however, that the Authority may consider publishing CLI guidance in the future, should operators be unable to collaborate in this area.

4.34 Notwithstanding the conclusions reached in section 4.33 above, the Authority reminds operators of their licence obligations on providing for lawful intercept and access to emergency services.

4.35 With respect to number portability, the Authority concludes this subject is outside the scope of this consultation, which is focused on matters relating to telecoms reliability, security and fraud.

Draft decision 5: To not publish specific CLI guidance within this review, but consider doing so in the future should the planned licence condition not sufficiently clarify expectations.

5 Full draft decisions

5.1 This section sets out for comment the non-statutory draft decisions made by the Authority, for review and comment.

Draft decisions

5.2 Mindful of its duties, policies and practices, and taking into account the responses received to its Call to Action, the Authority's draft decision on Calling Line Identity (CLI) facilities: proposed telecommunications licence review and potential for limiting telephone-based fraud is:

DRAFT DECISION

Following the Call for Information consultation, the Authority proposes:

- i. To proceed with the review of Calling Line Identity (CLI) facilities.
- ii. To modify telecoms licences to clarify expectations for the provision of CLI facilities, with the proposed conditions set out in Annex A of this Non-statutory Draft Decision.
- iii. To work within the Authority's designated role, powers and resource constraints in support of efforts to limit local telecoms-based fraud.
- iv. To further evaluate the introduction of a centralised CLI-fraud mitigation system through a structured engagement with licensed operators, specifically considering:
 - (a) The benefits to islanders of introducing the Ofcom-driven Do Not Originate (DNO) blacklist system compared with the resources required from licensed operators to implement and manage; and
 - (b) The merits or otherwise of other centralised operator approaches to mitigating CLI-fraud for the benefit of islanders.
- vi. Not to publish specific CLI guidance within this review, but consider doing so in the future should the planned licence condition not sufficiently clarify expectations.

6 Next steps

- 6.1 The Authority invites written views and comments on the Non-statutory Draft Decision contained in this document and the basis upon which it is made. All responses to this Non-statutory Draft Decision should be submitted in writing, clearly marked 'T-036 CLI Review', and received by the Authority before 5.00 pm on 24 January 2022. Submissions can be sent by email to info@jcra.je or alternatively in writing to:

Jersey Competition and Regulatory Authority
2nd Floor Salisbury House
1-9 Union Street
St Helier
Jersey
JE2 3RF

- 6.2 It would be helpful to respond directly to the specific draft decisions set out in this document. It would also help if you can explain why you hold your views and how the Authority's proposals would impact on you, supported by any quantitative or qualitative evidence that you hold.
- 6.3 In accordance with Authority policy, non-confidential responses to the consultation may be made available on its website (www.jcra.je). Any material that is confidential should be put in a separate annex and clearly marked as such.
- 6.4 Once this Non-statutory Draft Decision has closed, the Authority will review responses and may publish a Non-statutory Final Decision proposing next steps, with an opportunity for further public comment before ratification through an Initial and Final notice process.

Annex A: Proposed new licence condition

Class II and Class III telecoms licences will have the following additions:

1. DEFINITIONS AND INTERPRETATION

‘Calling Line Identification’ means data that enables identification of the number from which a call could be made or to which a return call could be made;

‘Calling Line Identification Facilities’ means facilities which enable the telephone number of a calling party to be presented to the called party prior to a call being established;

‘CLI Data’ means the contents of all signalling messages which can be used between Licensed Operators and/or between Licensed Operators and Subscribers to signal the origin of the call and/or the identity of the calling party, including any associated privacy markings;

‘Emergency Organisations’ means:

- (a) the police, the ambulance and fire services and the marine search and rescue services’; and
- (b) any other organisation, as directed from time to time by JCRA as providing a vital service relating to the safety of life in emergencies;

PART III: GENERAL CONDITIONS RELATING TO THE PROVISION OF TELECOMMUNICATIONS

X Calling line identification facilities

X.1 The Licensee must provide Calling Line Identification Facilities, and enable them by default, unless they can demonstrate that it is not technically feasible or economically viable to do so.

X.2 The Licensee must inform Subscribers if Calling Line Identification Facilities are not available on the service they are providing to those Subscribers.

X.3 When providing Calling Line Identification Facilities, the Licensee must:

- (a) ensure, so far as technically feasible, that any CLI Data provided with and/or associated with a call includes a valid, diallable number which uniquely identifies the caller; and
- (b) respect the privacy choices of Users.

X.4 The Licensee must not charge Subscribers any additional or separate fee for access to or use of standard Calling Line Identification Facilities.

X.5 Where technically feasible, the Licensee must:

- a) take all reasonable steps to identify calls, other than calls to Emergency Organisations, in relation to which invalid or non-diallable CLI Data is provided; and
- b) prevent those calls from being connected to the called party, where such calls are identified.

X.6 This Condition applies subject to the requirements of relevant data protection legislation.